

# **MEMORANDUM**

# **Development Services**

# **ADMINISTRATIVE MEMORANDUM NO. 16-230**

DATE:

May 13, 2016

TO:

Planning and Zoning Board

VIA:

Robin M. Bird, Development Services Director N

FROM:

Maggie Barszewski, AICP, Planner

RE:

AMP IV Hidden Harbour, LLC Small Scale Future Land Use Map Amendment

January 27, 2016 meeting

P&Z # 15-91000001

## Request

The Applicant is proposing a change in the future land use designation of several parcels that in total encompass an 8.9 gross-acre (6.9 net acre) property. This subject property is generally located north of NE 14<sup>th</sup> Street, south of NE 17<sup>th</sup> Street on the east side of Federal Hwy., as described in **Exhibit A**. This request was tabled from the January 27, 2016 Planning & Zoning meeting (see **Exhibit B** for minutes).

Currently the property has a Commercial (C), a Medium High (MH) and a Low Medium (LM) Future Land Use designation. The Applicant is requesting a change in land use to Mixed Use Residential (MUR). The MUR designation allows the Applicant to choose among four different categories of Density and Intensity standards. The Applicant is requesting the "High" option as follows:

The High 50 Mixed Use (permits up to 50 residential dwelling units per gross acre and a FAR of 2.5 for combined residential and non-residential development).

The intent of the MUR designation is to provide a flexible range of development parameters to encourage mixed use development in areas where infusing residential development would benefit the City. A mix of residential use and non-residential use is required. This is the only Land Use designation that regulates "Floor Area Ratio (FAR)". FAR is defined in the City's Comprehensive Plan as the square footage of the floor area of a building divided by square footage of the lot (net site area) on which the building is located. An additional requirement of the MUR Designation is that a minimum of 10% of the FAR be used for one of the uses.

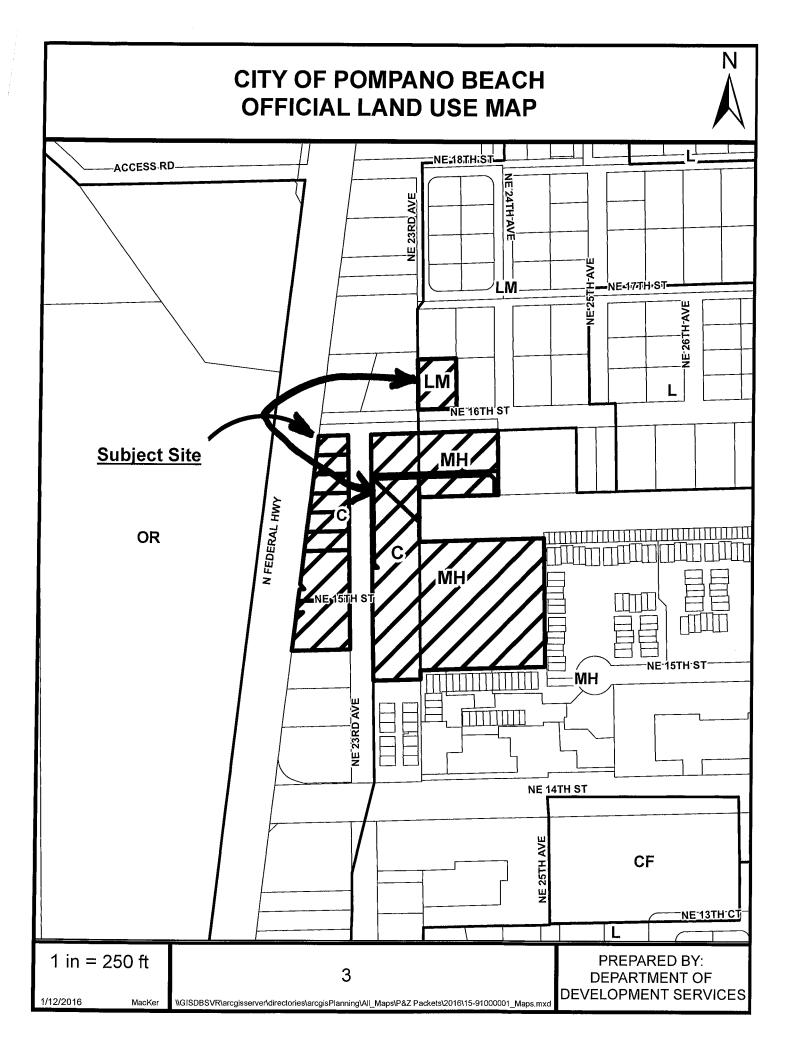
#### **Proposed Development**

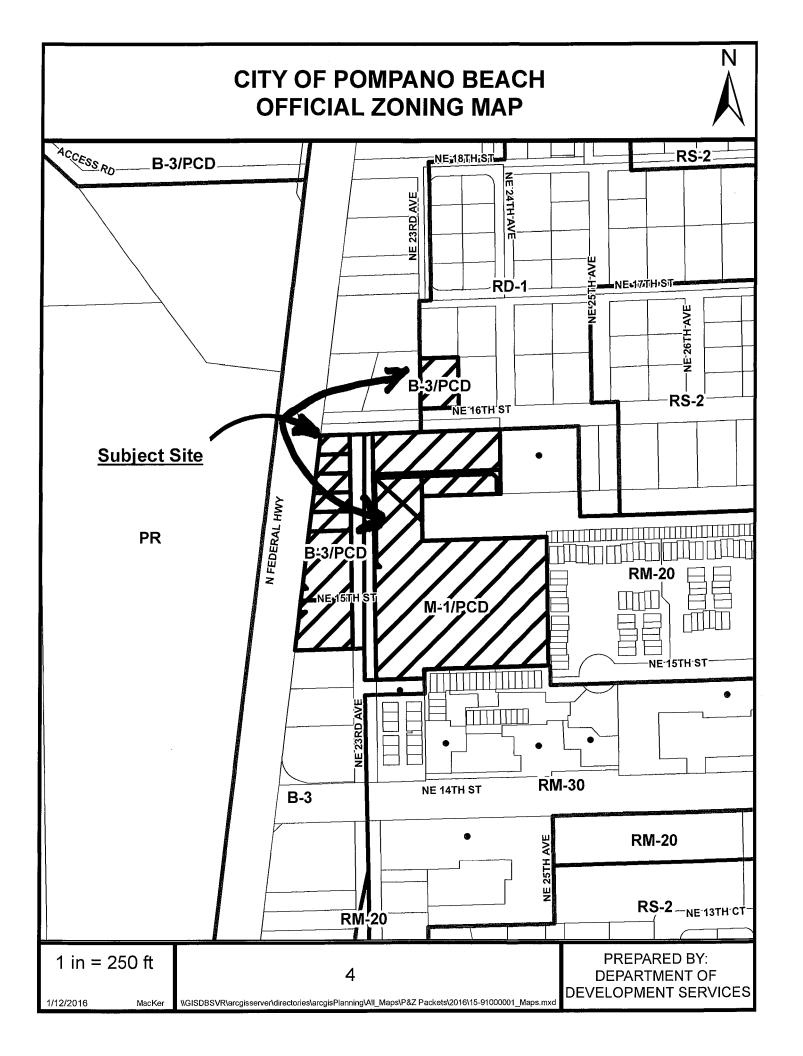
The Applicant is proposing a maximum of 343 Dwelling Units and 650,000 sq ft. Of the total square footage, 10% (65,000 sq ft) is set aside for Commercial Use. This request is less than the maximums allowed via the MUR High. *Table 1, on page 7, indicates the allowed maximum per MUR High and the proposed maximum.* The Applicant has provided a draft Voluntary Declaration of Restrictive Covenants (Exhibit C) that will restrict the property to the maximum dwelling units to 343 and the square footage to 650,000; a copy of this draft Covenant was forwarded to the City Attorney on May 13, 2016 for their preliminary review. At the first Planning & Zoning meeting in January, the P&Z Board members expressed the need for a certain amount of vertical mixed use and therefore, the applicant has added item 3. on page 2 of the draft Covenant, stating the following: "At least 10,000 square feet of commercial space will be vertically integrated with multi-family residential uses in any mixed-use development plan for the property." The Covenant also includes other restrictions concerning design guidelines concerning compatibility with adjacent properties and pedestrian access to the waterway.

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# **LEGEND**

|   | FOR LAND USE PLAN |                                  |   | FOR ZONING | B MAP                                |
|---|-------------------|----------------------------------|---|------------|--------------------------------------|
|   | Symbol            | Classification Units/ Acre       |   | Symbol     | <u>District</u>                      |
|   |                   |                                  |   |            |                                      |
|   |                   |                                  |   | RS-1       | One-Family Residence                 |
|   |                   | Gross Residential Density        |   | RS-2       | One-Family Residence                 |
|   |                   |                                  |   | RS-3       | One-Family Residence                 |
|   |                   | Residential                      |   | RS-4       | One-Family Residence                 |
|   | Е                 | Estate                           |   |            |                                      |
|   | L                 | Low                              |   | RD-1       | Two- Family Residence                |
|   | LM                | Low- Medium                      |   |            |                                      |
|   | М                 | Medium                           |   | RM-12      | Multi-Family Residence               |
|   | MH                | Medium-High                      |   | RM-20      | Multi-Family Residence               |
|   | Н                 | High                             |   | RM-30      | Multi-Family Residence               |
|   |                   |                                  |   | RM-45      | Multi-Family Residence               |
| * | С                 | Commercial                       |   | RM-45/HR   | Overlay                              |
|   | CR                | Commercial Recreation            |   | RPUD       | Residential Planned Unit Dev.        |
|   |                   |                                  |   | AOD        | Atlantic Boulevard Overlay District  |
|   | I                 | Industrial                       |   | MH-12      | Mobile Home Park                     |
|   | Т                 | Transportation                   |   | B-1        | Limited Dunings                      |
|   | •                 | ranoportation                    |   | B-1<br>B-2 | Limited Business                     |
|   | U                 | Utilities                        |   | B-3        | Neighborhood Business                |
|   | CF                | Community Facilities             |   | в-э<br>В-4 | General Business                     |
|   | O.                | Community Facilities             |   | RO         | Heavy Business                       |
|   | OR                | Recreation & Open Space          |   | NO         | Residence Office                     |
|   |                   | The second of the space          |   | M-1        | Marina Business                      |
|   | W                 | Water                            |   | M-2        | Marina Business<br>Marina Industrial |
|   |                   |                                  |   |            | Warma maasular                       |
|   | RAC               | Regional Activity Center         |   | I-1        | General Industrial                   |
| > | MUR               | Mixed Use Residential            |   |            |                                      |
|   |                   |                                  |   | I-1X       | Special Industrial                   |
|   |                   | Boundaries                       |   | O-IP       | Office Industrial Park               |
|   |                   | City of Pompano Beach            |   |            |                                      |
|   |                   |                                  |   | BP         | Business Parking                     |
|   | 13                | Number                           |   | BSC        | Planned Shopping Center              |
|   |                   |                                  | * | PCD        | Planned Commercial /                 |
|   |                   | Reflects the maximum total       |   |            | Development                          |
|   | /                 | number of units permitted within |   | PCI        | Planned Commercial /                 |
|   | !                 | the dashed line of Palm Aire &   |   |            | Industrial Overlay                   |
|   |                   | Cypress Bend being 9,724 and     |   | PR         | Parks & Recreation                   |
|   | `~                | 1,998                            |   | CR         | Commerical Recreation                |
|   |                   |                                  |   | CF         | Community Facilities                 |
|   |                   |                                  |   | Т          | Transportation                       |
|   |                   |                                  |   | PU         | Public Utility                       |
|   |                   | * Existing                       |   |            | •                                    |
|   |                   | > Proposed                       |   |            |                                      |
|   |                   |                                  |   |            |                                      |





# CITY OF POMPANO BEACH AERIAL MAP



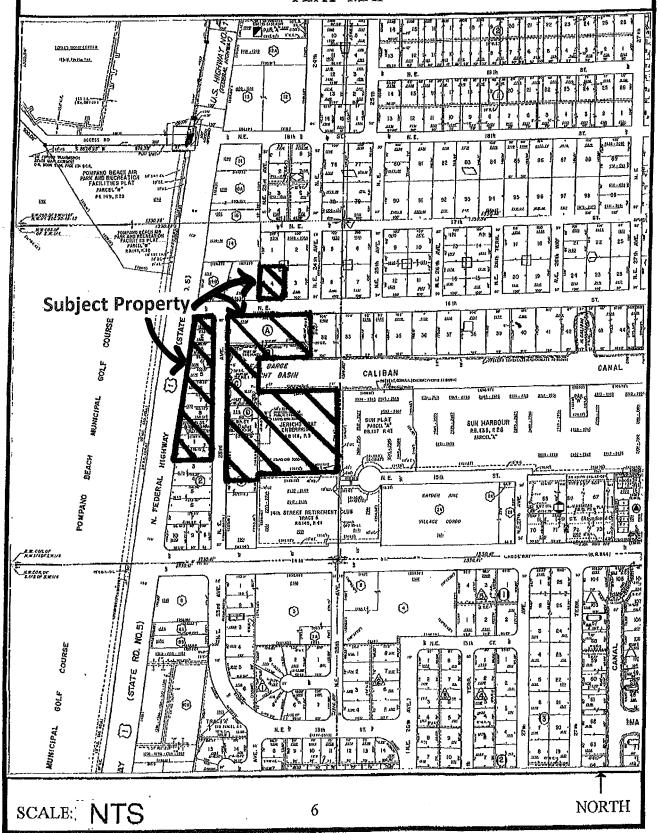


1 in = 250 ft

5

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

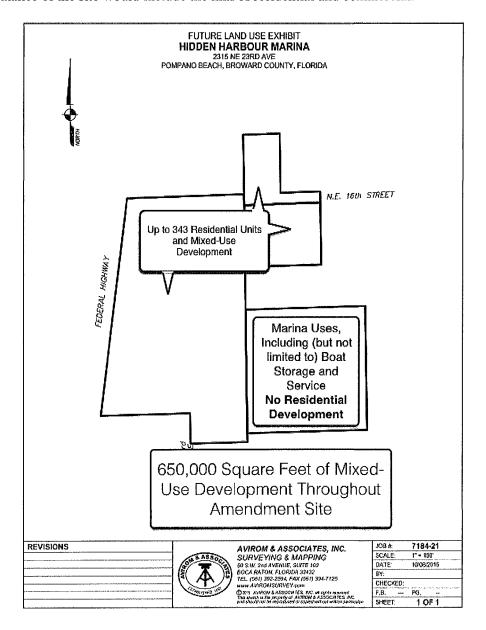
# EXCERPT FROM THE CITY OF POMPANO BEACH PLAT MAP



|                         | Table 1  Maximum Capacity for MUR High vs Proposed Development |     |     |                              |         |         |
|-------------------------|--|-----|-----|------------------------------|---------|---------|
| Land Use<br>Designation |  |     |     |                              |         |         |
| MUR High                | 50<br>units/ac   | 8.9 | 445 | 343 (38.5 Units per<br>Acre) | 751,410 | 650,000 |

In addition to limiting the maximum number of dwelling units to 343, the Applicant is also limiting the uses to certain locations on the site. The below map demonstrates the following:

- The southeastern portion of the site, which is currently MH, would be restricted to marina uses.
- The balance of the site would include the mix of residential and commercial.



# A. Existing Land Use Designations - Density/Intensities

The maximum buildout allowed on this particular subject property based on the current land designations is displayed in the table shown below.

| Table 2  Maximum Capacity Based on Existing Land Use Plan |                                      |             |                     |  |  |
|---|--------------------------------------|-------------|---------------------|--|--|
| Land Use Designation                                      | Intensity / Density Maximums         | Gross Acres | Max. Dwelling Units | Maximum Sq. Ft.  |  |
| Commercial  | 60% Lot Cov. with 105-ft.<br>Height* | N.A.        | N.A.                | 858,978 sq.ft.<br>(143,163 sq.ft. x .6 x 10<br>floors) |  |
| Medium High Res.  | 25 units/ac                          | 3.3         | 83                  | N.A.   |  |
| Low Medium Res.   | 10 units/ac                          | .51         | 5                   | N.A.   |  |

<sup>\*</sup> Land Use Element Policy 01.07.20 Pompano Beach Comprehensive Plan

# **B. Proposed Land Use Designation - Density/Intensities**

Based on the information provided in Table 1 as well as the information provided in Table 2 above, the following Table 3 shows the proposed increase densities and intensities. Further, the table shows the increases based on the maximum permitted under MUR High, as well as those per the Applicant Voluntary Declaration of Restrictive Covenants:

| Table 3  Maximum Capacity Based on Existing Land Use Plan |   |   |  |  |
|---|---|---|--|--|
| Land Use Designation                                      | Land Use Designation Max. Dwelling Units Max. Sq. Ft. |   |  |  |
| Existing  | 86  | 858,978 sq. ft. for the Commercial component  |  |  |
| MUR High  | 445   | 751,410 sq. ft. including both residential and nonresidential uses                  |  |  |
| MUR High / Declaration of Restrictive Covenants           | 343   | 650,000 sq. ft. (585,000 sq ft for residential uses and 65,000 for commercial uses) |  |  |

## C. Rationale for the Proposed Amendment

The Applicant requests the Land Use Plan Amendment to allow development of up to 343 market-rate residential units and a maximum of 650,000 square feet which includes the residential and non-residential space. Since this project is intended to be predominantly residential the minimum square footage of commercial is to be set at 65,000. There is existing boat and marine uses on the property which the Applicant intends to retain and will be included in that 65,000 square-foot figure. The Applicant states that the assemblage that forms the Amendment site offers a unique opportunity to link together new residential development with historically important water-serving uses along one of the City's most important corridors. The Applicant states that this request "represents one of the first opportunities for the City to implement the vision approved through the 'Transformation Plan' portion of the City's Transportation Corridor Study."

The Applicant states that the Mixed Use Residential objective requires the combination of "residential and nonresidential uses to achieve an attractive, well integrated, and pedestrian and transit friendly environment." The manner in which the Mixed Use Residential categories are an innovation is in their inherent flexibility. As long as a project includes residential uses at no greater density than allowed in the category, devotes at least 10% of the floor area to a minority use, and meets the FAR caps, any combination of permitted uses is possible.

A copy of the Comprehensive Plan's Land Use Element Land Use Implementation section concerning the Mixed Use Residential (MUR) designation is enclosed as **Exhibit D** for your reference.

The Applicant plans to rezone the property to a Planned Development requiring a Master Plan, and recognizes at that time there will be a more refined breakdown of the use ratio. The Applicant contends that if the overall goal is to encourage redevelopment in the Federal Highway corridor, it is imperative that flexibility be afforded for land designated for Mixed-Use development.

# **D. Surrounding Land Uses** – The subject property is surrounded by the following land use designations and uses:

| Location | Existing Use        | City Land Use Designation |
|----------|---------------------|---------------------------|
| North    | Retail/ Residential | Commercial/Low-Medium     |
|          |                     | Density Residential       |
| South    | Retail/             | Commercial/ Medium-High   |
|          | Residential         | Density Residential       |
| East     | Residential         | Medium-High Density/Low   |
|          |                     | Medium Residential        |
| West     | Golf Course         | Recreation Open Space     |

**E. Proposed City Land Use Designation** - The proposed land use designation is Mixed Use Residential (MUR) High.

#### F. Impact Analysis

The proposed intensity of the amendment area is a net increase over what is currently allowed under the city's adopted plan. Therefore there is an increased impact on the public facilities at build-out. The amendment will also result in a population increase and therefore will generate additional demands on the parks systems, hurricane evacuation, and on the school district. The results of the impact analysis are provided below.

# Sanitary Sewer

The proposed MUR High land use is expected to increase sanitary sewer flows by 92,845 gallons per day of sanitary sewer demand from what would be generated under the existing Land Use Designations. The table below shows the difference in generation between the existing and proposed.

|          | Units/Sq.Ft.                           | Total Ave. Daily | Total      |
|----------|--|------------------|------------|
|          |  | Flow             |            |
|          |  | (GDP)            |            |
| Current  | Commercial 38,158 @.20/sq.ft.          | =7,632 GPD       |            |
| Current  | Retail/Office 1,505 sq.ft. @.20/sq.ft. | =301 GPD         | 7,933      |
| Proposed | Multi-Family 343 d.u.@250GPD/unit      | =85,750 GPD      |            |
| Proposed | Commercial 75,140 sq. ft.@.20/sq.ft.   | =15,028 GPD      | 100,778    |
|          |  | Net increase     | 92,845 GPD |

There is a letter from the City of Pompano Beach Utilities Department verifying this information and stating that there is adequate capacity for the increased wastewater treatment.

## Potable Water

The land use plan amendment is also expected to increase the demand in potable water. The table below shows that demand for potable water will increase by 92,845 gallons per day from what would be generated under the existing Commercial Land Use Designation.

|          | Units/Sq.Ft.                           | Total Ave. Daily | Total      |
|----------|--|------------------|------------|
|          |  | Flow             |            |
|          |  | (GDP)            |            |
| Current  | Commercial 38,158 @.20/sq.ft.          | =7,632 GPD       |            |
| Current  | Retail/Office 1,505 sq.ft. @.20/sq.ft. | =301 GPD         | 7,933      |
| Proposed | Multi-Family 343 d.u.@250GPD/unit      | =85,750 GPD      |            |
| Proposed | Commercial 75,140 sq. ft.@.20/sq.ft.   | =15,028 GPD      | 100,778    |
|          | <del></del>                            | Net increase     | 92,845 GPD |

This is confirmation email from the City of Pompano Beach Utilities Department verifying that there is adequate capacity for this increase.

## Drainage

If this land use plan amendment is approved, the project will be designed in accordance with all criteria required by the South Florida Water Management District, Broward County E.L.B.P.D. and Pompano Beach standards. Drainage for the subject property will be accomplished through an on-site storm water system where runoff will not encroach onto public right-of-way or adjacent property.

A drainage letter from Pompano Beach City Utilities Department is required for this application to move forward to a City Commission Agenda. Since there was no letter submitted yet, this will have to be conditioned.

#### Solid Waste

The Applicant has provided information, shown below, to address solid waste impact. It should be amended to include existing and potential commercial, and to show a comparison of the current solid waste generation compared to the proposed. The submittal also has typographical errors on the headings, which must be corrected.

| Solid Waste Impact                   |   |                  |                 |  |
|--------------------------------------|---|------------------|-----------------|--|
| Proposed Use Units Calculation Total |   |                  | Total           |  |
| Multi-Family                         | 345*  | 8.9lbs./unit/day | 3,070.5 lbs/day |  |
|                                      | *The request is for 343 units; however the letter has a Total typographical error a new one is conditioned. |                  |                 |  |

The Applicant has provided the a letter from Waste Management verifying that the information above is correct; however the potential commercial is not addressed. A revised letter shall have to be submitted in order for this application to be placed on a City Commission agenda, therefore this must be conditioned.

## Recreation and Open Space

The level of service standard for neighborhood parks is based on 2 acres per 1,000 persons.

The level of service standard for community parks is 1 acre per 1,000 persons.

The level of service standard for urban parks based is 2 acres per 1,000 persons.

The proposed land use plan amendment will increase residential units by a net 343 units. The current Comprehensive Plan assumes a 2 person average household size, the amendment would increase the

population by approximately 686 people. The current population of Pompano Beach is approximately 103,977 and with the estimated increase of this amendment the population would be approximately 104,663. The required park acreage would be 209 acres of neighborhood, 104.6 acres of community park, and 209 acres of urban park. According to the Comprehensive Plan there is capacity at each level to meet this demand (see table below).

| Park Type    | 2015 Population (with | 2025 Population        | Capacity  |
|--------------|-----------------------|------------------------|-----------|
|              | Amendment)            | Demand(with Amendment) |           |
| Neighborhood | 209 ac                | 219                    | 233.5 ac. |
| Community    | 105 ac                | 110                    | 120.2 ac. |
| Urban        | 209 ac.               | 219                    | 240.3 ac  |

Source: Development Services Staff and Pompano Beach Comprehensive Plan

# Traffic Impact

The proposed land use plan amendment, in conjunction with the Applicant's Voluntary Declaration of Restrictive Covenants would result in a reduction of average daily trips by 19,024 external trips/day.

|                          | Traffic Impact (With Vol          | unteered Restrictions) |                            |
|--------------------------|-----------------------------------|------------------------|----------------------------|
|                          | Use Code                          | Sq.Ft./Units           | Total <sup>1</sup>         |
| Current                  | Commercial (820*)                 | 858,978 sq.ft.         | =23,566 trips/day          |
|                          | Multi-Family (220)*               | 83 units               | 623 trips/day              |
|                          |                                   | Total                  | 24,189 trips/day external  |
| Proposed                 | Commercial (820*)                 | 65,000 sq. ft.         | =5,133 trips /day          |
| •                        | Multi-Family Res. 343 d.u. (220*) | 343 Multi-Family du    | =2,202 trips/day           |
|                          |                                   | Total                  | 7,335 trips/day external   |
| <sup>1</sup> Daily Trips | 1                                 | Change                 | -16,854 external trips/day |
| *ITE Manuel Category     |                                   |                        |                            |

## Mass Transit

The Applicant states that property is served by two Broward County Transit routes including route 10 and 11 (using bus stops located along Federal Hwy. and NE 14<sup>th</sup> St).

## Natural and Historic Resources

The Applicant states that review of the Pompano Beach Comprehensive Plan Maps reveals no historic sites located on or near the subject property. There are, however, Natural Resources to be protected. This particular subject property provides a unique vista of an important Pompano Beach waterway from Federal Hwy. Staff believes that this vista should be protected as one of the ways of addressing the Design Guidelines. Furthermore Objective 01.06.00 of the Land Use Element requires the protection of natural resources. This vista is considered a natural resource.

The Applicant has provided a draft Declaration of Restrictive Covenants that includes the statement that "the design of any mixed-use redevelopment on the property will incorporate one or more visual and/or pedestrian connections between Federal Hwy. and the waterway. Any such connection will be designed not to unduly interfere with existing waterway-based uses, such as boat storage and repair."

# Affordable Housing

The requirements of affordable housing units per the Broward County Land Use Plan Policy 1.07.07 do apply for this request.

## RULES FOR IMPLEMENTATION AND ADMINISTRATION OF BROWARD COUNTY

## 10.2 BROWARD COUNTY LAND USE PLAN POLICY 1.07.07

For amendments which propose to add 100 or more residential dwelling units to the existing densities approved by the Broward County Land Use Plan. Broward County and affected municipalities shall coordinate and cooperate to implement the affected municipality's chosen policies, methods and programs to achieve and/or maintain a sufficient supply of affordable housing.

The Applicant states that Pompano Beach has established policies wherein a development can either provide affordable housing units on site or, in the alternative, contribute a fee in lieu to the City's Local Affordable Housing Trust Fund pursuant to Section 154.80 of the City Code. Because the specific development plan for the Amendment Site has not been determined, the Applicant may provide units on site, pay into the Trust Fund, or a combination thereof.

# Land Use Compatibility

The Future Land Use designations to the north, east, west and south, as shown in the table below:

| Location | Existing Use        | City Land Use Designation |
|----------|---------------------|---------------------------|
| North    | Retail/ Residential | Commercial/Low-Medium     |
|          |                     | Density Residential       |
| South    | Retail/             | Commercial/ Medium-High   |
|          | Residential         | Density Residential       |
| East     | Residential         | Medium-High Density/Low   |
|          |                     | Medium Residential        |
| West     | Golf Course         | Recreation Open Space     |

The property was most recently rezoned through Ordinance 2009-29, which re-applied a Planned Commercial/Industrial Overlay (PCD) overlay to the land. The 2009 Ordinance also re-approved a Master Plan for the development. The planned development consists of two major components: (1) a marina/boat yard/boat storage use east of NE 23 Avenue; and (2) approved retail uses along Federal Highway.

The Applicant states that the amendment site offers a unique opportunity to link together new residential development with historically important water-serving uses along one of the City's most important corridors. The City's Transportation Corridor Plan provides a detailed study of the City's major transportation Corridors, including Federal Hwy. One of the concerns recognized in the study was the abundance of older commercial centers along Federal Highway, many of which are suffering from lower occupancy and fail to provide a sufficient transition from the roadway to the residential uses to the east. Among the transformation strategies listed in the Corridor Study is the encouragement of mixed-use development, especially in the area known as the "Hub," located around

NE 15 Street. The Study recognizes that this area is a prime location for mixed-use development that takes advantage of existing marine uses.

Currently, the undeveloped portions of the property are largely located against Federal Highway and are buffered from lower density residential uses by the existing marine uses and NE 23 Avenue. The Applicant states that the portions of the amendment site that are closer to smaller multi-family and single family uses will be buffered from the residential uses through the zoning and site plan process. The Applicant plans to rezone this property to a Planned Development, which requires the preparation and approval of a master plan.

To make further assurances for compatibility, the Applicant has provided a Declaration of Restrictions and Design Guidelines. The Applicant has agreed to cap, through a declaration of restrictions, the residential development on the amendment site to no more than 343 units and to cap the maximum combined floor area of development to 650,000 sq. ft. The additional restrictions regarding density on the northeastern portions of the site will help ensure that the development of the amendment site will be compatible with the surrounding residential uses.

Beyond capping the potential density and floor area of mixed-use development on the Amendment Site, the Declaration of Restrictions would also impose two significant design limits on future development. First, it would cap the height of residential development within fifty (50) feet of existing residential uses to a maximum of three (3) stories and thirty-five (35) feet. Second, it would require any future development plan for the amendment site to apply the relevant Design Guidelines for Mixed-Use development laid out in in Section 3.02(Q)(2) of the Pompano Beach Comprehensive Plan's Land Use Element.

Elements of the Design Guidelines include: (1) minimal setbacks for buildings; (2) parking strategies that lessen conflicts with pedestrians and bicycles; (3) a circulation system that strengthens pedestrian and bicycle connectivity throughout the Amendment Site; (4) integration of the public realm through the use of open space or public spaces; and (5) avoiding the "walling off" of neighborhoods.

Also in the Declaration of Restrictions, the Applicant has agreed to incorporate visual or physical access to the waterway. It is further anticipated that a mixed-use development on the Amendment Site will likely utilize structured parking, which the Design Guidelines encourage.

#### Redevelopment Analysis

The amendment is not within the City's CRA Boundaries.

# Intergovernmental Coordination

The subject property is not adjacent to any other local governments.

# Public Education

The Applicant has yet to get the School Board to provide the project with a School Consistency Review Report prior to County adoption of the Land Use Plan amendment since there will be an increase in residential and therefore possible students as well.

# G. Consistency with Goals, Objectives and Policies of the City's Land Use Plan

The amendment is consistent with the following goals, objectives and policies of the Land Use Element of the Comprehensive Plan:

# Objective Major Corridor Land Use

01.04.00 Support and promote the intermix of residential and commercial uses along major traffic corridors.

# **Policy**

01.04.01 The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.

# Objective New Land Use Regulations

01.07.00 Encourage the adoption of innovative land development regulations. Adopt new land use designations for Residential, Mixed Use, Transportation Oriented Districts, Transportation Oriented Corridors and amend the land development regulations, including the creation of new zoning districts for these land use designations.

# **Policy**

01.07.02 Continually review and amend new land use designations for Residential, Mixed Use, Transportation Oriented Districts.

# Objective Urban Infill Criteria

01.12.01 Establish criteria which encourage development of urban infill and community redevelopment areas to promote economic development, increase housing opportunities and maximize the use of existing public facilities and services.

## Policies

- 01.03.05 All Land Use Plan Map amendments and rezonings shall provide for the orderly transition of varying residential land use designations.
- O1.03.04 Consider the preservation of established single family neighborhoods in all rezonings, land use plan amendments and site plan approvals.
- 01.03.06 Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single family areas.
- 01.03.11 Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.
- 01.06.01 Consider the impacts that land use amendments, rezonings or site plan approvals have on natural resources and historic properties.

- 01.06.12 Review all land use plan map amendments, rezonings and site plan applications to ensure that there is sufficient potable water resources available and that they pose no noxious impacts to the Biscayne Aquifer.
- 01.07.22 The city's land development code shall include provisions to encourage or enable a variety of housing opportunities in varying price ranges, including housing for low and moderate income families in large scale residential developments.

# Objective Smart Growth Initiative

01.16.00 The City will promote "Smart Growth" type initiatives providing for energy efficient development and land use patterns which also account for existing and future electrical power generation and transmission systems in an effort to discourage urban sprawl and reduce greenhouse gasses.

# Policy

01.16.01 The City shall emphasize re-development and infill, which concentrates the growth and intensifies the land uses consistent with the availability of existing urban services and infrastructure in order to conserve natural and man-made resources.

# Objective Mixed Use Residential

- 1.21.00 Promote mixed use land development patterns which combine residential and nonresidential uses to achieve an attractive, well integrated, and pedestrian and transit friendly environment through the establishment of residential mixed land use categories.
- 01.21.03 The Mixed Use Residential designation shall promote an urban form which creates well integrated land use combinations, balances intensity and density, and promotes the safe, interconnectivity of vehicular, pedestrian and other nonmotorized movement while integrating the public realm, through open space, urban public plazas and/or recreational areas.
- 01.21.04 Applications for the Mixed Use Residential designation shall reflect the design standards in the City's land development code, to ensure the mixed use development is compatible with adjacent land uses and adjacent Future Land Use designations.

The amendment is consistent with the following goals, objectives and policies of the Coastal Zone Element of the Comprehensive Plan:

# Objective Support and Protect Water Dependent Uses

10.03.00 Water dependent and water related uses will be protected and encouraged within the coastal area; this shall include retaining commercial zoning so that private residential redevelopment does not displace such uses.

# Policies

10.03.01 Shoreline uses shall be designed in a manner compatible with the environment and be compatible with existing surrounding land uses and are prioritized according to the following criteria:

- 1. Water dependent commercial and municipal uses.
- 2. Water related uses in conjunction with water dependent uses.

- 3. Public accessibility
- 4. Non-water related uses.
- 10.03.02 Other than in areas designated with residential land use categories, intrusions of land uses unrelated to marine activities or not having coastal dependency shall be discouraged from locating in areas on the coast or adjacent to navigable waterways.
- 10.03.03 Land zoned for marine and water dependent commercial activities shall be preserved

## H. ALTERNATIVE MOTIONS:

(1) Motion to recommend approval of the proposed Mixed Use Residential (MUR) Future Land Use Map Amendment with conditions as the Board finds the proposed land use map change compatible with the goals, objectives and policies in the Comprehensive Plan listed above in this report.

The recommended conditions would be as follows and must be satisfied prior to City Commission placement except for number 4 (which can wait until a second reading of the proposed ordinance, should it occur).

- 1) A Drainage Letter from Pompano Beach City Utilities Department is required for this Staff's advertising for City Commission hearing.
- 2) A revised Solid Waste Letter shall have to be submitted prior to Staff's advertising for City Commission hearing, addressing existing and potential commercial, and showing a comparison of the current solid waste generation.
- 3) The Applicant must provide a commitment of how the affordable housing requirements will be met prior to a rezoning approval.
- 4) The applicant shall provide staff with signed copies of the Voluntary Declaration of Restrictive Covenants prior to second reading of the City Commission.
- (2) Motion to table the requested Comprehensive Plan Map amendment to provide time for any issues raised by the Board, Staff, Applicant or the general public.
- (3) Motion to recommend denial of the proposed Mixed Use Residential (MUR) of the proposed Future Land Use Map Amendment as the Board finds it to be incompatible with the goals, objectives and policies in the Comprehensive Plan listed above in this report.

Staff recommends motion number 1.

# Exhibit A

# LEGAL DESCRIPTION: NET LAND

(PARCEL 1—comprised of the following parcels designated as Parcels 1A-1F)

# (PARCEL 1 A)

All of Parcel "A' of JERICHO BOATS ENTERPRISES, according to the Plat thereof, recorded in Plat book 146, Page 3 of the Public Records of Broward County, Florida

# (PARCEL 1 B)

Lots 1 and 2. Block 2. SEA BARGE YACRT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broad County, Florida. LESS a portion of Lot 1, more particularly described as follows: BEGIN at the Northwest corner of said Lot 1; thence run North 88\*29'09" East, along the north line of said Lot 1 for a distance of 17.28 feet; thence run South 47\*39'21" West. for a distance of 26.15 feet; thence run North 06\*49'35" East along the west line of said Lot 1 for a distance 17.28 feet to the Point of Beginning. PLUS the South 1/2 of the vacated N.E. 15th Street, lying north of Lot 1, Block 2, SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida.

# (PARCEL 1 C)

All of Block 3, LESS the south 265.00 feet thereof, SEA BARGE YACHT CENTER, according to the Plot thereof as recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida.

# (PARCEL 1 D)

Lots 1, 2, 6, 7 and 8, in Block 1 and all of Tracts "A", "B", "C. and "D" of SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida.

LESS that portion of Lot 8, Block 1 of SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida, in Section 30, Township 48 South, Range 43 East, being more particularly described as follows: COMMENCING at the Southeast (SE) corner of said Lot 8; thence run South 88\*29 09' West along

the South line of said Lot 8, for a distance of 117.71 feet to the POINT OF BEGINNING; thence continue to run South 88\*29'09" West a distance of 13.00 feet to the Southwest (SW) corner of said Lot 8; thence run North 06\*49'35" East along the west line of said Lot 8, a distance of 13.00 feet; thence run South 42\*20'38" East, a distance of 17.00 feet to the POINT OF BEGINNING. PLUS the north 1/2 of the vacated N.E. 15th Street. lying south of Lot 8. Block 1 of SEA BARGE YACHT CENTER. according to the Plat thereof, recorded in Flat Book 38, Page 27 of the Public Records of Broward County. Florida.

# (PARCEL 1 E)

That portion of the SEA BARGE YACHT BASIN as shown on the Plat of SEA BARGE YACHT CENTER, as recorded in Plat Book 38. Page 27, of the Public Records of Broward County. Florida. described as follows:

That property lying west of the east line of the West Three Quarters (W 3/4) of the Northwest One—Quarter (NW 1/4) of the Southwest One—Quarter (SW 1/4) of Section 30, Township 48 South, Range 43 East and bounded on the south by the northerly boundary of Tract "C" of said SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida, bounded on the west by the easterly boundary of Tract "B" of said SEA BARGE YACHT CENTER and bounded on the north by the southerly boundary of Tract "B" of said SEA BARGE YACHT CENTER. Together with that portion of said See Barge Yacht Basin described as follows: That portion of Lots 30 and 31 of CALIBAN, according to the Plat Thereof, recorded in Plat Book 27, Page 12 of the Public Records of Broward County, Florida, as bounded on the north by the southern boundary of Tract "B", SEA BARGE YACHT CENTER, according to the Plot thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida, bounded on the west by the east line of the West Three-Quarters (W 3/4) of the Northwest One-Quarter (NW 1/4) of the Southwest One-Quarter (SW 1/4) of said Section 30, bounded on the east by a line 10.00 feet west of and parallel to the east line of said Tract "B" of said SEA BARGE YACHT CENTER.

# (PARCEL 1F)

Lot 4 of CALIBAN, according to the Plat thereof as recorded in Plat Book 27, at Page 12 of the Public Records of Broward County, Florida.

# (PARCEL 2)

Lots 3, 4 and 5, Block 1, of SEA BARGE YACHT CENTER, according to the Plat thereof, as recorded in Plat Book 38, Page 27, of the Public Records of Broward County, Florida.

# (PARCEL 3)

A portion of the Caribbean Yacht Basin, CALIBAN, according to the plat thereof as recorded in Plat Book 27, Page 12, of the Public Records of Broward County, Florida lying North of and adjacent to Parcel "A", JERICHO BOATS ENTERPRISES, according to the plat thereof as recorded in Plat Book 146, Page 3, of the Public Records of Broward County, Florida and being more fully described as follows:

BEGINNING at the Northeast corner of said Parcel "A", JERICHO BOATS ENTERPRISES; thence South 88\*14'47" West on the North line of said Parcel "A" also on the South line of Caribbean Yacht Basin, a distance of 327.60 feet to the Northwest corner of said Parcel "A", JERICHO BOATS ENTERPRISES; thence North 00\*57'15" West, on the Northerly extension of the west line of said Parcel "A", JERICHO BOATS ENTERPRISES, a distance of 15.00 feet; thence North 88\*14'47" East on a line 20.00 feet North of and parallel with the North Line of said Parcel "A", JERICHO BOATS ENTERPRISES, a distance of 327.60 feet; thence South 00\*57'23. East, a distance of 15.00 feet to the POINT OF BEGINNING.

# (PARCEL 4)

A portion of Lot 1, Block 2, SEA BARGE YACHT CENTER, according to the Plat thereof, as recorded in Plat Book 38, Page 27, of the Public Records of Broward County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of said Lot 1; thence run North 88\*29'09" East, along the north line of said Lot 1 for a distance of 17.28 feet; thence run South 47\*39'21. West, for a distance of 26.15 feet; thence run North 06\*49'35" East, along the west line of said Lot 1 for a distance of 17.28 feet to the Point of Beginning. Said lands situate in the City of Pompano Beach, Broward County, Florida and containing 300,444 square feet (6.90 net acres) more or less.

NET ACREAGE: 6.9 Acres GROSS ACREAGE: 8.9 Acres

# Exhibit R



# CITY OF POMPANO BEACH FLORIDA

Visit Our Website At:

http://www.pompanobeachfl.gov

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Pompano Beach, FL 33061

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

City Commission Chambers

January 27<sup>th</sup>, 2016 Wednesday

7:00 P.M.

# AGENDA

A. Call to order by the Vice Chairman of the Board, Mr. Dwight Evans.

B. ROLL CALL:

Also Present

Elizabeth Anderson

M. Dwight Evans Richard Klosiewicz

Joan Kovac Jerold Mills

Fred Stacer Tardy

Jeff Torrey

Maggie Barszewski

Karen Friedman

Paola West

Jennifer Gomez

Kerrie MacNeil

Carrie Sarver

Michael Horan

Graham Penn

Sharyn Pachnek

Jan Shields

Vincent Cavarra

Angelina Rosenberg

Stuart House Dennis Mele Mehran Farahmandpour

# C. MOMENT OF SILENCE

The Vice Chairman asked the audience for thirty seconds of silence.

## D. APPROVAL OF THE MINUTES:

Approval of the minutes on the meeting of November 30th, 2015.

**MOTION** made by Jerry Mills and seconded by Joan Kovac to approve the November 30<sup>th</sup>, 2015 meeting minutes. All voted in favor of the above motion with the exception of Jeff Torrey as he was not present at the November special set hearing.

# E. <u>INDIVIDUALS TESTIFYING PLACED UNDER OATH</u>

City staff and members of the public testifying before the Board at the meeting were placed under oath by Kerrie MacNeil, Zoning Technician and Notary Public in the State of Florida.

## F. PUBLIC HEARINGS

The Vice Chairman, Dwight Evans, announced that the Board wishes to table the first item and item number 2 will be heard first.

**MOTION** was made by Joan Kovac and seconded by Richard Klosiewicz to table item number one until the end of the meeting. All voted in favor of the above motion; therefore, the motion passed.



# 1. <u>AMP IV HIDDEN HARBOUR, LLC. / HIDDEN HARBOUR– LAND USE PLAN AMENDMENT</u> HEARD THIRD

Planning and Zoning #15-91000001

Consideration of the proposed LAND USE PLAN AMENDMENT request by **AMP IV HIDDEN HARBOUR, LLC** for a change in the future land use designation of several parcels that in total encompass an 8.9 gross-acre (6.9 net acre) property. Currently the property has a Commercial (C), a Medium High (MH) and a Low Medium (LM) Future Land Use designation. The Applicant is requesting a change in land use to Mixed Use Residential High (MUR-High 50 DU/AC). The subject property is generally located north of NE 14<sup>th</sup> Street, south of NE 17<sup>th</sup> Street on the east side of Federal Hwy., legally described as follows:

(PARCEL 1—COMPRISED OF THE FOLLOWING PARCELS DESIGNATED AS PARCELS 1A-1F)

#### (PARCEL 1 A)

ALL OF PARCEL "A' OF JERICHO BOATS ENTERPRISES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 146, PAGE 3 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

#### (PARCEL 1 B)

LOTS 1 AND 2. BLOCK 2. SEA BARGE YACRT CENTER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 38, PAGE 27 OF THE PUBLIC RECORDS OF BROAD COUNTY, FLORIDA. LESS A PORTION OF LOT 1, MORE PARTICULARLY DESCRIBED ON THE SURVEY SUBMITTED WITH THE APPLICATION.

#### (PARCEL 1 C)

ALL OF BLOCK 3, LESS THE SOUTH 265.00 FEET THEREOF, SEA BARGE YACHT CENTER, ACCORDING TO THE PLOT THEREOF AS RECORDED IN PLAT BOOK 38, PAGE 27 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

#### (PARCEL 1 D)

LOTS 1, 2, 6, 7 AND 8, IN BLOCK 1 AND ALL OF TRACTS "A", "B", "C. AND "D" OF SEA BARGE YACHT CENTER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 38, PAGE 27 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

LESS THAT PORTION OF LOT 8, BLOCK 1 OF SEA BARGE YACHT CENTER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 38, PAGE 27 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, IN SECTION 30, TOWNSHIP 48 SOUTH, RANGE 43 EAST, BEING MORE PARTICULARLY DESCRIBED ON THE SURVEY SUBMITTED WITH THE APPLICATION.

#### (PARCEL 1 E)

THAT PORTION OF THE SEA BARGE YACHT BASIN AS SHOWN ON THE PLAT OF SEA BARGE YACHT CENTER, AS RECORDED IN PLAT BOOK 38. PAGE 27, OF THE PUBLIC RECORDS OF BROWARD COUNTY. FLORIDA, BEING MORE PARTICULARLY DESCRIBED ON THE SURVEY SUBMITTED WITH THE APPLICATION.

#### (PARCEL 1F)

LOT 4 OF CALIBAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 27, AT PAGE 12 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

#### (PARCEL 2)

LOTS 3, 4 AND 5, BLOCK 1, OF SEA BARGE YACHT CENTER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 38, PAGE 27, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

# (PARCEL 3)

A PORTION OF THE CARIBBEAN YACHT BASIN, CALIBAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 27, PAGE 12, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA LYING NORTH OF AND ADJACENT TO PARCEL "A", JERICHO BOATS ENTERPRISES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 146, PAGE 3, OF THE PUBLIC RECORDS

#### PLANNING AND ZONING BOARD MINUTES January 27, 2016 Page 4

OF BROWARD COUNTY, FLORIDA AND BEING MORE FULLY DESCRIBED ON THE SURVEY SUBMITTED WITH THE APPLICATION.

(PARCEL 4)

A PORTION OF LOT 1, BLOCK 2, SEA BARGE YACHT CENTER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 38, PAGE 27, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED ON THE SURVEY SUBMITTED WITH THE APPLICATION.

AKA: North of NE 14<sup>th</sup> Street, south of NE 17<sup>th</sup> Street on the east side of Federal Hwy.

FROM: C (Commercial), LM (Low-Medium 5-10 DU/AC), MH (Medium-high 16-25 DU/AC)

TO: Mixed Use Residential-High (MUR-High 50 DU/AC) STAFF CONTACT: Maggie Barszewski, AICP (954) 786-7921

Maggie Barszewski introduced herself to the Board and stated that this is a request to change the future land use designation of several parcels that in total encompass an 8.9 gross-acre (6.9 net acre) property. Currently the property has a Commercial (C), a Medium High (MH) and a Low Medium (LM) Future Land Use designation. The Applicant is requesting a change in land use to Mixed Use Residential High (MUR-High 50 DU/AC). The subject property is located at 1500-1590 North Federal Highway. The property is owned by AMP IV Hidden Harbour, LLC. The property is currently zoned B-3 and M-1 PCD.

The uses adjacent to the subject property are:

North: Retail/Residential
South: Retail/Residential
Commercial/Low-Medium Density Residential
Commercial/ Medium-High Density Residential
Medium-High Density/Low Medium Residential

West: Golf Course Recreation Open Space

The MUR designation allows the applicant to choose among four different categories of Density and Intensity standards. The applicant is requesting the "High" option as follows:

The High 50 Mixed Use (permits up to 50 residential dwelling units per gross acre and a FAR of 2.5 for combined residential and non-residential development).

The intent of the MUR designation is to provide a flexible range of development parameters to encourage mixed use development in areas where infusing residential development would benefit the City. A mix of residential use and non-residential use is required.

Mrs. Barszewski stated that the Applicant is proposing a maximum of 343 Dwelling Units and 650,000 sq ft. Of the total square footage, 10% is set aside for Commercial Use. This request is less than the maximums allowed via the MUR High. Table 1,

# PLANNING AND ZONING BOARD MINUTES January 27, 2016 Page 5

displayed on the projector, indicates the allowed maximum per MUR High and the proposed maximum. The Applicant has provided a draft Voluntary Declaration of Restrictive Covenants (copy enclosed) that will restrict the property to the maximum dwelling units to 343 and the square footage to 650,000. The Covenant also will include other restrictions concerning design guidelines concerning compatibility with adjacent properties and pedestrian access to the waterway.

In addition to limiting the maximum number of dwelling units to 343, the Applicant is also limiting the maximum density in certain locations of the site (aka geographically). The map on the projector demonstrates the following:

- -The northern portion of the site, which is currently Low Medium (LM), would be restricted to 10 units per acre (5 total units).
- -The eastern portion of the site, which is currently Medium High (MH), would be restricted to 25 units per acre (83 total units).
- -The western portion of the site, which is currently Commercial (C), would be restricted to 50 units per acre (255 total units).

Mrs. Barszewski placed Table 2 on the overhead projector which shows the Existing Land Use Designations - Density/Intensities.

Mrs. Barszewski stated that based on the information provided in Table 1 as well as the information provided in Table 2 above, the following {Table 3} shows the proposed increase densities and intensities. Further, the table shows the increases based on the maximum permitted under MUR High, as well as those per the Applicant Voluntary Declaration of Restrictive Covenants.

Mrs. Barszewski stated that the Applicant requests the Land Use Plan Amendment to allow development of up to 343 market-rate residential units and a maximum of 650,000 square feet which includes the residential and non-residential space. Since this project is intended to be predominantly residential the minimum square footage of commercial is to be set at 65,000. There is existing boat and marine uses on the property which the Applicant intends to retain and will be included in that 65,000 square-foot figure. The Applicant states that the assemblage that forms the Amendment site offers a unique opportunity to link together new residential development with historically important water-serving uses along one of the City's most important corridors. The Applicant states that this request "represents one of the first opportunities for the City to implement the vision approved through the 'Transformation Plan' portion of the City's Transportation Corridor Study."

Mrs. Barszewski stated that the Applicant states that the Mixed Use Residential objective requires the combination of "residential and nonresidential uses to achieve an attractive, well integrated, and pedestrian and transit friendly environment." The manner in which the Mixed Use Residential categories are an innovation is in their inherent flexibility. As long as a project includes residential uses at no greater density than allowed in the category, devotes at least 10% of the floor area to a minority use, and meets the floor area (FAR) caps, any combination of permitted uses is possible.

- The Applicant plans to rezone the property to a Planned Development requiring a Master Plan, and recognizes at that time there will be a more refined breakdown of the use ratio. The Applicant contends that if the overall goal is to encourage redevelopment in the Federal Highway corridor, it is imperative that flexibility be afforded for land designated for Mixed-Use development.
- The Impact analysis shows that there are increases in impact for all services, such as sanitary sewer, water, Parks & Open space however there is still enough capacity to handle the increase. The Solid Waste analysis will need to be revised. The Traffic Impact Analysis reflects a decrease with the proposed request due to the infusion of the residential.

There are, however, Natural Resources to be protected. This particular subject property provides a unique vista of an important Pompano Beach waterway from Federal Hwy. Staff believes that this vista should be protected as one of the ways of addressing the Design Guidelines. Furthermore, Objective 01.06.00 of the Land Use Element requires the protection of natural resources. This vista is considered a natural resource.

The Applicant has provided a draft Declaration of Restrictive Covenants that includes the statement that "the design of any mixed-use redevelopment on the property will incorporate one or more visual and/or pedestrian connections between Federal Hwy. and the waterway.

Broward County requires for amendments which propose to add 100 or more residential dwelling units, the developer must address affordable housing. Because the specific development plan for the Amendment Site has not been determined, the Applicant may provide units on site or pay into the Trust Fund.

Mrs. Barszewski stated that the property was most recently rezoned through Ordinance 2009-29, which re-applied a Planned Commercial/Industrial Overlay (PCD) overlay to the land. The 2009 Ordinance also re-approved a Master Plan for the development. The planned development consists of two major components: (1) a marina/boat yard/boat storage use east of NE 23 Avenue; and (2) approved retail uses along Federal Highway.

The Applicant states that the amendment site offers a unique opportunity to link together new residential development with historically important water-serving uses along one of the City's most important corridors. The City's Transportation Corridor Plan provides a detailed study of the City's major transportation Corridors, including Federal Hwy. One of the concerns recognized in the study was the abundance of older commercial centers along Federal Highway, many of which are suffering from lower occupancy and fail to provide a sufficient transition from the roadway to the residential uses to the east. Among the transformation strategies listed in the Corridor Study is the encouragement of mixed-use development, especially in the area known as the "Hub," located around NE 15 Street. The Study recognizes that this area is a prime location for mixed-use development that takes advantage of existing marine uses.

Currently, the undeveloped portions of the property are largely located against Federal Highway and are buffered from lower density residential uses by the existing marine uses and NE 23rd Avenue. The Applicant states that the portions of the amendment site that are closer to smaller multi-family and single family uses will be buffered from the residential uses through the zoning and site plan process. The Applicant plans to rezone this property to a Planned Development, which requires the preparation and approval of a master plan.

To make further assurances for compatibility, the Applicant has provided a Declaration of Restrictions and Design Guidelines. The Applicant has agreed to cap, through a declaration of restrictions, the residential development on the amendment site to no more than 343 units and to cap the maximum combined floor area of development to 650,000 sq. ft. The additional restrictions regarding density on the northeastern portions of the site will help ensure that the development of the amendment site will be compatible with the surrounding residential uses.

Beyond capping the potential density and floor area of mixed-use development on the Amendment Site, the Declaration of Restrictions would also impose two significant design limits on future development. First, it would cap the height of residential development within fifty (50) feet of existing residential uses to a maximum of three (3) stories and thirty-five (35) feet. Second, it would require any future development plan for the amendment site to apply the relevant Design Guidelines for Mixed-Use development laid out in in Section 3.02(Q)(2) of the Pompano Beach Comprehensive Plan's Land Use Element.

Elements of the Design Guidelines include: (1) minimal setbacks for buildings; (2) parking strategies that lessen conflicts with pedestrians and bicycles; (3) a circulation system that strengthens pedestrian and bicycle connectivity throughout the Amendment Site; (4) integration of the public realm through the use of open space or public spaces; and (5) avoiding the "walling off" of neighborhoods.

Also in the Declaration of Restrictions, the Applicant has agreed to incorporate visual or physical access to the waterway. It is further anticipated that a mixed-use development on the Amendment Site will likely utilize structured parking, which the Design Guidelines encourage.

# Consistency with Goals, Objectives and Policies of the City's Land Use Plan

Mrs. Barszewski stated that Staff feels the amendment is consistent with the following goals, objectives and policies of the Land Use Element of the Comprehensive Plan:

Objective Major Corridor Land Use

01.04.00 Support and promote the intermix of residential and commercial uses along major traffic corridors.

# PLANNING AND ZONING BOARD MINUTES January 27, 2016 Page 8

# Policy

01.04.01.1 The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.

# Objective New Land Use Regulations

01.07.00 Encourage the adoption of innovative land development regulations. Adopt new land use designations for Residential, Mixed Use, Transportation Oriented Districts, Transportation Oriented Corridors and amend the land development regulations, including the creation of new zoning districts for these land use designations.

# Policy

01.07.02 Continually review and amend new land use designations for Residential, Mixed Use, Transportation Oriented Districts.

# Objective Urban Infill Criteria

01.12.01 Establish criteria which encourage development of urban infill and community redevelopment areas to promote economic development, increase housing opportunities and maximize the use of existing public facilities and services.

#### Policies

- 01.03.05 All Land Use Plan Map amendments and rezonings shall provide for the orderly transition of varying residential land use designations.
- O1.03.04 Consider the preservation of established single family neighborhoods in all rezonings, land use plan amendments and site plan approvals.
- 01.03.05 Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single family areas.
- 01.03.06 Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single family areas.
- 01.03.11 Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.
- 01.06.01 Consider the impacts that land use amendments, rezonings or site plan approvals have on natural resources and historic properties.
- 01.06.12 Review all land use plan map amendments, rezonings and site plan applications to ensure that there is sufficient potable water resources available and that they pose no noxious impacts to the Biscayne Aquifer.
- 01.07.22 The city's land development code shall include provisions to encourage or enable a variety of housing opportunities in varying price ranges, including housing for low and moderate income families in large scale residential developments.
- Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // kem

# Objective Smart Growth Initiative

01.16.00 The City will promote "Smart Growth" type initiatives providing for energy efficient development and land use patterns which also account for existing and future electrical power generation and transmission systems in an effort to discourage urban sprawl and reduce greenhouse gasses.

# Policy

01.16.01 The City shall emphasize re-development and infill, which concentrates the growth and intensifies the land uses consistent with the availability of existing urban services and infrastructure in order to conserve natural and man-made resources.

# Objective Mixed Use Residential

- 1.21.00 Promote mixed use land development patterns which combine residential and nonresidential uses to achieve an attractive, well integrated, and pedestrian and transit friendly environment through the establishment of residential mixed land use categories.
- 01.21.03 The Mixed Use Residential designation shall promote an urban form which creates well integrated land use combinations, balances intensity and density, and promotes the safe, interconnectivity of vehicular, pedestrian and other nonmotorized movement while integrating the public realm, through open space, urban public plazas and/or recreational areas.
- 01.21.04 Applications for the Mixed Use Residential designation shall reflect the design standards in the City's land development code, to ensure the mixed use development is compatible with adjacent land uses and adjacent Future Land Use designations.

## H. Alternative Motions:

Alternative Motion 1: Motion to recommend approval of the proposed Mixed Use Residential (MUR) Future Land Use Map Amendment with conditions as the Board finds the proposed land use map change compatible with the goals, objectives and policies in the Comprehensive Plan I just read into the record.

The conditions would be as follows:

- 1) A Drainage Letter from Pompano Beach City Utilities Department is required for this Staff's advertising for City Commission hearing.
- 2) A revised Solid Waste Letter shall have to be submitted prior to Staff's advertising for City Commission hearing, addressing existing and potential commercial, and showing a comparison of the current solid waste generation.
- 3) Prior to Staff's advertising for City Commission, the applicant shall amend the Declaration of Restrictive Covenants to include:
  - a. A revised "Illustration of Proposed Use Assignment" that shows the northern property as "Residential, and Existing Parking"

# PLANNING AND ZONING BOARD MINUTES January 27, 2016 Page 10

- b. There shall be a minimum of 65,000 sq. ft. of Commercial
- c. The existing commercial marina shall be maintained
- 4) The applicant shall provide staff with signed copies of the Voluntary Declaration of Restrictive Covenants prior to second reading of the City Commission.
- 5) The Applicant must provide a commitment of how the affordable housing requirements will be met prior to a rezoning approval.

Alternative Motion 2: Motion to table the requested Comprehensive Plan Map amendment to provide time for any issues raised by the Board, Staff, Applicant or the general public.

Alternative Motion 3: Motion to recommend denial of the proposed Mixed Use Residential (MUR) of the proposed Future Land Use Map Amendment as the Board finds it to be incompatible with the goals, objectives and policies in the Comprehensive Plan listed above in this report.

Mrs. Barszewski stated that staff recommends motion number 1 (with the conditions).

Dr. Mills asked why Policy 01.03.05 is listed twice. Mrs. Barszewski answered that one of them should be deleted because it is a duplicate. Mrs. Sarver stated that it appears to be a scrivener's error. Mrs. Barszewski stated that the policy stands, yet the number is incorrect.

Mr. Evans asked about page 13 and school board school consistency. Mrs. Barszewski answered that the applicant has submitted this report and we have received it from the School Board. Mr. Evans asked if this has been completed and Mrs. Barszewski confirmed.

Mr. Evans asked how many units, out of the 343 units, would be affordable. Maggie answered that the applicant will need to address this. However, we are requiring that they meet the requirements of the County.

Mr. Evans asked about the alternative of providing off-site housing. Maggie replied that the Applicant has the option of providing on site or off site housing or do an "in-lieu of" fee. The Applicant needs to address this prior to rezoning submittal. Mr. Evans asked if there was a particular area where they would provide off-site housing. Mrs. Barszewski stated that this is up to the applicant.

Mrs. Anderson asked Staff if they knew the square footage of the existing marina. Mrs. Barszewski answered that the building is 68,000 square feet (this number does not include the existing boatyard). Mrs. Anderson asked if the 65,000 square feet is included in this number. Mr. Stacer suggesting having the applicant answer this question.

Mr. Evans asked about the Declaration of Restrictions and if it binds the next buyer of the property. Mrs. Sarver introduced herself and said the covenant runs with the land even if the property transfers owners. Mrs. Sarver provided some more clarification for Mr. Evans.

Graham Penn (200 S Biscayne Blvd.) introduced himself to the Board and stated that he is the owner's representative. Mr. Penn presented the Board with a PowerPoint Presentation with displayed the existing property, the 2009 Master Plan etc. Mr. Graham stated that they are not increasing the residential density of the residential properties on the east side of 23<sup>rd</sup> Avenue. Mr. Penn mentioned that the development will have a height restriction.

Mr. Penn brought up the Corridor Study, its goals, and how the proposed project would help the City reach its goals on Federal Highway. Mr. Penn mentioned that both the City and the County Comprehensive Plans encourage this type of re-designation.

Mr. Penn explained the reductions and restrictions that the Declaration of Restrictive Covenants creates (as related to units, commercial floor area, intensity and use on the portions east of 23<sup>rd</sup> Avenue, residential height, requiring visual or physical connections to the waterway etc.).

Mr. Penn stated that the applicant has sent out a notice of neighborhood meeting for February 1<sup>st</sup> (Monday night at 6pm).

Mr. Penn stated that the application tonight is an attempt to change the boat yard into a different use. Mr. Penn stated that he is aware of the complaints about the open-air boat yard. The boat yard could possibly become a restaurant and residential development.

Mr. Penn stated that the applicant proposes changes to the Staff conditions. Mr. Penn stated that the Applicant wants to have ability to redevelop the boat yard. Staff's suggestion says that the marina cannot go away, which means boat yard has to stay. Mr. Penn stated that they are committed to keeping boat storage.

Mr. Penn stated that the changes to the conditions are specifically:

Condition three (3), third bullet (aka 3c) be amended to require the retention of the dry storage use south of the canal.

Technical requests to the conditions:

Condition 3a be amended to strike "existing parking" and just to read "residential or parking."

Mr. Penn addressed Mr. Evan's question about schools and stated that they received an answer from the School Board and they had no issues. This is in the application package. Mr. Evans asked about affordable housing. Mr. Penn answered that they do not know what the ultimate unit count is at this point and they will deal with the affordable housing provision at the time of site plan. Mr. Penn stated that they will probably pay into the trust fund instead of provide affordable housing.

Fred Stacer asked if the Applicant is agreeing to the five conditions of staff except the two requested changes. Mr. Penn confirmed. Mr. Stacer asked for Staff's input on the requested changes to the conditions.

Maggie asked for clarification on the parking condition. Mr. Penn stated that 3a would read "residential or parking." Mrs. Barszewski stated that she does not have a problem with this change but she does have a problem with the other change. Mrs. Barszewski stated that Staff's condition currently reads that all existing commercial marina uses shall be maintained. Therefore, this request is a major change. Mrs. Barszewski stated that it is her recommendation to table the item for further discussion.

Mr. Stacer asked if the item required two readings at the City Commission. Mr. Stacer stated that he is seeing a nod from the Assistant Director. Mr. Stacer asked if the applicant would rather table the item and bring the item back next month. Mr. Penn stated that all they hear from the residents that the open lot is a problem and they want the opportunity to remove this portion of the marine use. Mrs. Barszewski mentioned that the repair of boats can be enclosed, the use just has to be maintained. Mr. Penn stated that the Applicant wants to increase access to the water and remove the industrial character of the northern piece. Mr. Penn stated that the Applicant does not want to delay the item and he would prefer to move the item forward.

Joan Kovac asked for clarification on what the Applicant wants to replace and if it is the boat repair. Mr. Penn confirmed and stated that they would like to replace it with a commercial or residential use.

Dr. Mills said he has heard that the FAA restricts properties south of 10<sup>th</sup> Street to one story and he heard that they will build three stories tall. Dr. Mills asked if this is within the limits of the FAA. Mr. Penn answered that on Federal, it goes from 90 to 150 as you move south; therefore, they are not limited in that degree. Mr. Penn stated that we are volunteering to limit the height within 50 feet of residentially zoned property to 35 feet or three stories.

Mrs. Anderson stated that the table in the staff report shows that the north property is limited to three dwelling units, yet the drawing says up to five. Mrs. Anderson asked the Applicant if they are increasing the density or not. Mr. Penn answered that the mixed used categories do not line up directly with the residential categories and if we went with the lowest mixed-use category, we would only get three units. Mr. Penn stated that currently, five units are permitted and the revision would max it out at five. Mr. Penn stated that this is still a reduction on what could be built here (if they went with "high"). Mrs. Anderson asked if the Applicant is basing this off of the acreage. Mr.s Anderson asked if they are potentially increasing the density and Mr. Penn responded that they are not increasing it over the current residential category. Mrs. Anderson asked if the Applicant means that it is currently 10 units per acre referring to the Land Use and Mr. Penn confirmed. Mrs. Anderson responded that the backup says five. Mr. Stacer commented that Table 2 reads 5 units to the acre for land use (page 8). It was concluded that this is a typo in Table 2 and should read 10 units.

Mrs. Sarver asked if the Declaration of Restrictions is proposed and Mrs. Barszewski answered that it is a draft. Mrs. Sarver asked if anyone in the City Attorney's office has reviewed it. Mrs. Barszewski responded that no one has reviewed it. Mrs. Sarver suggested that the review by the City Attorney's office be made a condition. Mrs. Sarver mentioned that there is a Scrivener's error with the number of square feet (650,000). Mr. Stacer asked if this can be a condition prior to the City Commission first reading. Mrs. Sarver replied that the condition should be met before recording. Mr. Penn stated that the Applicant drafted this at the time of filing; therefore, the Staff conditions are not included. Mr. Penn stated that the 650,000 square feet is correct. Mrs. Sarver asked if there was an error in the staff report. Mr. Penn responded that there is a distinction between the 65,000 which is a minimum requirement for commercial. Maggie said that the 650,000 is not an error.

Mr. Stacer asked if they will be restricted on height by the FAA. Mr. Penn started to answer "Yes, for the areas outside the..." and Mr. Stacer asked if that were not the case, what is the height restriction we would place on the property. Mr. Stacer asked if the property will be a PCD. Mr. Stacer asked if the existing PCD will be revised. Mr. Penn confirmed. Mr. Stacer asked if a Planned Development is restricted in height by underlying zoning. Mrs. Barszewski responded that it is. Mrs. Barszewski stated that the property is B-3/PCD and M-1/PCD. Mr. Stacer asked if the underlying zoning is B-3. Mrs. Barszewski confirmed and added that it has a PCD overlay. Mr. Stacer asked if it is restricted to 105 feet today. Mrs. Barszewski confirmed. Mr. Penn stated that they will most likely seek what the airport will allow.

Mr. Stacer asked if they have a requirement to provide more commercial uses than what is existing. Mrs. Barszewski stated that they have to have minimum of ten percent of the minority use. Mrs. Barszewski stated that it seems that the boat yard use will be maxing out the required ten percent. Mr. Stacer stated that the mixed-use we require is in thought process really. Mrs. Barszewski stated that MUR allows you to have vertical or horizontal mixed-use. Mr. Stacer expressed that he believes we should be requiring the Applicant to provide commercial space in the residential building. Mrs. Barszewski stated that this can be an added condition.

Mr. Stacer invited audience to come speak.

Mike Horan (1039 Hillsboro Mile Hillsboro Beach, FL) stated that he had a packet to pass out and he has an objection to the City Attorney. Mr. Horan stated that three times on record the Assistant City Attorney stated "on approval." Mr. Horan stated that the approval has to be approved by the City Commission and not by the City Attorney's office. Mrs. Sarver clarified that she was advising the Board that the Declaration should be reviewed by the City Attorney's office after this meeting since conditions were changed at this meeting and it would be to their benefit to have the City Attorney review the document to make sure it accurately reflects what was discussed tonight.

Mr. Horan read his letter to the Board. Mr. Horan stated that he did not receive a letter and he objects to the request for land use plan amendment. Mr. Horan stated that the property currently has eight active code violations. Mr. Horan asked the Board to table

Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // kem

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or deny the request until the Applicant complies with the master overlay district requirements and cure all outstanding code violations.

Mr. Stacer asked Staff if a property has to be clear of code violations before they can receive a Land Use Plan Amendment. Jennifer Gomez introduced herself to the Board and responded that we do not require this for all Land Use Plan Amendments. Mrs. Gomez mentioned that parts of the property are supposed to be parking lots. Mr. Horan that that the noise that comes from working on the boats on the docks at the dry storage facility is a violation. Mr. Horan asked how the Planning and Zoning Board can approve this with all the violations. Mr. Horan stated that he believes that the owner needs to be reasonable with the people in the neighborhood.

The Applicant stated that the code violations are all related to completion of the old Planned Development. Mr. Penn stated that this new master plan is the cure to this problem. Mr. Penn stated that the property is approved for a parking lot and open boat storage. Mr. Penn stated that the Applicant has asked Mr. Horan for proof of the Settlement agreement over the years and have never seen the document. Mr. Penn stated that he is not aware of any code violations related to the operation of the property and they are only related to the completion of the Master Plan.

Mrs. Sarver asked for an affidavit from Staff that states that the notice requirement was met. Mrs. Gomez responded that Staff sends out the notices themselves. Mrs. Barszewski stated that Mr. Horan has received the list of the properties that were noticed. Ms. MacNeil stated that staff did send out the notices that are required to be sent by code. Mrs. Gomez mentioned that Staff has not been invited to the neighborhood meeting. Mrs. Barszewski stated that she was invited to the neighborhood meeting. Mrs. Barszewski stated that Staff is only present to answer any questions that the citizens may have concerning the Code. Mr. Penn says that the code requires the Applicant to invite Staff to the neighborhood meeting.

Mr. Horan stated that he did not get a copy of the notice for the neighborhood meeting. Mr. Horan wants to know why there is not a plan yet. Mr. Stacer replied that there does not need to be a plan for the Land Use Plan Amendment. Mr. Penn clarified that this is not the site plan approval process and they do not have a plan ready. Mr. Horan asked why he did not receive a notice of either meeting. Mrs. Sarver clarified that there were two notices sent (one from the City Staff and one from the Applicant). Mr. Stacer clarified that the list for the neighborhood meeting came from City Staff. Mr. Penn stated that he did not send out the notice for tonight's hearing but the notices for the neighborhood meeting. Mr. Horan stated that he did not receive either notice.

Mrs. Anderson asked Mr. Horan if he would prefer a different use on the northern parcel and Mr. Horan responded that he does not think that the applicant be considered at all until they clean up the issues related to the Master Plan. Mr. Stacer suggested that Horan bring the paperwork to Mr. Penn.

Sharyn Pachnek (2439 NE 14 ST Pompano Beach) introduced herself to the Board and stated that she owns her townhome and her window faces into the indoor boat storage.

Ms. Pachnek stated that the residents heard talk of a quaint mixed use development and something that would enhance the waterway. Ms. Pachnek stated that many of her neighbors have moved due to the dry storage being constructed. Mc. Pachnek stated that there are boats being parked behind the indoor storage with people spending the night on their boats and they can see into the neighboring property. Ms. Pachnek stated that everything that they were told did not happen with the property. Ms. Pachnek stated that she does not have an understanding of Staff's report. Is anything else going to be built in between the indoor boat storage and her property. Mr. Penn responded "no." Mr. Penn stated that the dry dock storage will remain the same and the southern layout will not change in this proposal. Mr. Penn stated that the Applicant wishes to bring mixed-use to the remainder of the property. Ms. Pachnek wants to bring some charm to the area and have businesses that draw people to the area and she does not understand why staff wants to keep the boat yard. Mrs. Anderson asked if Ms. Pachnek if she would like to see a different use other than boat yard on the northern parcel and she confirmed.

Jan Shields (2350 NE 14 ST Pompano Beach, FL) introduced herself to the Board and stated that a 100 to 105 foot tall residential building is out of character in the area. Ms. Shields stated that townhouses would be nice but a tower would not be good in the neighborhood.

Vincent Cavarra (2301 NE 14 ST Pompano Beach, FL) introduced himself to the Board and asked if the proposed units will be apartments or condos. Mr. Stacer answered that it can be either. Mr. Cavarra mentioned that a restaurant has failed twice in the north location. Mr. Cavarra stated that he is concerned that the Applicant would not able to squeeze in the density (five units) in three stories- maybe in twenty stories (referring to the parcel north of NE 16th Street). Mr. Cavarra stated that he is concerned about a traffic problem at 23<sup>rd</sup> and 14<sup>th</sup> Street. Mr. Cavarra stated that he would love to see something done with this site because now it is being used as a dog park. However, he is concerned with adding a high-density residential building. Mr. Cavarra added that 14 Street is only two lanes and he does not know how we will get in and out. Mr. Stacer said that the applicant has to address these issues at the time of site plan application. Mr. Cavarra stated that he does not know how they are going to service the water when they pressure in his building is so low. Mr. Cavarra stated that he believes adding this amount of residential units is not economically feasible.

Mr. Stacer closed the public hearing.

Mrs. Sarver stated that, in response to the concern with drainage, the report states that the project will be designed in accordance with all the criteria required by the SFWMD, Broward County and the City. Also, there will be a requirement for an on-site storm water system that does not encroach on the public right-of-way.

Mr. Stacer asked about the additional condition concerning the City Attorney's office reviewing the declaration prior to City Commission and one more. Mr. Stacer concluded that there were still things to work out regarding the commercial use in the building and Staff recommendation for the existing marina.

# PLANNING AND ZONING BOARD MINUTES January 27, 2016 Page 16

Mr. Klosiewicz asked Staff if the current boat storage makes up a portion of the minimum commercial requirement of 65,000 sq. ft. Mrs. Barszewski stated it is more. Mr. Stacer stated that it makes up more than a portion because it is 68,000 sq. ft. in size. Mr. Klosiewicz stated that this allows the flexibility of the marine repair portion of the site. Mr. Klosiewicz asked what the reason is that the Applicant cannot have flexibility on the use of the north parcel (marine repair). Mrs. Barszewski stated that the City values the marine businesses and the Comprehensive Plan states that we need to preserve the marine businesses. Mr. Klosiewicz asked if it has nothing to with keeping the minimum commercial area. Mrs. Barszewski stated that they can have more commercial space. Mr. Klosiewicz asked why the Applicant cannot have any flexibility with that parcel. Mrs. Barszewski responded that they can built over the repair yard. Mrs. Barszewski restated that the Comprehensive Plan states that Staff needs to preserve the marine businesses.

Jennifer Gomez stated that the condition can be reworded to state that "a commercial marina may be maintained" so that it does not require the existing use to be maintained (dry storage and boat repair). Mrs. Gomez added that the marina use is limited in the City and it is important to not lose the marinas. Staff cannot recommend in favor of removing marina condition on the spot. Mr. Klosiewicz asked if, at this point, it would be marina repair forever. Mrs. Gomez repeated that her recommendation is that the condition read that the "marina" be maintained. Mr. Klosiewicz asked if this would be virtually forever and Mrs. Gomez confirmed. Mrs. Gomez added that not necessarily the configuration that it is today (the open lot). Mr. Klosiewicz asked if it has to be marine repair and Mrs. Gomez replied that it does not necessarily have to be marine repair just a "marine use." Mr. Klosiewicz asked if we have a definition of marine use. Mrs. Gomez responded that we can put something in the Declaration of Covenants. Mr. Klosiewicz asked if there is a specific portion that needs to be marine use. Mrs. Gomez confirmed and added that the lots that are currently being used for a marine use should remain marine use. Mr. Klosiewicz asked if there could be marine use combined with another use and Mrs. Gomez stated that it is possible.

Mr. Stacer stated that he believes the item should be tabled so that Staff and the Applicant could work out the details. Mr. Stacer added that he is not comfortable with building a tower with no commercial on the first floor on Federal Highway. Mrs. Kovac agreed that the item should be tabled.

**MOTION** was made by Jerry Mills and seconded by Richard Klosiewicz to table the request for a Land Use Plan Amendment. All voted in favor of the above motion; therefore, the motion was approved.

Mr. Stacer asked Staff to address the two issues that he brought up prior to the item returning to the Board (the marine use and the first floor commercial). Mr. Stacer asked if the motion could reflect this request. Dr. Mills agreed.

Mr. Stacer announced that the Board will take a ten minute break.

# Exhibit C

This instrument was prepared by:

Name:

Graham Penn, Esq.

Address:

Bercow Radell & Fernandez, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

(Space reserved for Clerk)

# **DECLARATION OF RESTRICTIONS**

WHEREAS, the undersigned Owner holds the fee simple title to an assemblage of land in Pompano Beach, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the submitted attorney's opinion, and

WHEREAS, the Property is the Amendment Site of Pompano Beach Land Use Plan Map Amendment Application 15-91000001; and

WHEREAS, the Owner has sought to change the designation of the Amendment Site from "Commercial," "Low-Medium (10) Density Residential," and "Medium-High Density Residential" to "Mixed-Use High."

NOW THEREFORE, in order to assure the City of Pompano Beach (the "City") that the representations made by the Owner during the consideration of the Application will be abided by the Owner, its successors and assigns, freely, voluntarily, and without duress, makes the following Declaration of Restrictions covering and running with the Property:

<u>Development Limits.</u> Any future master plan or zoning action for any mixed-use development of the Property will incorporate the following restrictions:

- 1. The residential development of the Property shall be limited to a maximum of 343 residential units. The residential intensity and uses shall further be defined as depicted on the attached Exhibit "B."
- 2. The maximum floor area of any mixed-use redevelopment on the Property will be 650,000 square feet.

- 3. Marina Uses will be retained on the south side of the waterway as depicted in the Exhibit "B". These uses shall include the existing dry storage building. Redevelopment of the parcel for other significant marine service or storage use may be approved by the City provided the proposed redevelopment complies with Comprehensive Plan Policies 10.03.02 and 10.03.03. No residential development will occur on the south parcel.
- 4. At least 10,000 square feet of commercial space will be vertically integrated with multi-family residential uses in any mixed-use development plan for the Property. The mixed-use development will meet the City's definition and thresholds for mixed-use development.
- 5. The design of any mixed-use redevelopment on the Property will incorporate one or more visual and/or pedestrian connections between Federal Highway and the waterway. Any such connection will be designed not to unduly interfere with existing water-based uses, such as boat storage and repair.
- 6. Any portion of a residential building on the Property that is located within fifty (50) feet of residential uses or zoning existing as of the date of this Declaration will be limited in height to three (3) stories or thirty-five (35) feet. Outside of these areas, height of any development will be subject to the relevant airport height controls.
- 7. The design of any mixed-used development on the Property will incorporate the relevant Design Guidelines set forth in Section 3.02(Q)(2) of the Pompano Beach Comprehensive Plan's Land Use Element. The following elements shall be included in any mixed-use development:
  - a. Buildings will have minimal setbacks and directly address surrounding streets in order to delineate streetwalls.
  - b. All new buildings abutting Federal Highway will have their primary frontage on that right of way and will include elements to create an interesting experience for pedestrian activity, including transparent glazing, architectural features or both on the first floor of a building fronting toward the street, wider sidewalks, and street furniture.

- c. Buildings shall be designed and oriented to encourage pedestrian activity along Federal Highway and NE 23 Avenue.
- d. Pedestrian access points shall be provided across NE 15 Street, NE 16 Street, and NE 23 Avenue in a manner to encourage access to and from the development. Subject to the appropriate governmental approvals, the Applicant will integrate traffic calming solutions on NE 23 Avenue.
- e. Short term and long term bicycle parking will be provided.
- f. Dumpsters and loading areas shall be located away from existing residential property to greatest extent possible.
- g. Subject to the appropriate governmental approvals, transit amenities, such as an enhanced bus stop, shall be provided.
- h. In order to improve pedestrian connectivity and access to the waterway and subject to the necessary City approvals, the Owner may incorporate the permanent vacation of NE 23 Avenue between NE 15 Street and NE 16 Street as part of any mixed-use redevelopment plan.

<u>Utilization of Surplus Residential Density.</u> The Property is proposed to redesignated to the "Mixed-Use High" designation on both the City and Broward County's Land Use Maps. Under the proposed County designation, the Property could be developed at up to fifty (50) units to the gross acre, which would result in 445 residential units. The Owner has agreed to limit the total potential density to 343 residential units. The City intends to do a local, small scale, future land use plan map amendment to reflect the density to be built on the Property (343 units) to enable the "capture" of the unused density (445 County Approved Units – 343 City Approved Units = 102 surplus units) as flex units to be used elsewhere in the City. To facilitate the local land use plan map amendment, the Owner will support and execute any required applications, covenants and/or agreements necessary to accomplish the local land use plan map amendment at no cost to the Owner. The City shall hold the Owner harmless from and against any claims, losses, or damages arising out of the local land use plan amendment process to the extent provided by law. In the event the City requests the Owner to execute any applications,

covenants and/or agreements, the Owner may, at the Owner's sole discretion, retain consultants to evaluate the City's requests and any such consultant fees and/or costs will be reimbursed with fourteen (14) days of the submittal of all invoices to the City.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Broward County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of the City and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the City.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by the City.

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to all of the Property, provided that the same is also approved by the City Commission. Any such modification or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation that may, from time to time, govern amendments to Comprehensive Plans (hereinafter "Chapter 163"). Should this Declaration be so modified, amended, or released, the Director of the Development Services Department or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall

5/12/16 (Public Hearing)

execute a written instrument effectuating and acknowledging such modification, amendment, or release.

**Enforcement**. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Authorization for City to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the City is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

<u>Election of Remedies</u>. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

<u>Presumption of Compliance</u>. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the City, and inspections made and approval of occupancy given by the City, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

<u>Severability</u>. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions that shall remain in full force and effect. However, if any material portion is invalidated, the City shall be entitled to revoke any approval predicated upon the invalidated portion

Recordation and Effective Date. This Declaration shall be filed of record in the public records of Broward County, Florida at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal

results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Development Services Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. The Owner acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the City Commission retains its full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

Owner. The term Owner shall include all heirs, assigns, and successors in interest.

[Execution Pages Follow]

#### **EXHIBIT A**

#### **NET LAND**

(PARCEL 1—comprised of the following parcels designated as Parcels 1A-1F)

(PARCEL 1 A)

All of Parcel "A' of JERICHO BOATS ENTERPRISES, according to the Plat thereof, recorded in Plat book 146, Page 3 of the Public Records of Broward

County, Florida

(PARCEL 1 B)

Lots 1 and 2. Block 2. SEA BARGE YACRT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broad County, Florida. LESS a portion of Lot 1, more particularly described as follows: BEGIN at the Northwest corner of said Lot 1; thence run North 88\*29'09" East, along the north line of said Lot 1 for a distance of 17.28 feet; thence run South 47\*39'21" West. for a distance of 26.15 feet; thence run North 06\*49'35" East along the west line of said Lot 1 for a distance 17.28 feet to the Point of Beginning. PLUS the South 1/2 of the vacated N.E. 15th Street, lying north of Lot 1, Block 2, SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida.

### (PARCEL 1 C)

All of Block 3, LESS the south 265.00 feet thereof, SEA BARGE YACHT CENTER, according to the Plot thereof as recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida.

# (PARCEL 1 D)

Lots 1, 2, 6, 7 and 8, in Block 1 and all of Tracts "A", "B", "C. and "D" of SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida.

LESS that portion of Lot 8, Block 1 of SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida, in Section 30, Township 48 South, Range 43 East, being more particularly described as follows: COMMENCING at the Southeast (SE) corner of said Lot 8; thence run South 88\*29 09' West along the South line of said Lot 8, for a distance of 117.71 feet to the POINT OF BEGINNING; thence continue to run South 88\*29'09" West a distance of 13.00 feet to the Southwest (SW) corner of said Lot 8; thence run North 06\*49'35" East along the west line of said Lot 8, a distance of 13.00 feet; thence run South 42\*20'38" East, a distance of 17.00 feet to the POINT OF BEGINNING. PLUS the north 1/2 of the vacated N.E. 15th Street. lying south of

Lot 8. Block 1 of SEA BARGE YACHT CENTER. according to the Plat thereof, recorded in Flat Book 38, Page 27 of the Public Records of Broward County. Florida.

# (PARCEL 1 E)

That portion of the SEA BARGE YACHT BASIN as shown on the Plat of SEA BARGE YACHT CENTER, as recorded in Plat Book 38. Page 27, of the Public Records of Broward County. Florida. described as follows:

That property lying west of the east line of the West Three Quarters (W 3/4) of the Northwest One—Quarter (NW 1/4) of the Southwest One—Quarter (SW 1/4) of Section 30, Township 48 South, Range 43 East and bounded on the south by the northerly boundary of Tract "C" of said SEA BARGE YACHT CENTER, according to the Plat thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida, bounded on the west by the easterly boundary of Tract "B" of said SEA BARGE YACHT CENTER and bounded on the north by the southerly boundary of Tract "B" of said SEA BARGE YACHT CENTER. Together with that portion of said See Barge Yacht Basin described as follows: That portion of Lots 30 and 31 of CALIBAN, according to the Plat Thereof, recorded in Plat Book 27, Page 12 of the Public Records of Broward County, Florida, as bounded on the north by the southern boundary of Tract "B", SEA BARGE YACHT CENTER, according to the Plot thereof, recorded in Plat Book 38, Page 27 of the Public Records of Broward County, Florida, bounded on the west by the east line of the West Three-Quarters (W 3/4) of the Northwest One-Quarter (NW 1/4) of the Southwest One-Quarter (SW 1/4) of said Section 30, bounded on the east by a line 10.00 feet west of and parallel to the east line of said Tract "B" of said SEA BARGE YACRT CENTER.

# (PARCEL 1F)

Lot 4 of CALIBAN, according to the Plat thereof as recorded in Plat Book 27, at Page 12 of the Public Records of Broward County, Florida.

# (PARCEL 2)

Lots 3, 4 and 5, Block 1, of SEA BARGE YACHT CENTER, according to the Plat thereof, as recorded in Plat Book 38, Page 27, of the Public Records of Broward County, Florida.

### (PARCEL 3)

A portion of the Caribean Yacht Basin, CALIBAN, according to the plat thereof as recorded in Plat Book 27, Page 12, of the Public Records of Broward County, Florida lying North of and adjacent to Parcel "A", JERICHO BOATS ENTERPRISES, according to the plat thereof as recorded in Plat Book 146, Page 3, of the Public Records of Broward County, Florida and being more fully described as follows:

BEGINNING at the Northeast corner of said Parcel "A", JERICHO BOATS ENTERPRISES; thence South 88\*14'47" West on the North line of said Parcel "A" also on the South line of Caribean Yacht Basin, a distance of 327.60 feet to the Northwest corner of said Parcel "A", JERICHO BOATS ENTERPRISES; thence North 00\*57'15" West, on the Northerly extension of the west line of said Parcel "A", JERICHO BOATS ENTERPRISES, a distance of 15.00 feet; thence North 88\*14'47" East on a line 20.00 feet North of and parallel with the North Line of said Parcel "A", JERICHO BOATS ENTERPRISES, a distance of 327.60 feet; thence South 00\*57'23. East, a distance of 15.00 feet to the POINT OF BEGINNING.

# (PARCEL 4)

A portion of Lot 1, Block 2, SEA BARGE YACHT CENTER, according to the Plat thereof, as recorded in Plat Book 38, Page 27, of the Public Records of Broward County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of said Lot 1; thence run North 88\*29'09" East, along the north line of said Lot 1 for a distance of 17.28 feet; thence run South 47\*39'21. West, for a distance of 26.15 feet; thence run North 06\*49'35" East, along the west line of said Lot 1 for a distance of 17.28 feet to the Point of Beginning.

Said lands situate in the City of Pompano Beach, Broward County, Florida and containing 300,444 square feet (6.90 net acres) more or less.

# **FUTURE LAND USE EXHIBIT Exhibit B HIDDEN HARBOUR MARINA** 2315 NE 23RD AVE POMPANO BEACH, BROWARD COUNTY, FLORIDA N.E. 16th STREET Up to 343 Residential Units and Mixed-Use Development FEDERAL HIGHWAY Marina Uses, Including (but not limited to) Boat Storage and Service No Residential Development 650,000 Square Feet of Mixed-Use Development Throughout **Amendment Site** 7184-21 IOD A AVIROM & ASSOCIATES, INC. **REVISIONS**



# SURVEYING & MAPPING

50 S.W. 2nd AVENUE, SUITE 102 BOCA RATON FLORIDA 3M32 TEL (561) 392-2594, FAX (561) 394-7125 HANN AVIROMSCARVEY COM

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# Exhibit D

Existing Auto-Oriented Uses — Existing auto-oriented uses within the TOC boundaries on the date of adoption of this land use plan amendment ordinance will be treated as any other permitted use within the TOC and will be allowed to remain, rebuild and expand and otherwise continue business operations regardless of present or future ownership. New auto-oriented uses, however, will not be allowed within the TOC except under the limited circumstances described in the Goals, Objectives and Policies for the TOC land use category.

Auto-Oriented Use Definition — auto-oriented uses include, but are not limited to, large surface parking lots (other than park and ride facilities for transit connections), gas stations, auto repair/service, car washes, auto/truck/trailer/boat sales, auto/truck/trailer/boat storage, auto/truck/trailer/boat rentals/leasing, self/equipment storage; "big box"/warehouse, single family detached dwelling units; drive-through or drive-in facilities and similar uses that, by their nature, are built with special accommodations for service directly to the automobile or the occupants of automobiles and require the extensive use of automobiles as part of their primary function.

# P. Transit Oriented Development

The densities and intensities of permitted uses within designated Transit Oriented Corridors will be included in this section upon approval through the Future Land Use Plan Amendment process.



#### O. Mixed Use Residential

Within the Mixed Use Residential category, urban form could include several variations; vertical mixed use, where commercial/retail uses are located on the ground floor with residential uses located on upper floors. It may also include horizontal (attached) mixed use; where separate uses are located side by side in the same building. In addition, it may include horizontal (detached) mixed use; where separate uses are located in separate buildings within the same site.

#### 1. Density and Intensity Standards

Mixed Use areas can be shown on the Future Land Use Map according to four (4) ranges of density and intensity:

- The Low 5 Mixed Use (permits up to 5 residential dwelling units per gross acre and a FAR of 1.0 for combined development residential and nonresidential).
- The Medium 16 Mixed Use (permits up to 16 residential dwelling units per gross acre and a FAR of 1.5 for combined development residential and nonresidential).

- The Medium/High 25 Mixed Use (permits up to 25 residential dwelling units per gross acre and a FAR of 2.0 for combined development residential and nonresidential).
- The High 50 Mixed Use (permits up to 50 residential dwelling units per gross acre and a FAR of 2.5 for combined development residential and nonresidential).

The residential density shall not exceed the units per acre and the floor area ratio permitted. There is a minimum of two (2) uses required within the development and a minimum percentage of 10% for any one use. Residential development is a required use. These categories may be applied to parcels up to fifty (50) gross acres in size. For example, a development on a one gross acre (43,560 sq. ft.) within an M/U Low Intensity-5 category with a FAR of 1.0 could be represented as follows:

Gross Site Area = One Gross Acre \* Net Site Area = 0.9 acre\*\*

| Use         | Percentage of Use | Square Footage of Use                          |
|-------------|-------------------|--|
| Residential | 25.5%             | 5 units @ 2,000 sq. ft. = 10,000 sq. ft.       |
| Commercial  | 74.5%             | 39,204 - 10,000 = 29,204 sq. ft.               |
| Total       | 100%              | 39,204 (residential 10,000; commercial 29,204) |

<sup>\*</sup> Includes dedicated adjacent public rights-of-way

Floor area ratio calculations are based on the Net Site Area. Net Site Area is the entire acreage of the site located inside the parcel boundary.

Residential density is based on gross acreage as defined in the Plan Implementation Requirements of the Broward County Land Use Plan.

#### 2. Design Guidelines

The design guidelines for Mixed Use Residential shall promote an urban form which creates well integrated land use combinations, balances intensity and density, promotes the safe, interconnectivity of vehicular, pedestrian and other non-motorized movement and promotes the public realm. These guidelines may include:

- Buildings should front the street. (zero or minimum setbacks are preferable).
- Vehicle parking strategies which lessen conflicts with bicycles and pedestrians and promote transit usage. (i.e. parking structures, off-site parking, reduced parking ratios, shared parking facilities and parking which does not front the street).

<sup>\*\*</sup> Excludes dedicated adjacent public rights-of-way

- Other design features which promote transit (e.g. integrated transit stop, shelter or station on site).
- A circulation system designed to strengthen bicycle and pedestrian connectivity to all
  areas of the site/area, including recreation areas, parks, adjacent uses, transit facilities
  and activity nodes.
- Integration of the public realm through open space or urban public plazas and/or recreational areas.
- The physical separation, such as walling off neighborhoods from adjacent development or roadways, is discouraged where it disrupts the connectivity of compatible uses, pedestrian and/or bicycle access. If a buffer is necessary, adequate landscaping could be used in place of a continuous wall.

Design guidelines shall ensure a mixed use development is compatible with surrounding land uses and/or adjacent adopted Future Land Use Plan designations. These guidelines should address the following:

- Complement and support adjacent existing land uses and/or adopted Future Land Use Plan designations through the effective use of density, massing and other design elements.
- Protect the integrity of existing single family neighborhoods through design elements which maintain consistency and/or improve the aesthetic quality of the neighborhood. (i.e. maintaining an architectural style or quality of building materials and construction predominant in the neighborhood).
- Promote connectivity, open space, pedestrian and other non-motorized networks and landscaped streetscapes.
- Incorporate designs which are environmentally sensitive (i.e. reduction of impervious surfaces, alternative material for spillover parking).
- 3. Uses permitted under the Mixed Use Residential category

#### R. Conservation

Each parcel of land within an area designated in a Conservation Land Use category by the City's Land Use Plan Map must be zoned in a conservation zoning district which permits one or more of the following uses, but no other uses:

- 1. Natural Reservations, historic and archaeological sites including public lands which are conservation areas operated by contractual agreement with or managed by federal, state, regional, local government or non-profit agency.
- 2. Uses permitted in areas designated for conservation are as follows: