



Staff Report

File #: LN-492

PLANNING AND ZONING BOARD

Meeting Date: JUNE 25, 2025

THE OAKS AT PALM AIRE - FLEX

Request: Flex
P&Z# 23-05000007
Owner: Clublink US, LLC
Project Location: 3701 Oaks Clubhouse Dr
Folio Number: 494205000047, 494205000020
Land Use Designation: Palm Aire Dashed Line Area
Zoning District: RM-45 (Multiple-Family Residence 45)
Commission District: 5 (Darlene Smith)
Agent: Scott Backman
Project Planner: Jean Dolan (954-786-4045 / jean.dolan@copbfl.com)

INTRODUCTION

The provision of Flexibility Units is a function of the Broward County Land Use Plan and administered by the County's "Administrative Rules Document." Local governments are permitted to allocate residential units to increase the density in a residential land use category without amending the City's Future Land Use Map or requesting permission through the County. Each City keeps track of the number of Flexibility Units allocated and reports back to the County regarding each approval. The use of such allocation is advantageous when the city has determined that an infusion of residential units would enhance a project or area.

THE REQUEST

The Applicant (Scott Backman of Miskel Backman, LLP), is taking advantage of the incentives to encourage mixed income housing projects under Broward County Policy 2.16.3. The Applicant is requesting 31 moderate-income flex units to generate the entitlements for a 216-unit multi-family project on an 8.53-acre portion of a 10.8-acre property located at 3701 Oaks Clubhouse Drive (494205000047) which is primarily the current Oaks Golf Course clubhouse and associated paved parking lot. The site is within the Palm Aire Dashed Line land use category with an underlying residential land use and RM-45 zoning. In this case, the use of Policy 2.16.3 comes with two incentives. First, it allows for 6 bonus units for every 1 moderate income unit deed restricted to affordable for 30-years per the County's policy language. Second, the City Commission delegated the authority to approve flex units for projects using Policy 2.16.3 to the Planning and Zoning Board. The flex units, therefore, will be considered concurrent with the site plan approval.

HISTORY OF PALM AIRE

Palm Aire was annexed into the city between 1966-1973. The first Broward County land use plan was adopted

P&Z

in 1977 and showed Palm Aire in the same dashed-line land use designation that it has today. This land use designation, therefore, is the only land use designation Palm Aire has ever had and was the means by which the residential entitlements were originally created for the district. In 1985, the court-approved Palm Aire Stipulated Settlement Agreement (SSA) was adopted which consists of a map and table that assigned the remaining 40% of the residential units in Palm Aire to identified development parcels. In 1993, a land use plan amendment for Palm Aire reduced the maximum number of allowable residential units within the Palm Aire Dashed Line by 907 units to 9,724 units without any changes to the SSA. In 2010, another land use plan amendment was adopted by the City Commission to increase the maximum number of units back to 10,631 (Ordinance 2010-43) and all of those units were assigned to the redevelopment of the golf course north of Atlantic Boulevard even though that parcel was never allocated any residential units in the 1985 SSA. Subsequently, the rezoning of that golf course to RPUD with a Master Plan for all 907 of those residential units was approved. Any undeveloped parcels in Palm Aire with residential land use and zoning, therefore, have no residential entitlements from the original dashed-line limit.

The allocation of flexibility units is a tool to allow an increase in density in a residential land use category without requiring a land use plan amendment. The subject property within the Palm Aire Dashed Line land use district is eligible for a flex unit allocation because it is within the City's flex receiving area and the Dashed Line land use district is eligible to receive flex units (see letter from Broward County Planning Council attached confirming that the dashed-line land use category is eligible for flex units). The subject site is zoned RM-45 and can accommodate the requested density of 25 units per acre.

THE PENDING CLASS ACTION LAWSUIT

It must be noted that a Class Action Lawsuit has been filed against the city that includes this project and every project in Palm Aire that has previously received flex units. That lawsuit is alleging that the Palm Aire Dashed-Line land use district is not eligible to receive flex units because of the total number of units identified in the SSA. This is not correct because the SSA did not create any entitlements in Palm Aire. The 1977 Broward County land use plan map dashed-line land use category created the entitlements years prior to the 1985 SSA that directs the location of the final 40% of the residential units in Palm Aire. The SSA does not govern the Dashed-Line land use category. The Broward County Land Use Plan, Administrative Rules Document, the City's Comprehensive Plan and City Code Chapter 154 govern the Dashed Line land use category.

The 1985 SSA is not being "violated" by allocating flex units in Palm Aire. That agreement directed where the final 40% of the units in Palm Aire were intended to be built. The agreement was generally followed and 100% of the units in Palm Aire have been allocated in general compliance with that agreement. The purpose of that agreement is now complete and the SSA has no current role to play other than the providing the historic explanation of why some properties with a residential land use and zoning in Palm Aire were not assigned any residential development rights.

FLEXIBILITY UNIT ALLOCATION REVIEW STANDARDS

An application for a Flex Unit allocation must meet the following review standards found in Section 154.61(D):

Application review standards.

(1) Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.

The following Comprehensive Plan Goals, Objectives and Policies support this Application:

Goal 01.00.00 - The attainment of a living environment which provides the maximum physical, economic and social well-being for the city and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

Policy 01.03.06 - Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single-family areas.

Policy 01.01.13 The City shall utilize flexibility units and redevelopment units to increase residential densities within the flex receiving area when consistent with the community character; adjacent land uses; and public school capacity both within Pompano and affected contiguous municipalities; and has undergone a compatibility review relative to potential impacts on Environmentally Sensitive Lands and County or regional parks in accordance with Policy 2.10.01 of the Broward County Land Use Plan.

Policy 01.03.11 - Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.

Objective 03.01.00

The city should provide, through the undertaking or support of public and private development efforts, sufficient housing units through long range planning horizon to meet the anticipated population through 2040. Provision of these units shall be based on the need for adequate and affordable housing for all segments of the existing and future population including those households with very-low, low, and moderate incomes and those with special housing needs, including homelessness.

Compatibility Statement: The subject property related to the proposed flex unit allocation has a residential land use and RM 45 zoning and is currently the location of the Oaks Golf Course Clubhouse and parking lot. The proposed project consists of 4, 5-story buildings with 54 units each for a total of 216 units on a net 8.54 acres site (25 du/ac). It is adjacent to a 39-unit townhouse project on 4.3 acres to the west (approximately 9 du/ac) and two, twin 5-story condominium buildings on 6.2 acres to the east which is approximately 18 du/ac. The proposed residential development is consistent with the existing built environment in Palm Aire and the site plan has been designed to ensure compatibility with the adjacent residential uses.

The relocated and redeveloped Oaks Golf Course building and parking lot is north of the residential and is being built on a portion of what is currently greenspace on the golf course and has a land use of Recreation and Open Space and a Parks and Recreation zoning. The new clubhouse is a permitted use in that area. The new clubhouse and parking lot will be closer to Condo 6 to the north than the current clubhouse.

(2) The use of the flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

It is Staff's opinion that the infusion of residential units on the subject property would produce a reasonable development pattern considering adjacent uses and the suitability of the parcel for development. The land use, zoning and uses on surrounding properties are shown in the following table:

Direction	Land Use Designation/Zoning	Use
North	Recreation Open Space (OR) Parks and Recreation (PR)	Golf Course (location for Relocated Clubhouse and parking lot)
East	Palm Aire Dashed Line/RM 45	5-Story Condominium twin towers
South	Palm Aire Dashed Line/RM 45 Recreation Open Space (OR) / Parks and Recreation (PR)	3 SF homes Golf Course
West	Palm Aire Dashed Line/RM 45	Townhomes

FLEXIBILITY UNIT ALLOCATION TRACKING

The city has 287 Flexibility Units and 500 Redevelopment Units that can be used when all the flex units have been allocated. If this request is approved, the city will have 256 Flexibility Units remaining (287-31=256).

RECOMMENDATION

Given the information provided to the Board, as the finder of fact, staff provides the following alternative motions, which may be revised or modified at the Board's discretion.

Alternative Motion 1: Recommend approval of the requested 31 Moderate Income Flex Unit allocation as the Board finds the application is consistent with the aforementioned pertinent Future Land Use goals, objectives, and policies, with the following conditions:

1. The Flex units will be documented as approved on the Development Order for the final site plan for this project which is being reviewed and considered concurrent with this flex unit request;
2. The Declaration of Restricted Covenants committing the 31 units to moderate income households for 30 -years with monthly housing costs no more than 30% of the household income of future tenants or buyers must be recorded prior to issuance of the first building permit for the project;
3. If a building permit is not issued within two years of the approval date, the Applicant must request an extension or the approval of this Flex Allocation will become null and void.

Alternative Motion 2: Table this application for additional information as requested by the Board.

Staff recommends Alternative Motion 1.

CITY OF POMPANO BEACH
AERIAL MAP



Subject Site

OAKS CLUBHOUSE DR

CARRIAGE DR

W PALM AIRE DR

CYPRESS BLVD

N CYPRESS DR

1 in = 250 ft

6/10/2025

AdkBob

\\pwgishosting\directories\arcgisPlanning\All_Maps\P&Z Packets\2023\PZ23-05000007_Aerial Map.mxd

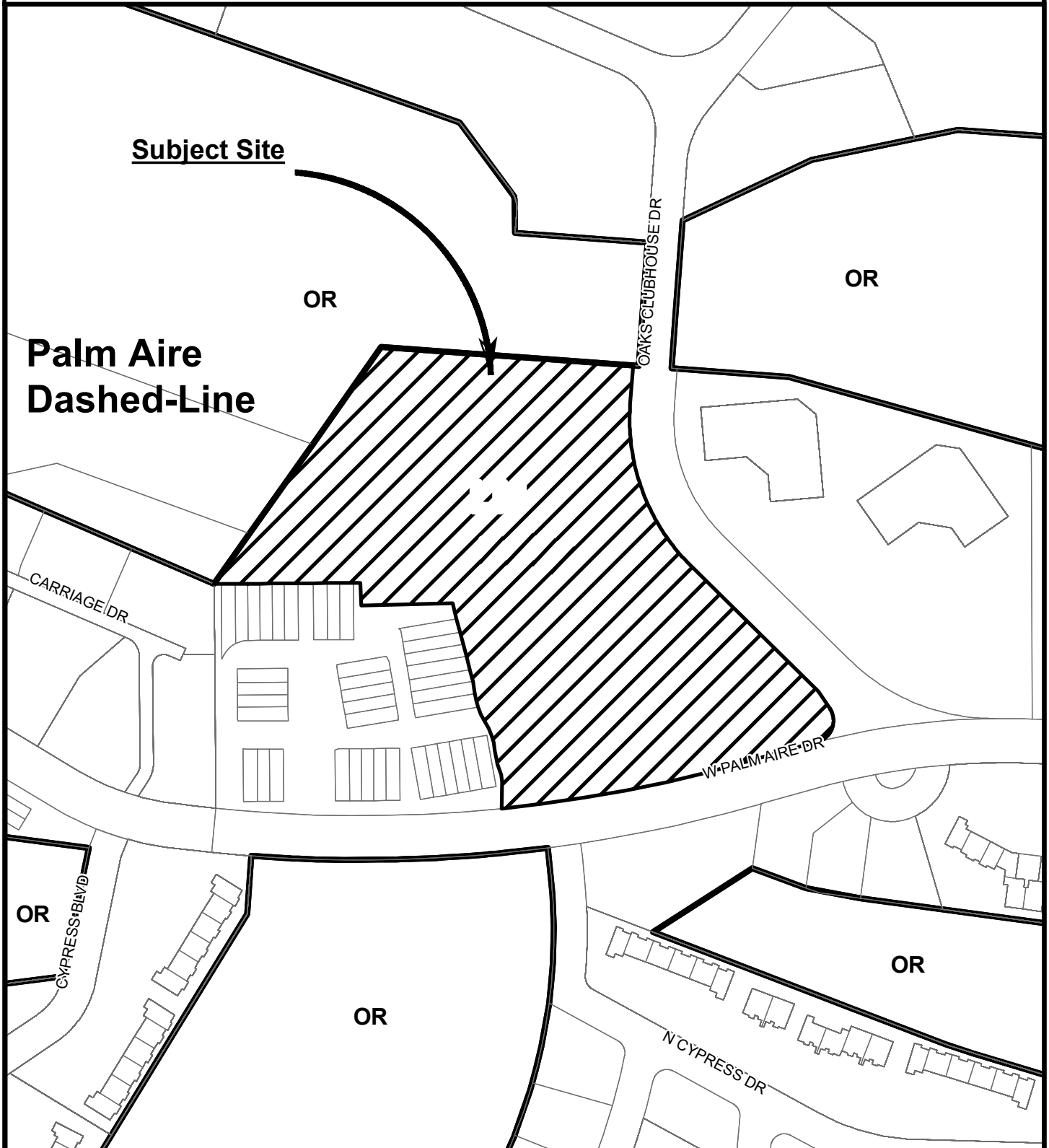
PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

P&Z

PZ23-05000007

06-25-2025

CITY OF POMPANO BEACH OFFICIAL LAND USE MAP



1 in = 250 ft

6/10/2025

AdkBob

\\pwgishosting\directories\arcgis\Planning\All_Maps\P&Z Packets\2023\PZ23-05000007_Aerial Map.mxd

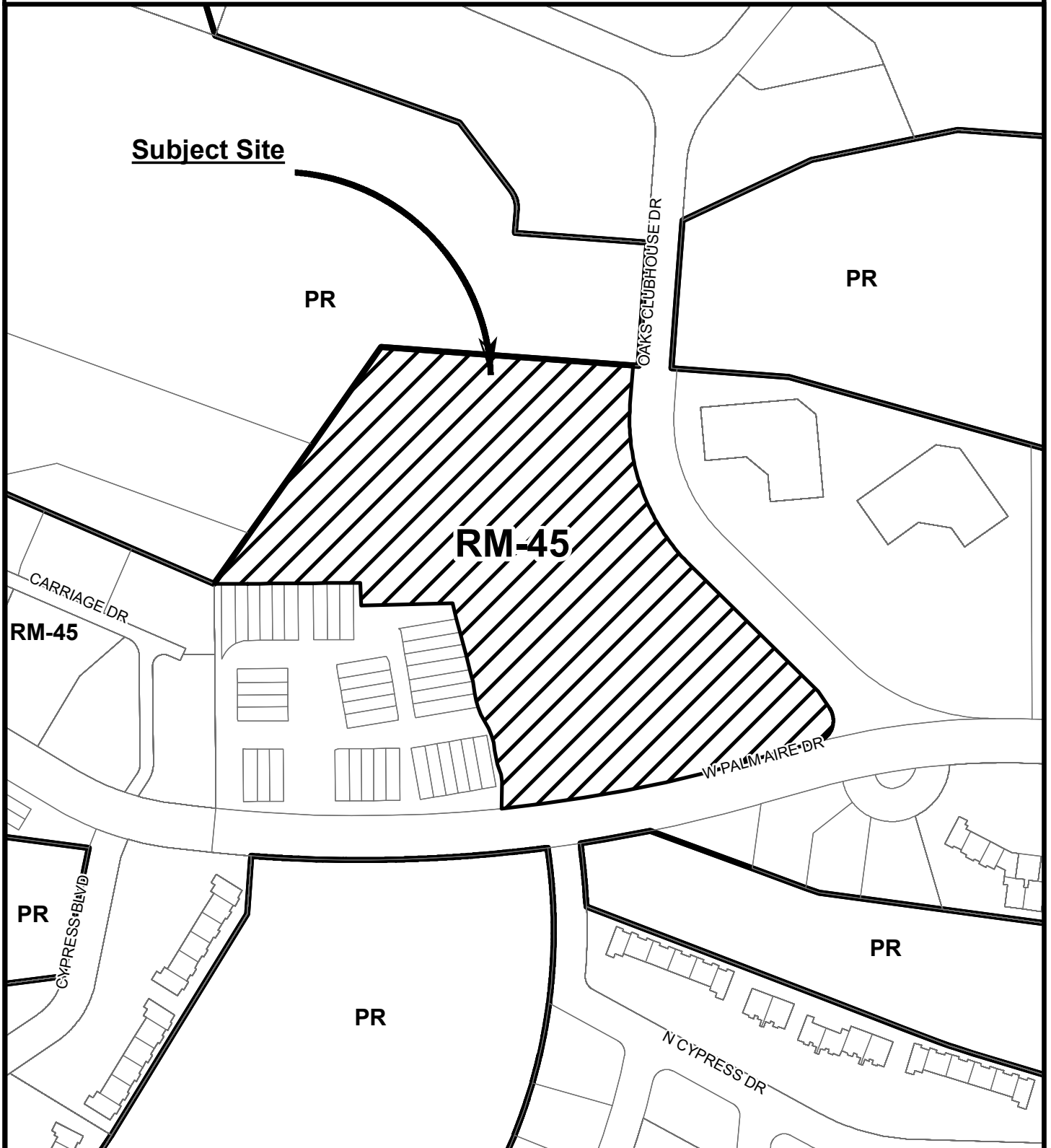
PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

P&Z

PZ23-05000007

06-25-2025

CITY OF POMPANO BEACH OFFICIAL ZONING MAP



1 in = 250 ft

6/10/2025

AdkBob

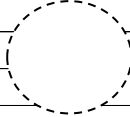
\\pwgishosting\directories\arcgis\Planning\All_Maps\P&Z Packets\2023\PZ23-05000007_Aerial Map.mxd

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

P&Z

PZ23-05000007

06-25-2025

LEGEND					
FOR LAND USE PLAN			FOR ZONING MAP		
Symbol	Classification	Units/ Acre	Symbol	District	
			RS-1	Single-Family Residence 1	
L	Low	(1-5 DU/AC)	RS-2	Single-Family Residence 2	
LM	Low- Medium	(5-10 DU/AC)	RS-3	Single-Family Residence 3	
M	Medium	(10-16 DU/AC)	RS-4	Single-Family Residence 4	
MH	Medium-High	16-25 DU/AC)	RS-L	Single-Family Residence Leisureville	
H	High	(25-46 DU/AC)			
12	Irregular Density		RD-1	Two- Family Residence	
36	Irregular Density				
			RM-7	Multiple-Family Residence 7	
C	Commercial		RM-12	Multiple-Family Residence 12	
CR	Commercial Recreation		RM-20	Multiple-Family Residence 20	
			RM-30	Multiple-Family Residence 30	
I	Industrial	*	RM-45	Multiple-Family Residence 45	
			MH-12	Mobile Home Park	
T	Transportation				
			B-1	Limited Business	
U	Utilities		B-2	Neighborhood Business	
			B-3	General Business	
CF	Community Facilities		B-4	Heavy Business	
			M-1	Marina Business	
OR	Recreation & Open Space		CR	Commerical Recreation	
W	Water		I-1	General Industrial	
			I-1X	Special Industrial	
RAC	Regional Activity Center		O-IP	Office Industrial Park	
			M-2	Marina Industrial	
LAC	Local Activity Center				
			TO	Transit Oriented	
DPTOC	Downtown Pompano		PR	Parks & Recreation	
	Transit Oriented Corridor		CF	Community Facilities	
			PU	Public Utility	
*		Dashed-Line	T	Transportation	
		With Fixed Number of Units	BP	Business Parking	
			LAC	Local Activity Center	
	*	Current Designation			
			RPUD	Residential Planned Unit Dev.	
	>	Proposed Designation	PCD	Planned Commercial Development	
			PD-TO	Planned Development - Transit Oriented	
			PD-I	Planned Development - Infill	
			RM-45 HR	Multiple-Family Residence 45 High Rise-Overlay	
			AOD	Atlantic Boulevard Overlay District	
			CRAO	Community Redevelopment Area Overlay	
			NCO	Neighborhood Conservation Overlay	
			APO	Air Park Overlay	
			DP	Downtown Pompano Beach Overlay	

**ATTACHMENT 8
1985 SETTLEMENT AGREEMENT
MASTER PLAN FOR PALM AIRE

OR BOOK 12707, PAGE 605**

**STIPULATION, SETTLEMENT and
MASTER PLAN AGREEMENT
FOR PALM-AIRE**

In consideration of the mutual promises herein contained and in order to resolve and settle all pending litigation between the parties as is more particularly described in Exhibit "A" attached hereto, the City of Pompano Beach, a municipal corporation of the State of Florida, ("City") and FPA Corporation, a Delaware corporation authorized to do business in the State of Florida, ("FPA"), its successors and assigns, agree as follows:

Section 1. Preamble and Intent of the Parties.

1.1 Palm-Aire is a residential and recreation development consisting of approximately 1,750 acres located within the City of Pompano Beach, Florida, as more particularly described on the Pompano Beach Land Use Plan Map as being circumscribed with dotted lines with a maximum density of 7 dwelling units per acre. FPA is the developer of Palm-Aire.

1.2 The maximum number of residential dwelling units permitted to be developed within Palm-Aire under the Broward County Land Use Plan and the City of Pompano Beach Land Use Plan is 10,631.

1.3 The City and FPA wish to enter into a Master Plan agreement to distribute the land uses and residential dwelling units within Palm-Aire in accordance with the requirements of the Broward County Land Use Plan, the Pompano Beach Land Use Plan and the requirements of the City's Zoning Code.

Section 2. Approval of Master Plan and Distribution of Dwelling Units.

FPA and the City agree that distribution of land uses within Palm-Aire shall be as provided in the "Palm-Aire Master Plan" attached as Exhibit "B". FPA and the City further agree that the distribution of dwelling units within Palm-Aire shall be as provided in the "Palm-Aire Unit Summary" attached as Exhibit "C", except as provided in Section 7 below. The City Planning Department shall verify the unit count contained in Exhibit "C" and any discrepancy shall be corrected.

Section 3. Update of Traffic Study. FPA agrees that within ninety (90) days of the execution of this Agreement, that FPA will provide the City with an update of the Palm-Aire Traffic Study performed by Kimley-Horne & Associates. FPA further agrees that it will provide the City with an update

85 JUL 26 PM 3:53

REC 12707 PAGE 605

29-
41

Return to: Richard G. Coker, Jr., Esq.
1107 S.E. 4 Ave.
Ft. Lauderdale, FL 33316

P&Z

of this traffic study on an annual basis to be performed by an independent traffic engineer acceptable to the City beginning one year from the date of this Agreement and ending when the last site plan completing all development within Palm-Aire has been approved by the City.

Section 4. Transportation Improvements within Palm-Aire. FPA and the City recognize that future development within Palm-Aire may result in the need for additional transportation improvements within Palm-Aire. FPA recognizes that, as the developer of Palm-Aire, FPA is responsible for the development of an internal transportation system sufficient to accommodate all growth within Palm-Aire regardless of the ultimate ownership of the individual parcels within Palm-Aire. Accordingly, FPA agrees to be responsible for the installation of all transportation related improvements indicated to be needed by the Palm-Aire traffic study as updated as provided in Section 3 above, or as determined to be needed by mutual agreement between FPA and the City.

Section 5. Drainage Plan. The City recognizes that FPA has planned and arranged the recreational land within Palm-Aire in such a manner as to provide for the drainage requirements of the residential land and the arrangement of these drainage facilities is unique to Palm-Aire. Accordingly, in recognition of the drainage plan for Palm-Aire, the City agrees that a proper use of the golf courses within Palm-Aire is for the drainage and retention requirements of the residential areas and that this use is consistent with and does not alter the primary recreational use of the golf course and that the utilization of the golf course in this manner is consistent with the requirements of the RZ-1 zoning district, subject, however, to the review and approval by the Planning and Zoning Board of all new drainage facilities except those drainage facilities associated with the development of Palm-Aire North Course Estates Section 4.

Section 6. Zoning Districts. All undeveloped residential property within Palm-Aire shall be developed consistent with the City's existing RC-1 zoning district unless application is made by FPA for a rezoning to another zoning district, and said application is approved by the City. Notwithstanding the above, the residential density within Palm-Aire shall be controlled by the effective land use plan and this Agreement. The City agrees that all existing densities within Palm-Aire were developed in conformance with the City's Land Use Plan and land development regulations in existence at the time of said development and are consistent with all applicable zoning and

land development regulations, and, FPA agrees that the City may rezone developed areas within Palm-Aire to more closely reflect the existing uses and densities.

Section 7. Allocation and Reallocation of Remaining Units.

7.1 As Exhibit "C" indicates, there are 326 permitted dwelling units that are unallocated to a specific parcel within Palm-Aire. The parties agree that the remaining unallocated dwelling units may be utilized by FPA to increase the density on any residential parcel which is subject to this Agreement over and above the density otherwise provided for in this Agreement, subject to the approval by the City of a site plan which includes the increased density and subject to the payment of any additional impact fees that may be required by Broward County.

7.2 The parties further agree that if FPA constructs less than the number of units permitted on any parcel as depicted on Exhibit "C", the unbuilt dwelling units shall be added to the number of remaining dwelling units provided for in 7.1 above, and shall be allocated as provided in Section 7.1 above.

7.3 It is acknowledged that City approval is a condition precedent to any change in land use density from those densities provided in Exhibit "C".

Section 8. Agreement as Order of the Court. The parties agree to submit to the appropriate courts, this Stipulation, Settlement and Master Plan Agreement for approval and adoption into a final order which shall be binding and enforceable as against the parties.

Section 9. Recordation. This Agreement shall be recorded in the Public Records of Broward County, Florida and the terms of this Agreement shall be a covenant running with the land, and shall be binding as to all successors in interest to FPA.

Vernadette Davis
Sharon Rucker

CITY OF POMPANO BEACH

By: [Signature]

Mayor

By: [Signature]

City Manager

Attest: [Signature]

City Clerk

REC 12707 PAGE 607

STATE OF FLORIDA)

COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared E. PAT LARKINS, JAMES E. SODERLUND and SANDRA D. ROZAR of the City of Pompano Beach, to me known to be the persons described in and who executed the foregoing Stipulation, Settlement and Master Plan Agreement for Palm-Aire and have acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State aforesaid this 25th day of July, 1985.

[Signature]
Notary Public

My commission expires:

My

MAY 22 1987

FPA CORPORATION

By:

Thor Amli
President

Attest:

[Signature]
Assistant Secretary

STATE OF FLORIDA)

COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared THOR AMLIE and DOUGLAS MILLER, of FPA Corporation, to me known to be the persons described in and who executed the foregoing Stipulation, Settlement and Master Plan Agreement for Palm-Aire and have acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State aforesaid this 25th day of July, 1985.

[Signature]
Notary Public

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA

MY COMMISSION EXPIRES JAN 6 1988

BONDED THRU GEN. INS. UNDERWRITERS

CEF 12707 PAGE 603

P&Z

EXHIBIT "A"

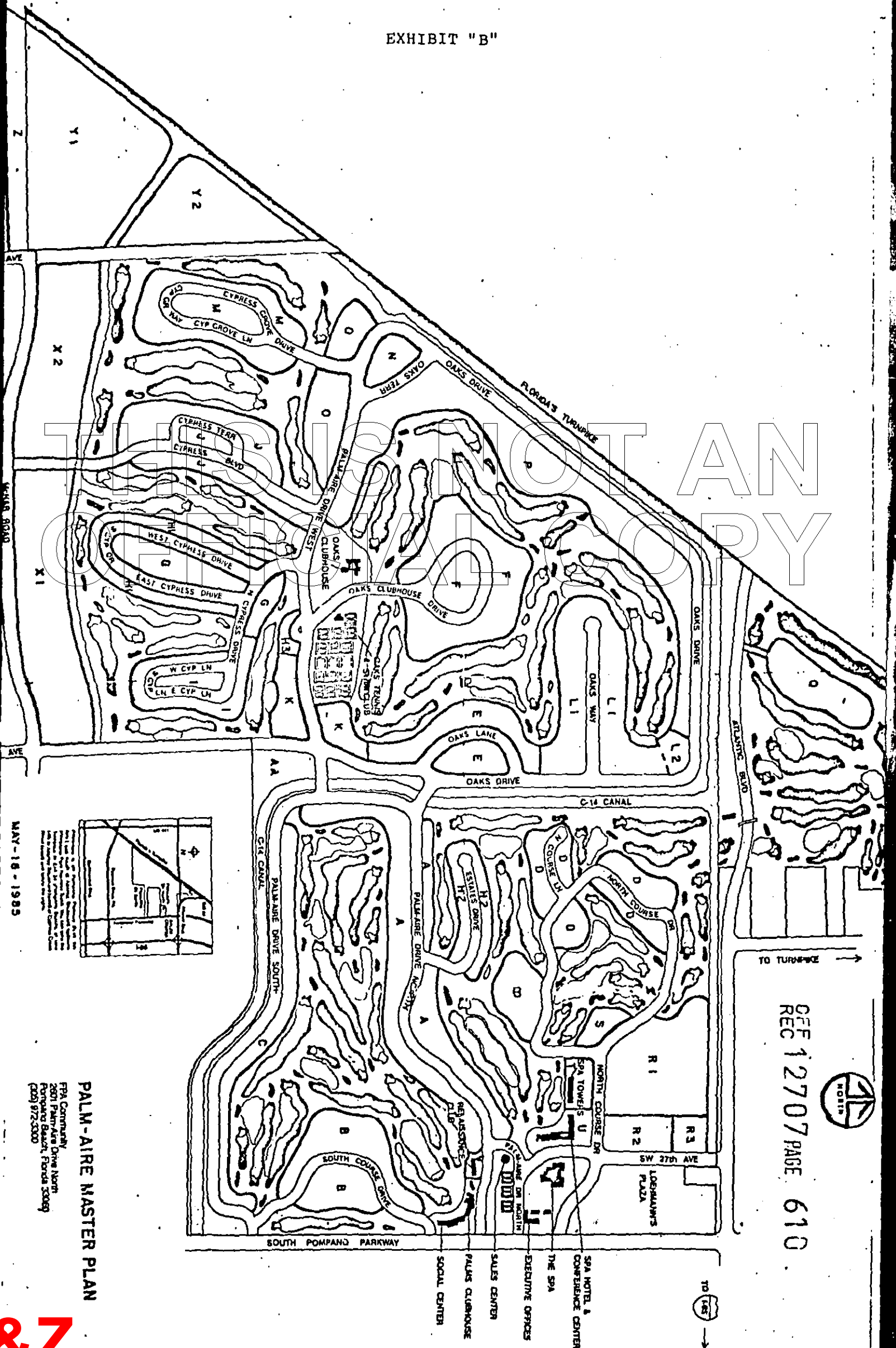
1. FPA Corporation, a Delaware Corporation v. City of Pompano Beach, Florida, et al., Case No. 85-6454, United States District Court, Southern District of Florida.
2. FPA Corporation, Oxford Development Enterprises, Inc., Palm Aire/Oxford Associates, Limited, a Maryland Limited Partnership by and through its General Partner, Oxford Equities Corporation; and Oxford Construction Services, Inc. v. City of Pompano Beach, Florida, E.F. Kleingartner and Eugen Guydosik, Case No. 85-13807 CG, in the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida.

THIS IS NOT AN
OFFICIAL COPY

OFF 12707 PAGE 609
REC 12707

P&Z

EXHIBIT "B"



REC 12707 PAGE 610

TO TURNPIKE



PALM-AIRE MASTER PLAN

FPA Community
2601 Palm Aire Drive North
Fort Lauderdale, Florida 33309
(305) 872-5500

P&Z

EXHIBIT "C"

Palm-Aire Unit Summary
(Parcels Keyed to Master Plan)

Parcel		Units	
		Built	Unbuilt
A-G,I,J,K	Condo Associations 1-10	4,484	
H-1	Cypress Estates #1	36	
H-2	Palm-Aire Estates	26	
H-3	Cypress Estates #2	3	
L-1	Condo Association #11 (Oak Crse. Est. #2)	597	
L-2	Oaks Course Estates #2 (PB 104/44)	-	131
M	Condo Association #12	331	
N	Condo Association #14	72	
O	Palm Aire Cypress Course Est. #3 (PB 108/48)	-	400
P	Palm Aire Oakes Course Est. #3 (PB 108/1)	-	1182
Q	Palm Aire North Course Est. #4 (PB 122/21)	-	259*
R-1	Palm-Aire North Course Est. #3 (PB 114/39)	-	288
R-2	Palm-Aire North Course Est. #3 (PB 114/39)	-	
	(250 Lifecare units x 1/2)	125	
R-3	Commercial Parcel (PB 114/39)		
S	Condo Association #52	119	
T	Condo Association #53	100	
U	Spa Hotel (178 rooms x 1/2)	89	
V	Renaissance Club	18	
X-1	Palm-Aire Cypress Course Est. #4 (PB 118/36)	60	451
X-2	Palm-Aire Cypress Course Est. #4 (PB 118/36)	-	417
Y-1	Palm-Aire Cypress Course Est. #5 (PB 115/12)	360	159
Y-2	Palm-Aire Cypress Course Est. #5 (PB 115/12)	-	384
Z	Palm-Aire Cypress Course Est. #7 (PB 123/35)	-	104
AA	Palm-Aire Cypress Course Est. #6	-	100
		6,420	3,875

Total Units Allocated (built and unbuilt)	10,295
Total Units Permitted by Land Use Plan	10,631
Remaining Unallocated Units	326

* Reduction from 298 subject to issuance of building permit to Oxford Development Enterprises, Inc., or its related entity, the only condition precedent to which is compliance of existing building plans revised to show reduced density and agreed upon security and access modifications, and compliance with the South Florida Building Code as provided in the settlement agreement between the parties in FPA Corporation, et al. v. City of Pompano Beach, et al., Case No. 85-13807 CG, in the Circuit Court of the 17th. Judicial Circuit in and for Broward County, Florida.

RECORDED IN THE OFFICIAL RECORDS BOOK
 OF BROWARD COUNTY, FLORIDA
F. T. JOHNSON
 COUNTY ADMINISTRATOR

REC 12707 PAGE 611

P&Z



February 21, 2024

Sara Thompson, Esq.
Dunay, Miskel and Backman, LLP
14 Southeast 4 Street, Suite 36
Boca Raton, Florida 33432

Via Email Only

Dear Ms. Thompson:

This letter is in response to your correspondence dated January 31, 2024, regarding the Palm Aire Dashed-Line Area in the City of Pompano Beach, and the allocation of flexibility units and bonus density to said area.

The subject Palm Aire Dashed Line-Area is comprised of lands designated Irregular (7) Residential and Commercial Recreation on the BrowardNext – Broward County Land Use Plan (BCLUP) map, with a maximum of 10,631 dwelling units permitted. The City of Pompano Beach has indicated that all of the 10,631 dwelling units have been proposed by plat or granted development permits.

Per the BCLUP, a dashed-line area is defined as an area having a particular maximum overall allowable density of dwelling units for all land and land uses within the area for which the permitted overall density appears inside the dashed line area shown on the land use plan map. That number is multiplied by the total number of acres inside the dashed line, including non-residential areas, to calculate the total number of dwelling units permitted within the same.

Pursuant to Article 3.2(B)(4) of the Administrative Rules Document: BrowardNext (ARD), residential units may not be transferred **from** areas circumscribed by dashed lines nor generate flexibility units. However, there is no prohibition in the BCLUP or ARD regarding allocating flexibility units to areas circumscribed by dashed lines and designated Residential or Commerce or utilizing affordable housing bonus density incentives per BCLUP Policy 2.16.3. See Attachment. Any allocation of flexibility units would be subject to compliance with the provisions of the BCLUP and ARD, as well as any other applicable development regulations.

It is noted that the Future Land Use Element of the City of Pompano Beach Comprehensive Plan is the effective land use plan for the City of Pompano Beach and may be more restrictive than the BCLUP. Further, the allocation of flexibility units and BCLUP Policy 2.16.3 are utilized at the discretion of the local government and based upon the particular facts and circumstances of the application. It is recommended that you contact the City of Pompano Beach regarding the interpretation of its certified Plan.

The contents of this letter are not a judgment as to whether any proposed use is in compliance with any Broward County development regulations or the development review requirements of the BCLUP or a determination of any application for development order or permit.

P&Z

Sara Thompson
February 21, 2024
Page Two

If you have any additional questions in this regard, please contact me or Dawn Teetsel at your convenience.

Respectfully,



Barbara Blake Boy
Executive Director

BBB:DBT
Attachment

cc/att/email: Andrew Maurodis, Esq., Counsel
Broward County Planning Council

Gregory P. Harrison, City Manager
City of Pompano Beach

David Recor, Director, Development Services
City of Pompano Beach



BrowardNext → 2017 BROWARD COUNTY LAND USE PLAN

SECTION 2: POLICIES

...

AFFORDABLE HOUSING BONUS DENSITY

POLICY 2.16.3

- (1) Bonus residential density may be allocated to facilitate the development of affordable housing for persons within the following income categories as defined in the Broward County Land Use Plan:

- Moderate-income persons having a total annual anticipated income for the household that does not exceed 120 percent of the median annual income adjusted for family size for households within the county.*
- Low-income persons having a total annual anticipated income for the household that does not exceed 80 percent of the median annual income adjusted for family size for households within the county.*
- Very-Low income persons having a total annual anticipated income for the household that does not exceed 50 percent of the median annual income adjusted for family size for households within the county.*

*While occupying a rental unit, annual anticipated gross income may increase to an amount not to exceed 140 percent of the applicable median income adjusted for family size.

- (2) Bonus Formulas

Moderate-income: Six (6) bonus units per every one (1) “moderate-income” unit (including areas east of the Intracoastal Waterway).

Low-income: Nine (9) bonus units per every one (1) “low-income” unit (including areas east of the Intracoastal Waterway).

Very-Low-income: Nineteen (19) bonus units per every one (1) “very-low-income” unit (including areas east of the Intracoastal Waterway).

- (3) Affordable housing density bonuses are conditioned on the developer or purchaser providing, in a manner acceptable to the affected unit of local government, guarantees, as a minimum, through the use of restrictive covenants, that the affordability of the bonus units for the affordable income groups described above will be maintained for a period of at least thirty (30) years for rental housing and at least thirty (30) years for owner occupied housing.

- (4) The total number of units, including affordable and bonus units, on lands designated as “Residential” may not exceed a maximum of 50 dwelling units per acre on the Broward County Land Use Plan. For parcels designated “Commerce” or similar designation on the local land use plan map, these maximum densities shall not be applicable. If the total density, including the affordable and bonus units, exceeds the density permitted by the existing zoning classification, the governing body of the local government shall make a finding of compatibility with existing and future land uses and its local land development regulations at a publicly noticed meeting, consistent with its notification requirements; otherwise, the local planning agency of the local government may make the finding of compatibility at a publicly noticed meeting, consistent with the above.
- (5) At the time of allocation of bonus density, the applicable local government must make a finding that adequate public facilities and services are in place or will be in place with completion of project construction, to accommodate all bonus and affordable units.
- (6) Allocations of bonus residential density do not require an amendment to the Broward County Land Use Plan or local land use plan.
- (7) Units of local government may utilize the Bonus Density provisions regardless of whether such provisions are incorporated within their certified local land use elements. This Policy is discretionary upon the local government and does not create any entitlements to the bonus units. Allocation of the bonus units requires authorization of the local government at a publicly noticed meeting, consistent with its notification requirements, of the governing body or, when the total density, including affordable and bonus units, does not exceed the density permitted by the existing zoning classification, by the local planning agency.
- (8) By January 31 of each year, an official of each local government shall transmit to the Planning Council an annual report providing tables reflecting bonus density units allocated.
- (9) “Affordable” unit and bonus unit construction is subject to the following, as enforced by the applicable local government:
 - a. One hundred percent (100%) of “affordable” units must receive certificates of occupancy before the final fifty percent (50%) of bonus units receive their certificate of occupancy; or
 - b. The local government must require that “affordable” units are available before or concurrently with bonus units.
- (10) This Policy is incentive-based and units of local government may be more restrictive and are not required to adopt, utilize or implement the above referenced bonus formulas.

...