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Subject: Riverwalk Plaza

PURPOSE

This review provides findings regarding the proposed mixed use development called “Riverwalk Plaza” on the land at the southeast corner of Federal Highway and Woolbright Road in the City of Boynton Beach (City). The report is prepared to consider the proposal and City’s land development regulations for opportunities to better achieve the goals of the Florida Coalition for Preservation in aligning the proposal to be more compatible to surrounding neighborhoods, and more exemplary of the neighborhood’s vision for community redevelopment.

BACKGROUND

The proposal is located on a 10.47-acre site fronting on South Federal Highway, with Woolbright Road generally to the north, and the Intracoastal Waterway generally to the east.



Figure 1, Site and context aerial – January 2014 image (source: applicant submittal)

The site is currently occupied by community shopping center. The existing site includes:

| Occupation | Land Use | Floor Area |
|--|----------------------|-------------|
| Vacant building – formerly Winn Dixie with smaller retail on north side | retail | 72,686 s.f. |
| Walgreens / Joann’s Fabrics / others | retail | 41,970 s.f. |
| Wendy’s | fast-food restaurant | 2,988 s.f. |

Also on the site are outparcels that are not owned by the applicant, including:

| Occupation | Land Use | Floor Area |
|------------------|-------------------------|------------|
| Prime Catch | full-service restaurant | 7,889 s.f. |
| Wells Fargo Bank | bank | unknown |

The current proposal, shown in the submitted site plan below (11.06.15, Sheet AS-101) proposes a mixed use development for jig-saw of part of the land, leaving outparcels to the master plan, and primarily redeveloping one building site, with two small frontage retail spaces to minimally meet the intent of the City’s vision for mixed use development. The primary construction of the proposal is a single, 10-story, u-shaped residential hi-rise building to maximize ocean views over treetops and the single family residences with a parking pedestal, and a small retail space located along a proposed Riverwalk. The existing large box (41,790 s.f.), auto-oriented retail remains in place with its front parking field to create an incidental mixed use that does not provide the internal relationships and connectivity as aspired to.



Figure 2, Site Plan showing new construction, existing retail, outparcels, and boundary of development (red line)



Figure 3, Artist concept showing single use residential building (11/15/2015)



Figure 4, Artist concept showing frontage retail and covered drive-through (11/15/2015)

Summary Development Data

| | Existing | Proposed | Change |
|---|-------------------------------------|--|---|
| Total Land Area | 456,358.80 sq. ft. (10.47 acres) | 456,358.80 sq. ft. (10.47 acres) | - |
| Use | Community Commercial | Mixed Use | - |
| Future Land Use Map Designation | Local Retail Commercial (LRC) | Mixed Use (MX) 426,227 sq. ft. (9.78 acres) Local Retail Commercial: 30,131 sq.ft. (0.69 acres) | Mixed Use (MX) 426,227 sq. ft. (9.78 acres) |
| Zoning District | Commercial (C3) | Mixed Use Low (MU-L3) 426,227 sq. ft. (9.78 acres) Commercial (C3) 30,131 sq.ft. (0.69 acres) | Mixed Use (MU-L3) 426,227 sq. ft. (9.78 acres) |
| Height – Permitted MU-L3 | 45 ft. | 70 ft. | + 25 ft. |
| Height – Proposed | - | 105 ft. total 95 ft. to roof | + 50 ft. (to roof) |
| Intensity Permitted C3 /MU-L3 | | 3.0 | + |
| Intensity (FAR) | 0.276 | 1.740* | + 1.464 |
| Density Permitted C3 / MU-L3 | 0 | 40 DU/Ac. | + 40 DU/Ac. |
| Residential Density | 0 | 33.3 DU/Ac. | + 33.3 DU/Ac. |
| Residential Use | 0 | 326 dwelling units 697,347 sq. ft. | + 326 DU + 697,347 sq. ft. |
| Retail Use | 114,656 sq. ft. | 41,970 sq. ft. | - 72,686 sq. ft. |
| Restaurant Use | 10,877 sq. ft. | 10,877 sq. ft. | no change |
| Permitted Setbacks / Build-To Lines C3 vs. MU-L3 | | | |
| Federal Hwy Setback/Build-To | 20 ft. | 0 ft. | -20 ft. |
| Woolbright Setback | 20 ft. | 0 ft. | -20 ft. |
| Interior Side Setback | 0 ft. | 0 ft. | no change |
| Waterway Setback | 20 ft. | 0 ft. | -20 ft. |
| Proposed Setbacks / Build-To Lines Existing vs. Proposed | | | |
| Federal Hwy Setback/Build-To | 65 ft. | ~3 ft.** | -62 ft. approx. ** |
| Woolbright Setback | 21.5 ft.*** | 21.5 ft.*** | no change |
| Interior Side Setback | 32 ft.**** | 5.5 ft. | -26.5 ft. |
| Waterway Setback | 57.6 ft. | 2'-10½" to structure 14'-5¼" to building | -43.2 ft. |

*. Revised site plan data has not been updated to include FAR for fronting retail or Walgreens covered drive-through expansion

** . Setback not dimensioned, approximate measure

***. Setback from Wendy's

****. Setback from Walgreens is 32'. Setback from large building to Parcel B is 30.5 ft.; however, Parcel B is subject of proposed land swap

CONTEXT - COMPATIBILITY

The redevelopment borders on the Intracoastal Waterway, as well as the waterfront Prime Catch restaurant. The restaurant and its parking (not Parcel B) will remain zoned C-3, with LRC future land use designation per the proposal. Across the Intracoastal, about 400 feet wide at this location, is the Town of Ocean Ridge. At Woolbright Road on the northeast corner of the site is the two-lane bascule bridge across the Intracoastal Waterway



Figure 5 Prime Catch and ICW

To the north of the site, across Woolbright Road is the 4-story, multifamily residential Bermuda Cay community. It is zoned R-3 with a High Density Residential (HDR, 10.8 DU/AC.) future land use designation. Further west at the corner of Woolbright Rd. and S. Federal Highway is the 2-story PNC Bank, zoned C-3 with a future land use designation of Local Retail Commercial (LRC)



Figure 6 Bermuda Cay

To the northwest is a 5-story mixed use development, Las Ventanas, comprised of ground level retail with 2 stories of office above on frontage and 4 to 5 residential within the development. Primary mixed-use structures are positioned at the street in an urban form with all parking concealed behind the buildings, with internal street network and residential within. It is zoned MU-L, and has a future land use designation of Mixed Use (MX).



Figure 7 PNC Bank

West of the site is Sunshine Square, a community-level shopping center that includes a Publix supermarket and In the CRA, and various community service area establishments. There is a gasoline service station at the corner. The site is zoned MU-L3. The future land use designation is Mixed Use (MX) for the shopping center, and LRC for the outparcel service station.



Figure 8 Las Ventanas Mixed Use



Figure 9 Sunshine Square Shopping Center

To the south of the site is a 1-story McDonalds with a drive through lane on land zoned C-3 and with a future land use designation of LRC. Further to the east of the McDonalds is vacant conservation land that is zoned R-3, and shown on the Future Land Use Map as HDR with a Conservation Overlay (C/O).

The area surrounding the site is comprised of a mix of residential and community commercial establishments that are adjacent but lack the pedestrian-level integration of planned mixed uses, and a planned mixed use that does have a pedestrian oriented design and vertical mix of uses. On two partial sides, the site abuts undeveloped environmentally conserved land and marine environment.

In scale, the immediately surrounding area is predominantly low-rise, with no adjacent buildings higher than 5 stories. The nearest structures that exceed 5 stories are 1 mile away to the north; the 15-story buildings of Marina Village at Ocean Avenue in the City’s core area. These buildings are not within the functional, visual or planning context of this site. While the location of the Riverwalk Plaza site is well suited for quality, pedestrian-oriented mixed use redevelopment based on its context, the context in terms of scale requires low rise to mid-rise structures at the most to maintain compatibility with the immediately surrounding properties and the residents within the area of the proposal.

Summary Context Data

| | Proposal | West | NorthWest | North | East | South |
|-------------------------------|-----------------------|-----------------|------------------|----------------|--------------------------|--------------------------|
| Development | Riverwalk Plaza | Sunshine Square | Las Ventanas | Bermuda Cay | Intracoastal OceanRidge | McDonalds & vacant |
| FLUM Designation | MX | MX | MX | HDR | open space single family | LRC & HDR |
| Zoning District | MU-L3 <i>proposed</i> | MU-L3 | MU-L2 | R3 | OceanRidge RMM | C3 & R3 |
| Permitted Intensity | 3.0 | 3.0 | 2.0 | not applicable | not applicable | C3: 0.50 R3: n.a. |
| Built Intensity | 1.74 | 0.16 | 1.62 | not available | not available | C3: R3 not built |
| Permitted Density | 40 | 40 | 30 | 10.8 | 5.0 | <i>conservation</i> |
| Built Density (DU/Ac.) | 33.3 | 0 | 42 | 32 | 4.4 | C3: 0.10 R3 not built |
| Permitted Height | 75 ft. | 75 ft. | 65 ft. | 45 ft. | 36 ft. | 45 ft. |
| Built Height | 10 stories requested | 1 story | 3-5 stories | 4 stories | 2 stories | 1 story |

CONSISTENCY – LAND DEVELOPMENT CONTROLS

The Riverwalk Plaza proposal will require, at minimum, four planning actions by the City Commission:

1. Amend the City's Future Land Use Map (FLUM) to re-designate the site from Local Retail Commercial (LRC) to Mixed Use (MX);
2. Amend the City's zoning map to move the site's zoning district from C-3 to MU-L3;
3. Along with the rezoning, approve the site plan as a mixed use;
4. Approve a height variance to allow the 100-foot proposed building height; however, City staff has proposed a text amendment to the zoning district height requirements that would allow the 105-foot building to be conforming.

The site is also within the City's Community Redevelopment Area (CRA) and should conform to CRA plans, to the extent that land development controls require conformity or consistency with CRA plans.

The site is not within the City's Transportation Concurrency Exception Area (TCEA), and must still comply with transportation concurrency and adopted Transportation Level of Service (LOS) criteria. The south border of the TCEA ends at Woolbright Road.

To determine if there are regulatory controls regarding the Riverwalk Plaza proposal and permit applications, pertinent City of Boynton Beach adopted plans, land use controls, and background information was researched. These include:

- City of Boynton Beach Comprehensive Plan, updated 2014
- City of Boynton Beach zoning code
- Urban Design Guidelines for Development within the Boynton Beach CRA
- City of Boynton Beach 2020 Plan **
- Federal Highway Corridor Study, and 2006 Update
- Traffic Generation Statement

FUTURE LAND USE MAP AMENDMENT - CITY OF BOYNTON BEACH COMPREHENSIVE PLAN

The adopted Comprehensive Plan for the City of Boynton Beach is required by State Growth Management Law, Ch. 163 FS, and is intended to be the long range “constitution” for development, conservation and other land management issues in the City. The City’s land development regulations (zoning code) are less long range and implement the Comprehensive Plan’s adopted goals, objectives and policies. The Comprehensive Plan is updated every seven years; however small scale amendments are permitted twice annually.

The adopted Future Land Use Map (Figure 10) designates the land on which the Riverwalk Plaza site is located as Local Retail Commercial. Amendment is sought to amend the FLUM so that the subject land is designated Mixed Use (MX)

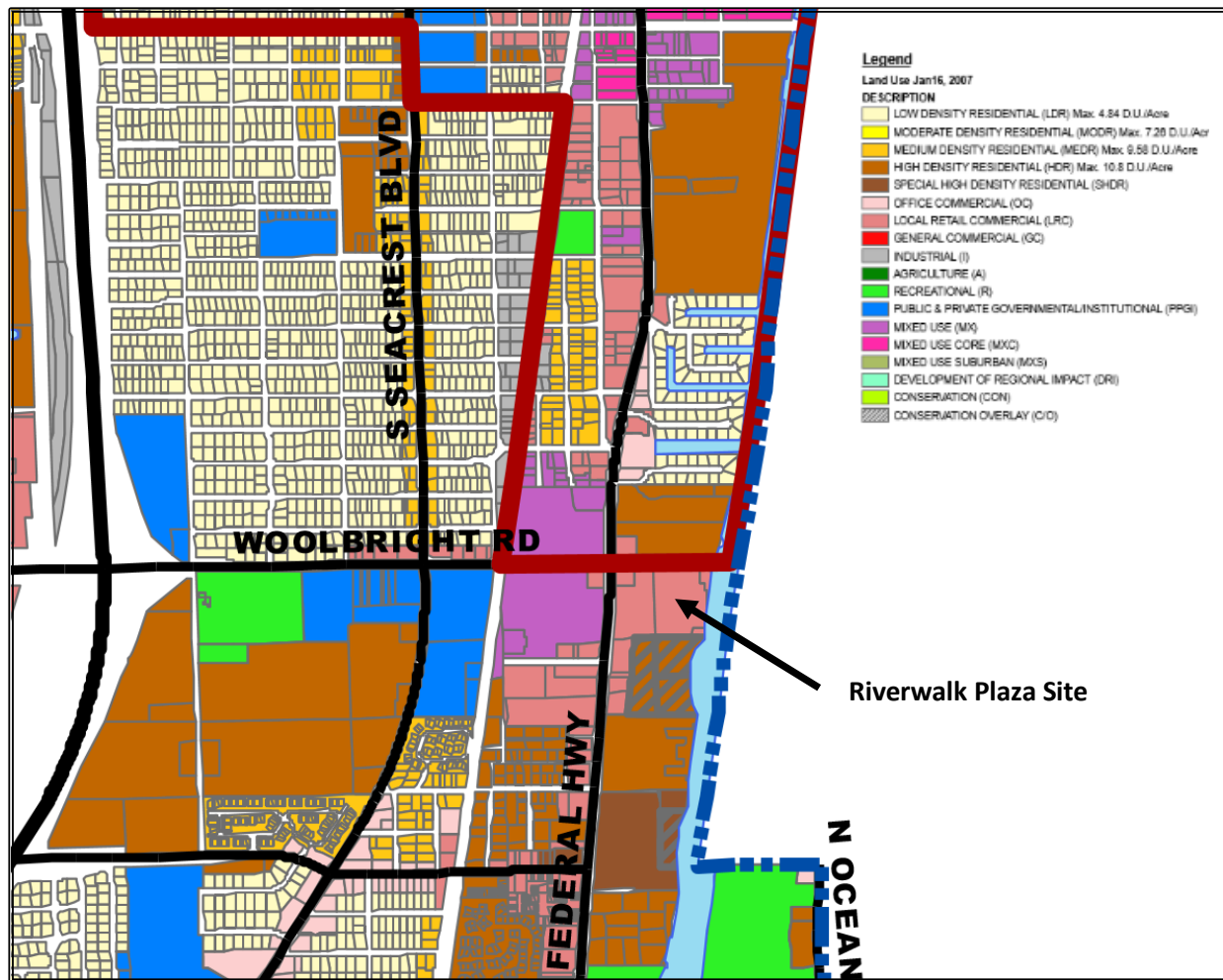


Figure 10 Excerpt of City of Boynton Beach Future Land Use Map (FLUM)

Code regarding the criteria to amend the Future Land Use Map (FLUM) is provided in Part III, Chapter 2, Article II, Section 2.B.3.c.(1) through (7) of the City code. The criteria that must be applied are:

- c. *Review Criteria. All privately initiated FLUM amendments shall be reviewed concurrently with the accompanying zoning request. Except for city-initiated FLUM amendments, which shall at a minimum meet criterion (2) for “Consistency,” approval of a FLUM amendment/zoning request shall be based on one (1) or more of the following factors:*

- (1) *Demonstration of Need.* A demonstration of need may be based upon changing conditions that represent a demand for the proposed land use classification and zoning district. Appropriate data and analysis that adequately substantiates the need for the proposed land use amendment and rezoning must be provided within the application.
- (2) *Consistency.* Whether the proposed FLUM amendment and rezoning would be consistent with the purpose and intent of, and promote, the applicable Comprehensive Plan policies, redevelopment plans, and Land Development Regulations. Approvals of requests to rezone to a planned zoning district may include limitations or requirements imposed on the master plan in order to maintain such consistency.
- (3) *Land Use Pattern.* Whether the proposed FLUM amendment and rezoning would be contrary to the established land use pattern, or would create an isolated zoning district or an isolated land use classification unrelated to adjacent and nearby classifications, or would constitute a grant of special privilege to an individual property owner as contrasted with the protection of the public welfare. This factor is not intended to exclude FLUM reclassifications and rezonings that would result in more desirable and sustainable growth for the community.
- (4) *Sustainability.* Whether the proposed FLUM amendment and rezoning would support the integration of a mix of land uses consistent with the smart growth or sustainability initiatives, with an emphasis on 1) complementary land uses; 2) access to alternative modes of transportation; and 3) interconnectivity within the project and between adjacent properties.
- (5) *Availability of Public Services/Infrastructure.* All requests for FLUM amendments shall be reviewed for long-term capacity availability at the maximum intensity permitted under the requested land use classification. An accompanying request to rezone to a planned zoning district is subject to concurrency review pursuant to Chapter 1, Article VI, Concurrency.
- (6) *Compatibility.* The application shall consider the following factors to determine compatibility:
 - (a) *Whether the proposed FLUM amendment and rezoning would be compatible with the current and future use of adjacent and nearby properties, or would negatively affect the property values of adjacent and nearby properties.*
 - (b) *Whether the proposed FLUM amendment and rezoning is of a scale which is reasonably related to the needs of the neighborhood and the city as a whole.*
- (7) *Alternative Sites.* Whether there are adequate sites elsewhere in the city for the proposed use in zoning districts where such use is already allowed.

The criteria as related to the Riverwalk Plaza Proposal are discussed below:

1 Need

There is no demonstration of need that is at this time presented with the proposal. Indeed, there is likely a shift in real estate demand with the emphasis away from retail, as evidenced empirically by vacant retail spaces in the area, toward a greater demand for residential for the South Florida area. However, empirical observations and conjecture must be demonstrated to meet the requirement. The CRA performed a Retail Demand Analysis in 2006 (with the Chesapeake Group), and a Housing Needs Assessment also in 2006 (with the FIU Metropolitan Center). Both studies predate the last real estate cycle, and should likely be updated. Factual data must demonstrate that the changing conditions motivate this amendment to the FLUM, and should further define in the case of mixed use, what mix of commercial and residential best meets demonstrated demand. Criteria 1 is not met with the currently available proposal information.

2 Consistency

The Federal Highway Corridor Study, the 2020 Plan, as well as other plans and policy in the Comprehensive Plan demonstrate the City's intent to move in a direction of creating more mixed use development to promote a variety of sustainability initiatives. The overall concept of changing the land use at this site to Mixed Use (MX) is consistent; however, the mix, scale, building disposition, and assemblage characteristics of the proposal's master plan are not consistent with the intent and design criteria of the Mixed Use designation that is defined in Policy 1.3.1 d.; CRA development as defined in Policies 1.7.1, 1.7.2, and 1.7.3; and reduction of development sprawl as defined in Policy 1.8.2.B (Note: these are not comprehensive list of policies related to this proposal, but a list of policies with which the proposal is inconsistent. Policy sections in bold type are for emphasis.)

Objective 1.3

Future development and redevelopment within the City shall continue to be regulated through administration of the Land Development Regulations specified within the City's Zoning Code, Community Redevelopment Plans, Building Code and subdivision regulations.

Measurability: Continued implementation of Land Development Regulations as verified by the lack of development orders or permits issued in violation of this objective.

Policy 1.3.1

The City shall continue to implement the Future Land Use Plan in accordance with the following descriptions of land use categories and designations. The uses, densities and intensities shall be the maximums allowed, but shall not indicate that those maximums are necessarily allowed in a land use category or zoning district. The land development regulations or other provisions of the City's Comprehensive Plan or Code of Ordinances may prohibit or regulate certain specific uses if doing so would be reasonable. Furthermore, other uses which may have land use characteristics very similar to those uses listed under a particular land use category may also be allowed in that land use category. One or more zoning districts, including planned development districts, shall be established to implement each of the following land use categories.

- d. *Mixed Use category shall provide for the vertical or horizontal mixing of land uses within a single site in order to allow development and redevelopment in specific geographic areas of the City that take maximum advantage of existing utility systems and services; and promote compact development, safe and pedestrian-friendly streets, and provide transportation choices.*

All land development located within any mixed use designation shall be required to submit a plan that includes a single unified design for the project and shall conform to any adopted redevelopment and design plan(s) for the area covered by the designation.

| <i>Future Land Use Designation</i> | <i>Maximum Density (du/ac) or Floor Area Ratio (FAR)</i> |
|--|---|
| <i>Mixed Use (east of I-95)</i> | <i>40 du/ac and 1.5 3.0 FAR (excluding parking structures)* (A FAR of 2.0 3.5 may be considered for development abutting the Mixed Use-Core designation or meeting other locational criteria)</i> |
| <i>Mixed Use-Core (east of I-95)</i> | <i>80 du/ac and 4.0 FAR (excluding parking structures)**</i> |
| <i>Mixed use-Suburban (west of I-95)</i> | <i>20 du/ac and 1.0 FAR (excluding parking structures)</i> |

**Maximum density for projects located in Downtown TOD District shall be 50 DU/AC.*

***Maximum density for projects located in Downtown TOD District shall be 100 DU/AC.*

In the Mixed Use designation, the allowed uses will be limited to, but not necessary include, the following:

- 1. Business, professional and administrative offices;*
- 2. Retail uses, personal services, business services which are compatible with retail uses;*
- 3. Entertainment, recreation facilities, amusements, attractions and exposition halls;*
- 4. Hotels;*
- 5. Residential uses with a gross density of 40 du/ac;*
- 6. Places of worship, elementary and high schools and daycare services;*
- 7. Governmental uses; and*
- 8. Home occupations.*

Land use types shall be permitted according to the following ranges, expressed as a percentage of the total area in this plan designation. The percentages shall be applied on an areawide basis but shall not be interpreted to require each development to have a mixture of uses.

Ranges of Allowable Percentages of Land Use Within the Area:

| | |
|------------------------|----------------|
| Residential | 70%-90% |
| Non-residential | 10%-30% |

The cumulative development in these areas shall be monitored to ensure that the proportional mix of uses is achieved by the year 2025

Objective 1.7

The City shall eliminate blighted residential neighborhoods and business districts through the adoption and implementation of Community Redevelopment Plans within the commercial and residential Community Redevelopment Area. This includes areas east of I-95, notably in the Federal Highway corridor, the Heart of Boynton and Boynton Beach Boulevard areas, and the Ocean District.

Measurability: Number of redevelopment plans adopted or amended for the Community Redevelopment Area.

Policy 1.7.1

The City shall consider the recommendations of adopted Community Redevelopment Plans and design guidelines when reviewing all requests for land use amendments and rezonings for property within the Community Redevelopment areas.

Policy 1.7.2

The City shall encourage land assembly to promote large-scale redevelopment and infill projects.

Policy 1.7.3

The City shall require that designs for redevelopment and infill projects encourage the use of public transit, pedestrian and bicycle travel as alternatives to the car and shall maximize personal safety.

Objective 1.8

The City shall discourage the proliferation of urban sprawl and shall facilitate a compact urban development pattern that provides opportunities to more efficiently use and develop infrastructure, land, and other resources and services by concentrating more intensive growth within the City and the City's utility service area.

Measurability: Number of development applications denied because of evidence of proliferation of urban sprawl.

Policy 1.8.2

The City shall further discourage urban sprawl by;

- A. Preventing the presence or frequency of the primary indicators of urban sprawl through continuous promotion of compact developments within the City's utility service areas, while requiring the maximization of all public services for each development in the most cost effective manner possible; and
- B. **Requiring, in all future development and redevelopment in the City, land use patterns that are non-strip in nature and demonstrate the ability to attract and encourage a functional mix of uses.**

Policy 1.3.1 requires that the submitted master plan conforms to the adopted redevelopment and design plans for the area. This site is within the CRA. The adopted *Urban Design Guidelines for Development within the Boynton Beach CRA* defines guidelines for mixed use design that are consistent with best planning practices to achieve the mixed use designation functional goals; however, the current Riverwalk Plaza master plan submittal minimally follows the guidelines, and is substantially an incidental mix caused by redevelopment of the back of a commercial site with an out-of-scale residential tower, and the inclusion of minimal fronting retail spaces. The intent of the

adopted design concepts of the urban design guidelines for development within the Boynton Beach CRA are not met in a substantial way (as met by the adjacent Las Ventanas mixed use development) the embodies the intent of the Mixed Use FLUM designation. Specifically:

- Building placement: Buildings are not located at both fronts of the property. The corner is not in the project so the key location for pedestrian-oriented mixed use design as called for in the design guidelines is not available for a public plaza and keynote building design features as seen across the intersection at the Las Ventanas mixed use development.
- Frontage Guidelines:
 - The design guidelines call for approximately 75% of the front property line to be building at least 35' in height. The two proposed retail outparcels shown on Sheet AS-104 (11/15/2015) (Figure 11) are not dimensioned. They are approximately 90-ft. (measured) along the 452-ft. Federal Highway frontage, proving only 20%. Further, the 1-story buildings are shown as 27-ft in height, not 35-ft as required. In an effort to create the appearance of greater frontage building occupation, the existing Walgreens drive-through lanes are to be covered with a 159-ft. non-occupied frontage comprised of a "storefront system" and window display boxes. (Figure 12) The storefront system does not provide the mixed use functionality of creating "active" (populated) frontage along Federal Highway. Even with this unpopulated wall, the front property line is only 55% occupied by buildings.
 - The design guidelines call for approximately 50% of the side street property line to be building. The Wendy's building 33-ft. frontage is only 7% of the 491-ft. long Woolbright Road side, and is not consistent with the build-to requirements. Like the Walgreens drive-through wall, it is an auto-oriented use and not consistent with the intent of the mixed-use designation.
- Parking: parking shall be screened from public streets. Commercial parking is screened from Federal Highway; however, a field of surface parking is along Woolbright Road.
- Additional pedestrian area to the major public streetscape is not provided.
- Internal walkways do not direct pedestrians to the prominent pedestrian destinations. There is only a single pedestrian path along the driveway through the parking field to the residential tower. The connection to the tower is minimal, and there is only minimal sidewalk connection to the Riverwalk that is proposed as a public attraction and amenity.
- There is not enough information to determine if vertical setbacks are achieved.
- There is not enough information to determine if façade criteria are achieved.

Overall, the proposal does not represent a master plan consistent with the intent of the Mixed Use FLUM designation, but instead uses the designation as a vehicle for the co-location of high-value waterfront residential development at significantly increased density and intensity in a commercial location.

As proposed, the maximum height of Riverwalk Plaza, at 105 ft. has not been further limited to maintain compatibility. A 100-ft. height is only provided for in the code for MU-L3 districts that are adjacent to a MU-H district and the area of increased height shall extend a distance of one hundred (100) feet from the MU-H zoning district line and shall require conditional use approval. The subject site is not within 1-mile of an MU-H district. It does not meet the criterion for additional height. Further, in the MU-L3 district (and MU-L2) height is further restricted on any street frontage to forty-five (45) feet. Maximum height on Intracoastal Waterway is thirty-five (35) feet. The residential tower is located along the Intracoastal Waterway, and exceeds the required height limit by 65 feet.



Figure 11 Federal Highway Retail



Figure 12 Walgreens Drive-Through Storefront Wall System

Policy 1.3.1 defines ranges of allowable percentages of use (residential / non-residential) within a mixed use area. Neither the applicant nor staff review provides an analysis of how the area is defined, what the goals for percentages of use are, how this project contributes to the mix, and how there is re-developable space to achieve the mix by 2025 as required by the policy.

Policy 1.7.1 specifically requires the City to consider the recommendations of the *Urban Design Guidelines for Development within the Boynton Beach CRA* for this land use amendment and the rezoning. (see Bullet 1)

Policy 1.7.2 states that the City shall encourage land assembly to promote large-scale redevelopment and infill projects within the CRA. The Riverwalk Plaza proposal is notable on first review for its allowance of critical outparcels that are not in the master plan. The outparcels at Prime Catch, and most importantly at the corner (Wells Fargo Bank) leave out important locations for a well-designed mixed use development to function. Note by contrast, the complete development of the corner property for the Las Ventanas mixed use across Federal Highway. The outparcels, requiring their own driveways and parking to redevelop at a later time will not be able to develop as functional, pedestrian-oriented mixed uses at a later time.

Policy 1.7.3 requires that infill projects in the CRA encourage the use of public transit, pedestrian and bicycle travel; however, the proposal flies in the face of this by locating a large-scale residential development 500 feet behind a field of parking for existing auto-oriented retail boxes. The lack of pedestrian integration, and the failure of the master plan to build to the roadways with parking in the interior of the site (as Las Ventanas) thwarts the function of the proposal to encourage public transit, pedestrian and bicycle travel.

3 Land Use Pattern

The proposed FLUM amendment, as discussed in the Policy 1.7.2 Bullet above, would create isolated land use classifications at the Wells Fargo outparcel at the corner, and at the Prime Catch outparcel at the Intracoastal Waterway. In both cases, this amendment would preclude the possibility of either parcel to at a later time properly be redeveloped as an integrated mixed use with the rest of the areas, since each of these parcels, both auto-oriented in their access, will retain their independent parking inventories and driveway access. Without pedestrian, vehicular access and co-parking integration into the larger mixed use that would surround them by this proposal, they would likely remain as unrelated auto-oriented uses in an area developed as mixed use. The irregular carving of the land use amendment boundaries, not along the right-of-way and natural boundaries, but along the boundaries of ownership, suggest a grant of special privilege to an individual property owner as contrasted with the protection of the public welfare.

4 Sustainability

The proposed FLUM amendment does not support the integration of a mix of land uses consistent with the smart growth or sustainability initiative. While the Riverwalk Plaza proposal does from a general concept incidentally place a residential tower in a commercial area, there are major flaws to the functionality that would integrate the mixed use consistent with smart growth and sustainability initiatives. These flaws include:

- The retail space mix is predominated by large spaces at the front of the property that are typical of auto-dependent tenants. Wendys, along Woolbright Road is a fast-food chain and has a drive-through lane. Walgreens, a larger box retailer, also will retain its 2-lane drive-through along Federal Highway.
- The Wells Fargo Bank, an outparcel to the development is surrounded by parking, retains its own driveway near the corner, and retains a 3-lane drive-through abutting the proposed

mixed use and isolating the pedestrian areas from the corner.

- The drive-through establishments challenge interconnectivity within the project;
- There is very limited pedestrian interconnectivity with adjacent parcels and outparcels;
- Buildings are inadequately positioned along Federal Highway and Woolbright Road, preferably with vertical mixed use integration consistent with best practices of CRA Design Guidelines;
- The residential building is not appropriately scaled per the CRA Design Guidelines

Overall, the proposal does not represent a master plan consistent with the intent of the Mixed Use FLUM designation, but instead uses the designation as a vehicle for the co-location of high-value waterfront residential development at significantly increased density and intensity in a commercial location.

5 Viability of Public Services/Infrastructure

The FLUM amendment is undergoing review by the City staff for long-term capacity availability at the maximum intensity permitted under the requested land use classification. At this time, impact on public infrastructure, including roadway level-of-service is not determined.

6 Compatibility

- a) The proposed FLUM amendment, as designed, is not compatible with the current and future use of adjacent and nearby properties. To be compatible, the amendment would be associated with a companion master plan that describes a mixed use project that is consistent with best practices and the City's vision for mixed uses as described in the CRA Design Guidelines. The Riverwalk Plaza proposal as currently shown does not achieve this. The Mixed Use FLUM designation is generally compatible only if rezoned to an appropriate scale and a master plan is provided that meets design guideline criteria. The Riverwalk Plaza master plan is out of scale and does not meet the criteria.
- b) In addition to the many reasons that the Riverwalk Plaza master plan is not compatible, the primary design aspect that may negatively affect the property values of adjacent and nearby properties is the scale of the project. The scale is not reasonably related to the needs of the neighborhood nor the city as a whole. Reviewing the context discussion, while the area is moving in the direction towards a mixed-use area, the scale of every surrounding property in the area is 5 stories or less. The 5-story height continues both within the City and across the Intracoastal Waterway for a distance of 1 mile until the downtown core of Boynton Beach, where three high-rise 15-story mixed-use towers and one mid-rise 7-story tower are located. The City's plans and land development regulations clearly attempt to direct high-intensity, large-scale development to the downtown core and the future FEC railroad station transit oriented district (TOD), both centered at approximately the intersections of Federal Highway/FEC railroad and Ocean Avenue/Boynton Beach Boulevard. This proposal's 10-story residential tower, located 1 mile away and with no building above 5 stories within that mile, is completely unrelated to the City's planning efforts, and may even diminish the development goals by absorbing housing market that may otherwise be more appropriately located in the Core and TOD.

7 Alternative Sites

Whether there are adequate sites elsewhere in the city for the proposed use is not relevant. There is sufficient documentation in adopted City plans, as well as the existence of adjacent Mixed Use designations to demonstrate that a comprehensively planned Mixed Use designation, consistent with the requirements of the Comprehensive Plan policy and land development code is appropriate at this location in whole.

REZONING - CITY OF BOYNTON BEACH ZONING CODE

The City of Boynton Beach zoning code implements the Comprehensive Plan. The adopted zoning map (Figure 13) designates the land on which the Riverwalk Plaza site is located as Commercial (C3). A rezoning is sought to amend the zoning map so that the subject land is in the Mixed Use Low -3 (MU-L3) zoning district.

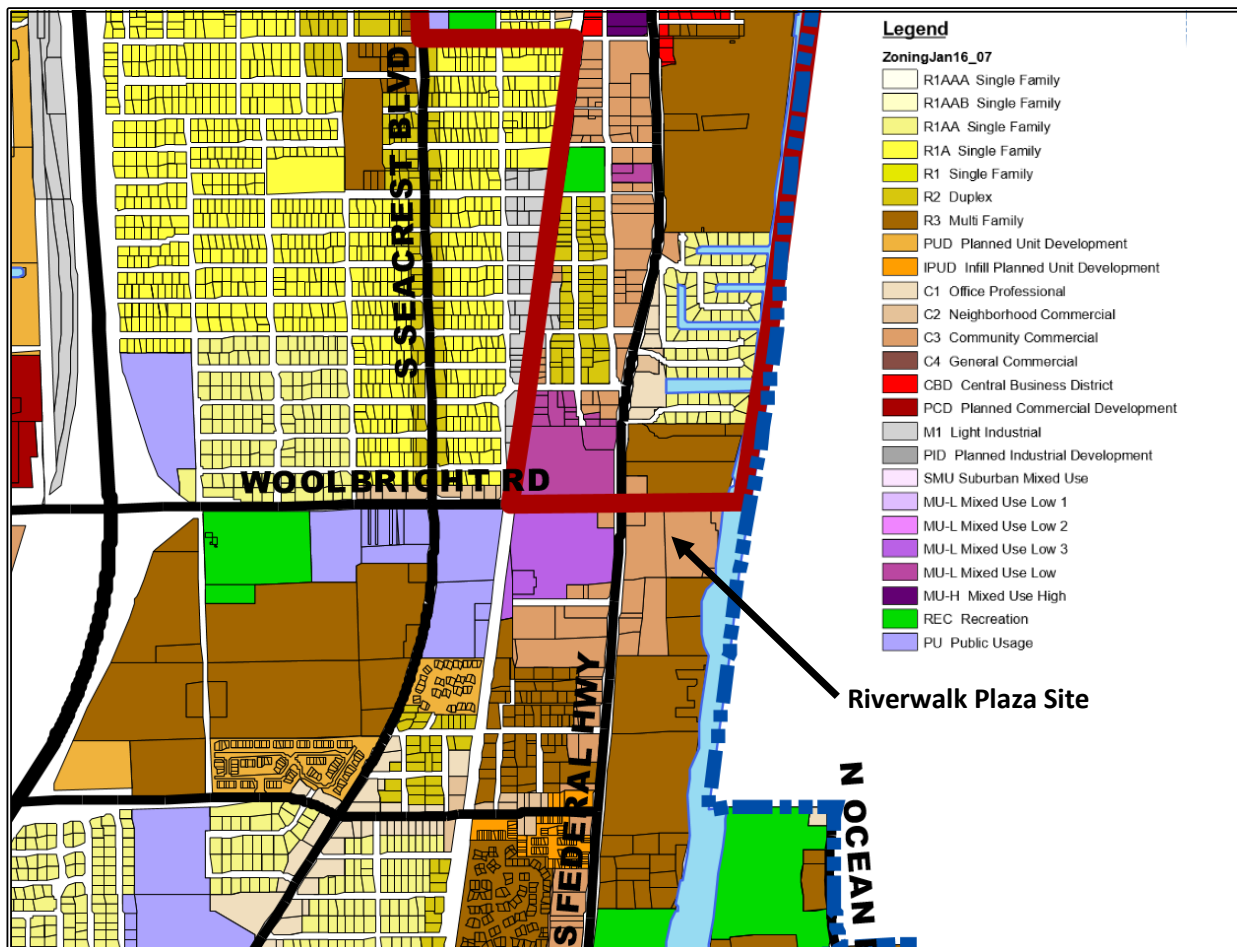


Figure 13 Excerpt of City of Boynton Beach Zoning Map

Part III, Chapter 2, Article II, Section 2.D.3.a through k of the City code provides the criteria for rezoning. The criteria that must be applied are:

3. *Review Criteria. Except for city-initiated rezonings, which shall at a minimum meet criterion (2) for "Consistency" approval of an amendment to the official zoning map processed with or without the FLUM amendment shall be reviewed based on one (1) or more of the following factors:*
 - a. *Demonstration of Need. A demonstration of need for the proposed zoning district and the land use classification. Appropriate data must be provided within the application.*
 - b. *Consistency. Whether the proposed FLUM amendment and rezoning would be consistent with the purpose and intent of, and promote, the applicable Comprehensive Plan policies, Redevelopment Plans, and Land Development Regulations. Approvals of a request to rezone to a planned zoning district may include limitations or requirements imposed on the master plan in order to maintain such consistency.*
 - c. *Land Use Pattern. Whether the proposed rezoning/FLUM amendment would be contrary to the established land use pattern, or would create an isolated zoning district or land use classification*

- unrelated to adjacent and nearby classifications, or would constitute a grant of special privilege to an individual property owner as contrasted with the protection of the public welfare. This factor is not intended to exclude rezonings and FLUM amendments that would result in more desirable and sustainable growth for the community.
- d. *Sustainability.* Whether the proposed rezoning/FLUM amendment would support the integration of a mix of land uses consistent with smart growth or sustainability initiatives, with an emphasis on 1) complementary land uses; 2) access to alternative modes of transportation; and 3) interconnectivity within the project and between adjacent properties.
 - e. *Availability of Public Services/Infrastructure.* Requests for rezoning to planned zoning districts and FLUM amendments shall be subject to review pursuant to Chapter 1, Article VI Concurrency.
 - f. *Compatibility.* The application shall consider the following compatibility factors:
 - (1) Whether the proposed rezoning and FLUM amendment, if submitted concurrently, would be compatible with the current and future use of adjacent and nearby properties, or would negatively affect the property values of adjacent and nearby properties.
 - (2) Whether the proposed rezoning and FLUM amendment, if submitted concurrently, is of a scale which is reasonably related to the needs of the neighborhood and the city as a whole.
 - g. *Direct Economic Development Benefits.* For rezoning/FLUM amendments involving rezoning to a planned zoning district, the review shall consider the economic benefits of the proposed amendment, specifically, whether the proposal would:
 - (1) Further implementation of the Economic Development (ED) Program;
 - (2) Contribute to the enhancement and diversification of the city's tax base;
 - (3) Respond to the current market demand or community needs or provide services or retail choices not locally available;
 - (4) Create new employment opportunities for the residents, with pay at or above the county average hourly wage;
 - (5) Represent innovative methods/technologies, especially those promoting sustainability;
 - (6) Be complementary to existing uses, thus fostering synergy effects; and
 - (7) Alleviate blight/economic obsolescence of the subject area.
 - h. *Economic Development Impact Determination for Conventional Zoning Districts.* For rezoning/FLUM amendments involving rezoning to a conventional zoning district, the review shall consider whether the proposal would further Economic Development Program, but also determine whether the proposal would:
 - (1) Represent a potential decrease in the possible intensity of development, given the uses permitted in the proposed land use category and/or zoning district; and
 - (2) Represent a potential decrease in the number of uses with high probable economic development benefits.
 - i. *Commercial and Industrial Land Supply.* The review shall consider whether the proposed rezoning/FLUM amendment would reduce the amount of land available for commercial/industrial development. If such determination is made, the approval can be recommended under the following conditions:
 - (1) The size, shape, and/or location of the property makes it unsuitable for commercial/industrial development; or
 - (2) The proposed rezoning/FLUM amendment provides substantiated evidence of satisfying at least four (4) of the Direct Economic Development Benefits listed in subparagraph "g" above; and
 - (3) The proposed rezoning/FLUM amendment would result in comparable or higher employment numbers, building size and valuation than the potential of existing land use designation and/or zoning.
 - j. *Alternative Sites.* Whether there are sites available elsewhere in the city in zoning districts which already allow the desired use.
 - k. *Master Plan and Site Plan Compliance with Land Development Regulations.* When master plan and site plan review are required pursuant to Section 2.D.1.e. above, both shall comply with the requirements of the respective zoning district regulations of Chapter 3, Article III and the site development standards of Chapter 4.

Criteria 3a, 3b, 3c, 3d, 3e, 3f, and 3j are the same criteria as for the amendment to the FLUM, and the discussion in the prior section is applicable to the zoning criteria; however, the discussion below of Criterion 3b is with respect to the zoning code as added to the prior discussion. The additional criteria, 3g, 3h, 3i and 3k are also reviewed below.

B Consistency:

Part III Chapter 3, Article III, Section 5.B. B. FLUM Classifications and Corresponding Zoning Districts (Table 1-1) provides that for the MX FLUM designation, MU-L1, MU-L2, and MU-L3 are appropriate. Any of the Mixed Use – Low zoning districts would be consistent with the proposed FLUM amendment.

The applicant and City staff propose MU-L3, which among the three choices provides the highest permissible density, intensity, height and scale. Staff have opined that MU-L3 must be applied because it is the only district consistent with the recommendations of the Federal Highway Corridor Community Redevelopment Plan Update (FHCCRPU), prepared for the Boynton Beach CRA on July 1, 2006. The updated plan was completed to respond to the City's implementation steps taken since the original plan was adopted in 2001, and establishment by the County of the Transportation Concurrency Exception Area (TCEA) covering this corridor. The City's implantation actions included the designation of new mixed use land use categories and mixed use zoning districts, including Mixed-Use High and Mixed-Use Low.

The land on which Riverwalk Plaza is proposed is part of Planning Area IV in the FHCCRPU. The updated study extended Area IV south across Woolbright Road (includes the subject property) to include land that was contemporarily recently rezoned to Mixed Use Low Intensity that would become Las Ventanas (378 residential unit mixed use), and the Sunshine Square Shopping Center (planned for 48 residential units). The FHCCRPU cites among its redevelopment strategies, that there will be a functional and orderly hierarchy of development with the downtown core as the center. Area III is the downtown core. Areas II and IV are the gateways to downtown, and should contain mixed use development of lesser intensity than downtown, with commercial uses that serve the surrounding neighborhoods. Areas I and V, further from the core are less intense. "Land uses, development intensities and standards should emphasize this gradual transition into the core downtown." (p. 88). On page 92 of the Redevelopment Strategies section, the FHCCRPU states 6 general strategies. Among these are again, a transition from the downtown core in terms of building scale, massing and building placement. The FHCCRPU provides 9 recommendations. Recommendations 1 through 3 are to amend the Comprehensive Plan and Future Land Use Map. Recommendation 4 suggests new zoning development standards for the MU-H zoning districts. Recommendation 5 (p. 97) contains recommended standards for the MU-L District. Overall, it suggests eliminating restrictions on density but maintaining control of the visual appearance through height limitations. For Areas II and IV, (referred to as "these two areas"), it recommends increasing maximum height to 75 feet to create appropriate transition from the gateway communities to the central business district. There are no textual recommendations concerning the further categorization of the MU-Low zoning districts in MU-L1, MU-L2, and MU-L3. These divisions only appear without text reference in Map 7 of the FHCCRPU (p. 103) The copy available from the City's website has all proposed mixed use areas shaded black. Only mixed use areas are labelled: MU-H in the downtown core east of Federal Highway, and the land on which Sunshine Square Shopping Center is currently located is shown as MU-L3. Other than these 2 labels, there is no guidance as to the intent of the FHCCRPU regarding rezoning for the subject site of the proposed Riverwalk Plaza. (unless the City has a public record of the Plan showing a suitable shaded or color map)

City Staff maintains an interpretation of the FHCCRPU, shown in Figure 11; however, this map is dated as "updated October 16, 2012" and there is no notation linking this map and its provenance to the

FHCCRPU of 2006. This map shows the subject property as MU-L3; however, whether this was shown in the actual plan is not clear. Further, the Staff map is not consistent with basic strategy of gradual transition, and shows a large are of MU-L2 in between the downtown core and MU-L3. Although the FHCCRPU did describe the intersection at Woolbright Road and Federal Highway as a major transportation node, it did not identify strategies or recommendations based on this. Without this, zoning recommendations based on the node concept are only interpretations of the plan, and do not follow from its recommendations.

The FHCCRPU was adopted by Ordinance No. 06-074 on August 1, 2006. Although ordinances generally have greater regulatory capacity than resolutions, and are generally used to establish a law that must be followed in the City, this cannot be the case here.

- For the recommendations of the FHCCRPU, particularly those relating to the Comprehensive Plan, Future Land Use Map, zoning ordinance, and Zoning Map, then the 10-year old adoption action would pre-empt all legally required process to amend the maps and zoning code. These all need to happen under specifically required legal processes.
- Although the plan is adopted by ordinance, the specific recommendations are just that: recommendations for future actions. Ordinances are in perpetuity until repealed or amended; however, the specific recommendations cannot force the hand of future Commissions in perpetuity. Prior commissions cannot, as the expression goes, rule from the grave.
- Conditions change. The recommendations are 10 years old. The practical reason that the Plan's recommendations cannot force the hand of the Commission is that development, community will, infrastructure conditions, environmental conditions, and best practices all evolve and lead to considerations that cause the sitting Commission to properly consider the conditions of 2016, as well as the overall intent of development direction in 2006.
- Commissions may simply make development choices, legislative and quasi-judicial that deviate from adopted plan recommendations. In this case, although the adopted FHCCRPU clearly recommended not implementing density controls in the mixed use zoning districts, the current and adopted zoning code for the mixed use districts maintains density controls.

To summarize, the adoption of the FHCCRPU does not force today's City Commission to re-zone the subject property according to specific recommendations of the 10-year old plan, if even the plan contains such specific recommendations. Although the plan may be a part of the information that the Commission considers, its determination may be to the zoning district (if at all) that it considers most appropriate based on the 11 review criteria (a through k, above).

Part III Chapter 3, Article III, Section 5.A defines the development criteria for the Mixed Use zoning districts. The code section is excerpted below. (Bold type provided for emphasis)

Sec. 5. Mixed-Use (Urban) Districts.

A. General.

1. ***Purpose and Intent. The mixed-use (urban) zoning districts are intended to implement the community redevelopment plans, in part, by providing for a mixture of land uses, accommodating varying densities and intensities appropriate for each planning area, and by establishing quality streetscapes and pedestrian environments as part of a compact urban setting. These districts are also intended to support transit ridership and in particular, the development of transit-oriented developments near planned passenger train stations along the FEC Railroad corridor, such as the designated location along Northeast 4th Street, between Boynton Beach Boulevard and Ocean Avenue. Additional standards and requirements of this section are based on the proximity to the planned train station, and location within the transit core, which is defined as the area extending one-quarter (1/4) mile from the train station (see map # to be determined). To ensure compliance with these Regulations, an application for site plan approval shall be required and reviewed concurrently with any request to rezone lands to a mixed-use (urban) district, except as provided***

*in Section 2.D.1.e. Also see **Chapter 4, Article III, Section 6.H.** for design and compatibility standards, as well as the urban design guidelines for development within the Boynton Beach community redevelopment area (urban design guidelines). The objectives of the mixed-use (urban) districts are as follows:*

- a. Support and enhance revitalization efforts in the city's traditional commercial core area through the provision of compact, transit-supportive, high density and intensity development;*
- b. Allow for commercial services to be provided to new residential developments in planned locations with appropriate densities, heights, and mixtures of uses;*
- c. **Create optimal pedestrian environments and spaces through well located public plazas, expanded public sidewalks, maximized internal and external interconnectivity and design of pedestrian-friendly vehicular circulation areas;***
- d. Allow flexibility in architectural design and building bulk while maximizing compatibility and harmony with adjoining development;*
- e. **Create surrounding areas that complement rather than compete with the downtown; and***
- f. **Create higher quality environments for residents, businesses, employees, and visitors as determined by how well the urban centers function seamlessly with respect to interconnectivity between the principal uses, activity centers, and transportations systems, forming a cohesive and desirable sense of place.***

2. Description of Districts.

a. Mixed Use-Low Intensity 1 (MU-L1). The MU-L1 district implements the mixed use (MX) future land use map (FLUM) classification of the Comprehensive Plan and has a maximum residential density of twenty (20) dwelling units per acre, except within the Downtown Transit-Oriented Development District (DTODD) Overlay Zone (the Station Area), where the maximum density is twenty-five (25) dwelling units per acre. In addition, projects located within the transit core of the Station Area shall have a minimum density of eleven (11) dwelling units per acre. This minimum density requirement shall be applicable to any such project regardless of whether the site is partially or entirely located within the transit core.

b. Mixed Use-Low Intensity 2 (MU-L2). The MU-L2 district implements the mixed use (MX) future land use map (FLUM) classification of the Comprehensive Plan and has a maximum residential density of thirty (30) dwelling units per acre, except within the Downtown Transit-Oriented Development District (DTODD) Overlay Zone (the Station Area), where the maximum density is thirty-seven and one-half (37.5) dwelling units per acre. In addition, projects located within the transit core of the Station Area shall have a minimum density of twenty (20) dwelling units per acre. This minimum density requirement shall be applicable to any such project regardless of whether the site is partially or entirely located within the transit core.

c. Mixed Use-Low Intensity 3 (MU-L3). The MU-L3 district implements the mixed use (MX) future land use map (FLUM) classification of the Comprehensive Plan and has a maximum residential density of forty (40) dwelling units per acre, except within the Downtown Transit-Oriented Development District (DTODD) Overlay Zone (the Station Area), where the maximum density is fifty (50) dwelling units per acre. In addition, projects located within the transit core of the Station Area shall have a minimum density of thirty (30) dwelling units per acre. This minimum density requirement shall be applicable to any such project regardless of whether the site is partially or entirely located within the transit core.

d. Mixed Use-High Intensity (MU-H). The MU-H district implements the mixed use core (MX-C) future land use map (FLUM) classification of the Comprehensive Plan and has a maximum residential density of eighty (80) dwelling units per acre, except within the Downtown Transit-Oriented Development District (DTODD) Overlay Zone (the Station Area), where the maximum density is one hundred (100) dwelling units per acre. In addition, projects located within the Station Area shall have a minimum density of thirty (30) dwelling units per acre. This minimum density requirement shall be applicable to any such project regardless of whether the site is partially or entirely located within the transit core. The intent of this district is to supplant the central business district (CBD) in the historic downtown and marina district.

3. Location and General Use Requirements.

a. General. The mixed use (urban) districts are intended for projects that promote sustainable design with respect to land use, energy conservation, resource management, and social equity. Rezoning to any of these districts is encouraged for proposed development or redevelopment on lands that are in close proximity to existing infrastructure, public and alternative transportation routes and modes, employment centers, community areas, or have sustained or are complicated by environmental contamination. The mixed use (urban) zoning districts shall be applied to selected geographic areas east of I-95, where a mixture of uses and building intensities is intended to implement the city's Comprehensive Plan, redevelopment plans, and urban design guidelines including goals involving compact design, transit-oriented development, employment, population, transportation, housing, public facilities, and environmental quality. Permitted uses and associated standards for development vary between the zoning districts each

reflecting the importance of the district's location and relationship to the downtown. **Maximum heights, densities, and intensities of development are regulated according to the classification of the roadway that abuts the project, and based on proximity to the transit core and existing single-family zoning districts. A master plan as a whole, comprised of individual buildings and parcels, would be reviewed for compliance with the requirements below pertaining to a residential component to the project, and commercial use on the first floor of a project.** Projects not meeting the requirement for a residential component shall be reviewed for contribution to employment targets in accordance with FDOT standards for a community center TOD.

b. All Mixed Use-Low Intensity Districts. Mixed use-low intensity 1 (MU-L1), mixed use-low intensity 2 (MU-L2), and mixed use-low intensity 3 (MU-L3).

(1) **In order to complement the revitalization efforts in the downtown area, the MU-L zoning districts shall be applied to lands consistent with the Comprehensive Plan and respective redevelopment plans. Such areas are generally described as Woolbright Road between I-95 and the FLC Railroad, Boynton Beach Boulevard between I-95 and Northwest 1st Street, Martin Luther King Jr. Boulevard, Southeast 4th Street south to Southeast 5th Avenue, and Ocean Avenue between Southeast 4th Street and Southeast 1st Street. See the respective redevelopment plan for specific recommendations on locations and boundaries.**

(2) The MU-L districts are appropriate for low- to mid-rise developments that provide for medium density residential and low to medium intensity commercial and office uses.

(3) The review of these applications will emphasize compactness, aesthetics and design quality, and physical compatibility with adjacent land uses.

(4) **Except where limited by Table 3-21 in Chapter 3, Article III, Section 5.C., all new developments within the MU-L1 and MU-L2 districts that contain a non-residential use shall front on streets designated as "arterial", or "collector", roadways on the Functional Classification of Roadways Map. All projects within the MU-L3 district and proposed within the transit core must contain a residential component, and all projects proposed within the mixed use-low intensity districts that front on an arterial road must have space on the first floor devoted to commercial use.**

(5) **Maximum height may be further limited in certain geographic areas to further applicable redevelopment plans and maintain compatibility with an abutting single-family district.**

B. *Use(s) Allowed.* See "Use Matrix, Table 3-28" in Chapter 3, Article IV, Section 3.D.

C. *Building and Site Regulations.*

1. Building and Site Regulation (Table 3-21).

| MIXED USE, URBAN | MU-L1 | | | MU-L2 | | | MU-L3 | | | MU-H | | |
|--|---|---------------------|-----|---------------------|-----------------------|------------------|---------------------|---------------------|-------------------------|-------------------|---------------------|-------------------|
| Lot Area, Minimum (acres): | | | | | | | | | | | | |
| Public park: | N/A | | | N/A | | | N/A | | | N/A | | |
| All other uses: | 0.50 | | | 0.75 | | | 1 | | | 1 | | |
| Lot Frontage, Minimum (feet): | 100 ¹ | | | 100 | | | 150 ² | | | 200 | | |
| Structure Height, Minimum (feet): | 30 | | | 30 | | | 30 | | | 30 | | |
| Classification of project frontage on type of roadway: | Maximum Building/Structure Height (HT), Density (DU), and Floor-Area-Ratio (FAR): | | | | | | | | | | | |
| | HT | DU ^{14,16} | FAR | HT ⁵ | DU ^{3,14,16} | FAR ³ | HT ⁵ | DU ^{14,16} | FAR | HT ^{5,6} | DU ^{14,16} | FAR |
| Arterial: | 45 | 20 | 1.0 | 65/100 ³ | 30/40 | 2.0/2.5 | 75/100 ³ | 40 | 3.0/3.5 ^{3,15} | 150/125 | 80 | 4.0 ¹⁵ |
| Collector: | 45 | 20 | 1.0 | 65 | 30/40 | 2.0/2.5 | n/a | n/a | n/a | n/a | n/a | n/a |

| | | | | | | | | | | | | |
|---|-----------------------------------|----|-----|-----------------|-------|-------------|-----------------|-----|-----|-----------------|------------------|-----|
| Local Street ⁴ : | 45 | 20 | 1.0 | 45 | 30/40 | 2.0/ 2.5 | n/a | n/a | n/a | n/a | n/a | n/a |
| Build-to-line (feet) ¹¹ : | | | | | | | | | | | | |
| Front abutting a public right-of-way | 0 ¹⁰ | | | 0 ¹⁰ | | | 0 ¹⁰ | | | 0 ¹⁰ | | |
| Rear: | 0 ¹⁰ | | | 0 ¹⁰ | | | 0 ¹⁰ | | | 0 ¹⁰ | | |
| Interior side: | 0 ¹⁰ | | | 0 ¹⁰ | | | 0 ¹⁰ | | | 0 ¹⁰ | | |
| Building Setbacks, Minimum (feet) ¹¹ : | | | | | | | | | | | | |
| Rear abutting ¹² : | | | | | | | | | | | | |
| Residential single-family: | 25 ⁷ /0 ⁸ | | | 25 ⁷ | | | 25 ⁷ | | | 25 ⁷ | | |
| Intracoastal waterway: | 25 | | | 25 | | | 0 ⁹ | | | 0 ⁹ | | |
| Side abutting ¹² : | | | | | | | | | | | | |
| Residential single-family: | 25 ⁷ /0 ^{7,8} | | | 25 ⁷ | | | 25 ⁷ | | | 25 ⁷ | | |
| Usable Open Space, Minimum (square feet): | | | | | | | | | | | 2% ¹³ | |

1. May be reduced if frontage extends from right-of-way to right-of-way.
2. Minimum of fifty (50) feet, if frontage is on a collector/local collector roadway.
3. **For property abutting the MU-H district located west of US 1, the area of increases in height, density and FAR shall extend a distance of one hundred (100) feet from the MU-H zoning district line and shall require conditional use approval. For properties abutting the MU-H district located east of US 1, the area of increase for height shall extend a distance of one hundred (100) feet from the MU-H zoning district line and shall require conditional use approval; however, no increases in density and FAR are allowed. Must also have principal frontage on arterial roadway.**
4. Must also have frontage on local collector or higher roadway classification.
5. **Maximum height on any street frontage is forty-five (45) feet. Maximum height on Intracoastal Waterway is thirty-five (35) feet. Heights may require reduction where adjacent to a single-family zoning district where necessary to achieve the compatibility requirements of these Regulations.**
6. Maximum height reduced to one hundred twenty-five (125) feet for the entire project where property abuts any MU-L or residential zoning district not separated by a right-of-way.
7. Plus one (1) additional foot for each foot of height over thirty-five (35) feet.
8. Where there is an intervening right-of-way of at least forty (40) feet.
9. Subject to permitting agency approval.
10. Buildings and structures shall be located no farther than zero (0) feet from the property line, excluding those instances where strict adherence hereto would cause visual obstructions to vehicular traffic, particularly within the triangular-shaped area of property formed by the intersection of two (2) rights-of-way. See Section 5.C.2. below for additional relief provisions from build-to line requirements.
11. Listed eligible historic structures are not required to meet these standards.
12. The ultimate setback is also a factor of height and application of the Sky Exposure Plane in accordance with Section 5.C.3. below.
13. Usable open space shall be required for all developments two (2) acres in size or larger. A minimum of two percent (2%) of the site shall be devoted to usable open space, consisting of plazas or public open space, excluding private recreation. See Chapter 4, Article III, Section 8 for additional regulations.
14. Projects within the transit core shall have minimum densities as follows: MU-1 - eleven (11), MU-2 - twenty (20), MU-3 - thirty (30) and MU-H - forty (40) dwellings per acre (except that minimum density for the MU-H district applies to projects located within the entire station area).
15. Projects within the transit core shall have a minimum FAR as follows: MU-L3 - one and three-quarters (1.75) and MU-H - two (2.0) (except that minimum FAR for the MU-H district applies to projects to be located within the entire station area).
16. The maximum density for projects within the Downtown Transit-Oriented Development District Overlay Zone (the Station Area) may be increased up to twenty-five percent (25%) over the maximum density allowed in the underlying zoning district.

D. Review and Approval Process.

1. *All development and redevelopment within the urban mixed use districts shall be governed by a master plan with approval granted by the City Commission in accordance with Chapter 2, Article II, Section 2.D.6.*
2. *Site plan approval shall be required in accordance with Chapter 2, Article II, Section 2.F. prior to application for building permit.*

Consistency with the City's Comprehensive Plan has been discussed in the Land Use amendment section, above. The proposed rezoning is not consistent with the zoning code in that it does not address the purpose and intent of the zoning district to establish quality streetscapes and pedestrian environments as part of a compact urban setting, and to support transit ridership.

- The objective to create optimal pedestrian environments and spaces through well located public plazas, expanded public sidewalks, maximized internal and external interconnectivity and design of pedestrian-friendly vehicular circulation areas is not met by the proposed master plan.
 - The retail space mix is predominated by large spaces at the front of the property that are typical of auto-dependent tenants. Wendys, along Woolbright Road is a fast-food chain and has a drive-through lane. Walgreens, a larger box retailer, also will retain its 2-lane drive-through along Federal Highway.
 - The Wells Fargo Bank, an outparcel to the development is surrounded by parking, retains its own driveway near the corner, and retains a 3-lane drive-through abutting the proposed mixed use and isolating the pedestrian areas from the corner.
 - The drive-through establishments challenge interconnectivity within the project;
 - There is very limited pedestrian interconnectivity with adjacent parcels and outparcels;
 - Buildings are inadequately positioned along Federal Highway and Woolbright Road, preferably with vertical mixed use integration consistent with best practices of CRA Design Guidelines;
- By locating a high-rise tower, rather than low or mid-rise structure, the rezoning and complimentary master plan does not complement, but instead competes with the Boynton Beach downtown. Objective e is contradicted.
- The master plan does not create a higher quality environment in terms of how well the urban centers function seamlessly with respect to interconnectivity between the principal uses, activity centers, and transportations systems, and forming a cohesive and desirable sense of place. Instead the designation is used as a vehicle for the co-location of an out-of-scale, high-rise waterfront residential development.

The rezoning and the companion master plan does not ensure compliance with the zoning regulations in that it does not meet the design and compatibility standards of Chapter 4, Article III, Section 6.H, nor the adopted design concepts of the urban design guidelines for development within the Boynton Beach CRA. Specifically: (discussed in Comprehensive Plan compatibility section also)

- Building placement: Buildings are not located at both fronts of the property. The corner is not in the project so the key location for pedestrian-oriented mixed use design as called for in the design guidelines is not available for a public plaza and keynote building design features as seen across the intersection at the Las Ventanas mixed use development.
- Frontage Guidelines:
 - The design guidelines call for approximately 75% of the front property line to be building at least 35' in height. The two proposed retail outparcels shown on Sheet AS-104 (11/15/2015) are not dimensioned. They are approximately 90-ft. (measured) along the 452-ft. Federal Highway frontage, proving only 20%. Further, the 1-story buildings are shown as 27-ft in height, not 35-ft as required. In an effort to create the appearance of greater frontage building occupation, the existing

Walgreens drive-through lanes are to be covered with a 159-ft. non-occupied frontage comprised of a “storefront system” and window display boxes. The storefront system does not provide the mixed use functionality of creating “active” (populated) frontage along Federal Highway. Even with this unpopulated wall, the front property line is only 55% occupied by buildings.

- The design guidelines call for approximately 50% of the side street property line to be building. The Wendy’s building 33-ft. frontage is only 7% of the 491-ft. long Woolbright Road side, and is not consistent with the build-to requirements. Like the Walgreens drive-through wall, it is an auto-oriented use and not consistent with the intent of the mixed-use designation.
- Parking: parking shall be screened from public streets. Commercial parking is screened from Federal Highway; however, a field of surface parking is along Woolbright Road.
- Additional pedestrian area to the major public streetscape is not provided.
- Internal walkways do not direct pedestrians to the prominent pedestrian destinations. There is only a single pedestrian path along the driveway through the parking field to the residential tower. The connection to the tower is minimal, and there is only minimal sidewalk connection to the Riverwalk that is proposed as a public attraction and amenity.
- There is not enough information to determine if vertical setbacks are achieved.
- There is not enough information to determine if façade criteria are achieved.

As proposed, the maximum height of Riverwalk Plaza, at 105 ft. (total, 95 ft. to roof) has not been further limited to maintain compatibility. A 100-ft. height is only provided for in the code for MU-L3 districts that are adjacent to a MU-H district and the area of increased height shall extend a distance of one hundred (100) feet from the MU-H zoning district line and shall require conditional use approval. The subject site is not within 1-mile of an MU-H district. It does not meet the criterion for additional height. Further, in the MU-L3 district (and MU-L2) height is further restricted on any street frontage to forty-five (45) feet. Maximum height on Intracoastal Waterway is thirty-five (35) feet. The residential tower is located along the Intracoastal Waterway, and exceeds the required height limit by 70 feet.



Figure 14 Excerpt from proposed Master Plan (Nov 6, 2015) showing massing and height of residential tower

G Direct Economic Development Benefits:

The Riverwalk Plaza proposal is to replace 72,686 sq. ft. of mostly vacant retail space with 326 residential units and 697,347 sq. ft. of residential use. An analysis of direct economic benefits is not provided by the applicant or City staff. The proposal will likely increase the City's tax base; however, whether it not clear whether it:

- Implements the City's Economic Development Program
- Helps to diversify the City's tax base
- Responds to current real estate market demand
- Creates net new permanent employment opportunities at or above the County average wage
- And fosters economic synergy with complementary uses
- How the proposal responds to the CRA Finding of Necessity and alleviate blight in the CRA

The zoning ordinance requires an analysis and positive affirmation of these benefits to respond to this criterion for a finding to approve the rezoning.

H Economic Development Impact Determination for Conventional Zoning Districts:

This criterion is not applicable because this rezoning is to a Mixed Use district within the CRA.

I Commercial and Industrial Land Supply:

The Riverwalk Plaza does not reduce the amount of land available for commercial development, because the mixed use zoning districts permit commercial uses. This criterion is not applicable.

K Master Plan and Site Plan Compliance with Land Development Regulations:

Master plan and site plan review are required pursuant to Section 2.D.1.e., and both shall comply with the requirements of the respective zoning district regulations of Chapter 3, Article III and the site development standards of Chapter 4. Compliance of the proposed Riverwalk Plaza master plan with the requirements of the zoning ordinance is discussed in Section B above.

HEIGHT: REZONING AND VARIANCE - CITY OF BOYNTON BEACH ZONING CODE

Rezoning:

Part III Chapter 3, Article III, Section 5.B. B. FLUM Classifications and Corresponding Zoning Districts (Table 1-1) provides that for the MX FLUM designation, MU-L1, MU-L2, and MU-L3 are appropriate. Any of the Mixed Use – Low zoning districts would be consistent with the proposed FLUM amendment. The applicant proposes MU-L3, which among the three choices provides the highest permissible density, intensity, height and scale.

As proposed, the maximum height of Riverwalk Plaza, at 100 ft. exceeds the permissible height for the MU-L3 zoning district by 30 ft. A 100-ft. height is only allowed in MU-L3 districts that are adjacent to a MU-H district and where the area of increased height shall extend a distance of one hundred (100) feet from the MU-H zoning district line and shall require conditional use approval. The subject site is not within 1-mile of an MU-H district. It does not meet the criterion for additional height.

At the rezoning level, height may be limited to a more compatible mid-rise or low-rise height by rezoning to MU-L2 or MU-L1. MU-L2 allows a residential density of 30 DU/Ac. at a more compatible height. Notably, the current Riverwalk Plaza proposal’s residential density at 33.3 is closer to the MU-L2 zoning district, and would be closer to 30 if the outparcels are unified into the project. The pertinent height, density and intensity for the three zoning districts where located fronting on an arterial road and not near an MU-H district are summarized below.

| Zoning District | FLUM Compatibility | Maximum Height | Maximum Residential Density | Maximum Intensity (FAR) |
|------------------------|---------------------------|-----------------------|------------------------------------|--------------------------------|
| MU-L1 | MX | 45 | 20 | 1.0 |
| MU-L2 | MX | 65 | 30 | 2.0 |
| MU-L3 | MX | 75 | 40 | 3.0 |

In the proposed MU-L3 district (and MU-L2) height is further restricted on any street frontage to forty-five (45) feet. Maximum height on Intracoastal Waterway is thirty-five (35) feet. The residential tower is located along the Intracoastal Waterway, and exceeds the required height limit by 70 feet.

Variance:

The excessive height of the tower is not permissible by conditional use, since it is not adjacent to an MU-H zoning district. The additional height of the tower, 70 ft. above limits along the Intracoastal Waterway, and 20 ft. above the limit in the interior of the site if rezoned to MU-L3, can only be approved by a variance under the existing code requirements.

Variations provide relief when a property is unfairly burdened by the general rules creating an unnecessary hardship for the owner. The variance is not a free pass from the general regulations, the variance must show unnecessary hardship. Hardship must be more than inconvenience, preference for lenience from standards, or cost to comply. The request must show the substantial and undue nature of costs compared to others subject to the same restriction. (Old stricter standard was no reasonable use of the property.)

The applicant must show that:

- unnecessary hardship would result from strict application of the code;
- hardship results from conditions that are peculiar to the property; and the hardship is not self-created.

- Relief does not grant special privilege
- That any variance is the minimum necessary to achieve justice
- Demonstrate that the variance must: be consistent with the intent of the ordinance; assure public safety and welfare; and achieve substantial justice.

The criteria for variances are contained in the City of Boynton Beach code Part III, Chapter 2, Article II, Section 4.D.3.a through. They are excerpted below:

3. Review Criteria. In order for the City Commission to grant a variance, the applicant must demonstrate that:
- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same zoning district.
 - b. That special conditions and circumstances do not result from the actions of the applicant for the variance.
 - c. That granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures or buildings in the same zoning district.
 - d. That literal interpretations of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.
 - e. That the variance granted is the minimum variance that will make possible reasonable use of the land, structure or building.
 - f. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare.

(Height Exceptions, relief for non-conforming appurtenances – not primary building are in Section 4.C.; however, this relief is not pertinent at this time.)

At approximately 10 acres in sizes and close to square rectilinear dimensions, a proposed density of 33.3 DU/Ac. and proposed intensity of 1.74 FAR, there is no hardship peculiar to the land conditions that is relieved by the excessive height of the tower. The proposed density and intensity of development is easily achievable with alternatives master plans, especially with alternatives that apply the required urban design guidelines. The apparent goal that the developer wishes to maximize the number of waterfront and ocean-view dwelling units at the expense of City plans and land development regulations, is not a hardship. Based on variance standards and hardship criteria, a height variance should not be granted, and building heights presented in an alternative master plan must conform to all height requirements in the appropriately approved by Commission zoning district (MU-L3 as proposed, or MU-L2 or MU-L1 alternatives).



Figure 15 Height of Residential Tower with Permitted Height Limit per Code Requirements

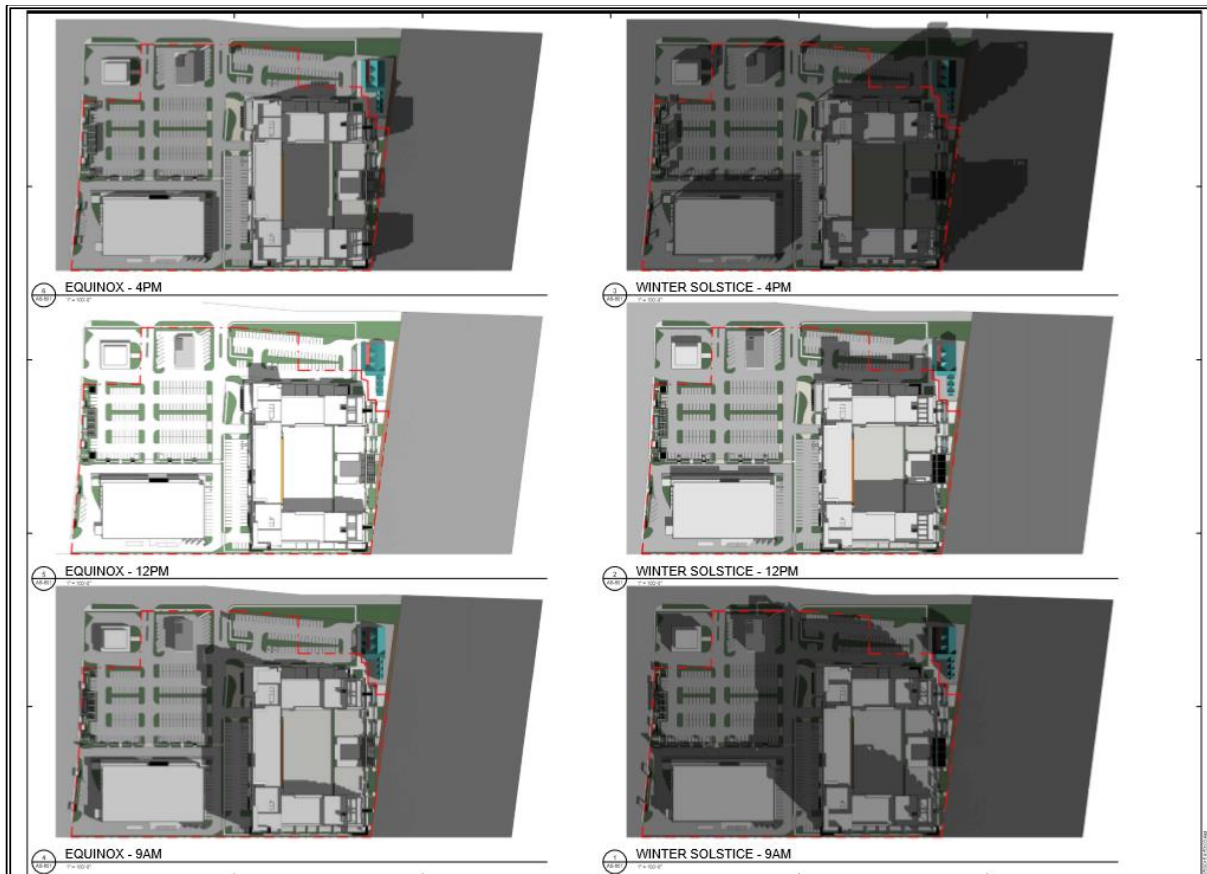


Figure 16 Excerpt from proposed Master Plan (Nov 6, 2015) showing shadow conditions due to excessive and not permitted building height within property and at the Intracoastal Waterway

TRAFFIC – LEVEL OF SERVICE CONCURRENCY REQUIREMENTS, TRAFFIC IMPACT AND MITIGATION

The Traffic Generation Statement provided is an estimate of net daily and peak period trip generation estimated for the proposal, which is then assigned to roadways within the radius of influence according to County model zonal trip direction data. As a net estimate, it is the difference between the existing development and the new development proposal. The trip generation study satisfies a screening test regarding traffic impacts, as required by the Palm Beach County Land Development Code Article 12 – Traffic Performance Standards (TPS). The site is within the County’s Coastal Residential Exception. With regard to City of Boynton Beach requirements, the site is not within the City’s Transportation Concurrency Exception Area (TCEA) and will have to satisfy City transportation concurrency tests and criteria.

The trip generation analysis is performed consistent with County requirements and consistent with general and accepted professional practice. The Institute for Transportation Engineers (ITE) Trip Generation Manual is the standard and accepted source for estimating trip generation for a development. The net trip generation for the Riverwalk Plaza proposal is:

| | |
|-------------------------------|------------------------------------|
| Daily | DECREASE by 456 trips per day |
| AM Peak Hour (of the roadway) | INCREASE of 115 trips in peak hour |
| PM Peak Hour (of the roadway) | DECREASE of 33 trips in peak hour |

The only period in which there is a net impact of more trips on the roadways is in the AM peak hour. In the PM peak and on a daily basis, the proposal is estimated to produce less trips than the existing development. With the understanding that the proposal is estimated to generate less trips on a daily basis and in the pm peak hour, it is unlikely that via the required use of standard and accepted traffic concurrency methodologies that there would be significant substantiation of residents’ experience of traffic congestions. However, more detailed safety issues may still be of concern.

Trip distribution estimates, would place the largest share of this impact on Woolbright Road, west of the proposal site.

| | |
|--|-----|
| Woolbright Road East (to bridge) | 5% |
| Woolbright Road West (to I-95) | 60% |
| Federal Highway North (to downtown core) | 20% |
| Federal Highway South | 15% |

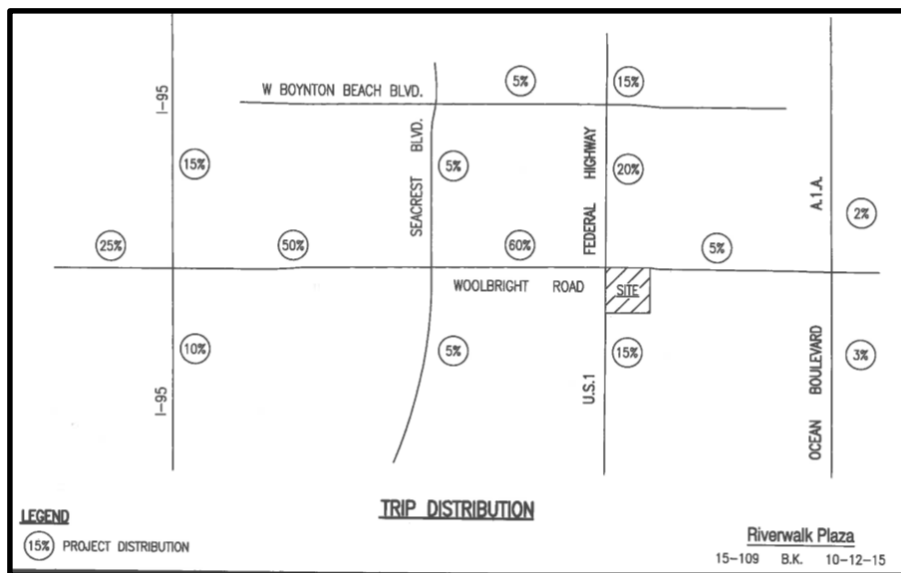


Figure 17 Proposed Project Trip Distribution

Based on the trip generation and distribution data, a turning movement assignment has been provided and updated for the request for engineering waiver for driveway requirements, dated April 14, 2016. The turning movements are for the driveways of the site, but not for intersections that are off-site, and the updated diagram is provided in Figure 18.

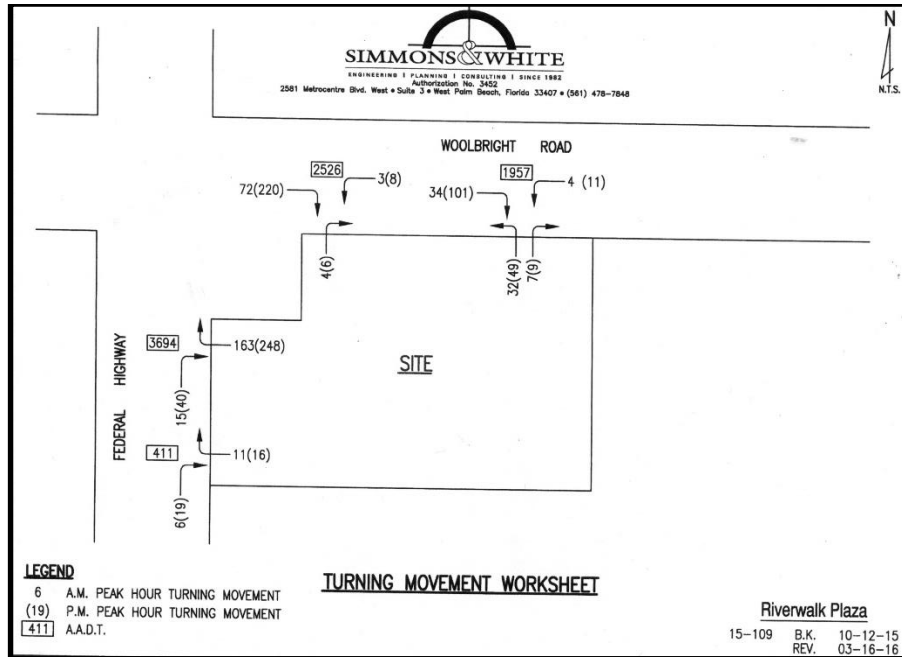


Figure 18 Proposed Turning Movements at Site Driveways

Of particular concern is that while 60% of project traffic is distributed to or from the west on Woolbright Road, the driveway configuration provides only two possibilities for outbound traffic from the project site to go west: 1) from the Woolbright Road Driveway that is further east near the Prime Catch parking; and 2) from the Federal Highway driveways where drivers turn right northbound, then make a left onto Woolbright. The second movement is problematic because the distance from the major driveway to the stop bar of the northbound lanes is 345 ft., (Figure 19, gold line) and the distance from the driveway to the end of the taper to enter the double left turn lanes is 34 ft. (Figure 19, red line) The problem is that the maneuver (Figure 19, blue line) requires crossing 2 lanes of through traffic in 34 ft. to access the left turn lanes. The inputs for the Synchro 8 analysis for the Federal Highway / Woolbright Road Intersection show that 79 of the 263 vehicles that exit the major Federal Highway Driveway will make this left that causes them to immediately cross two through-traffic lanes as they leave the driveway.

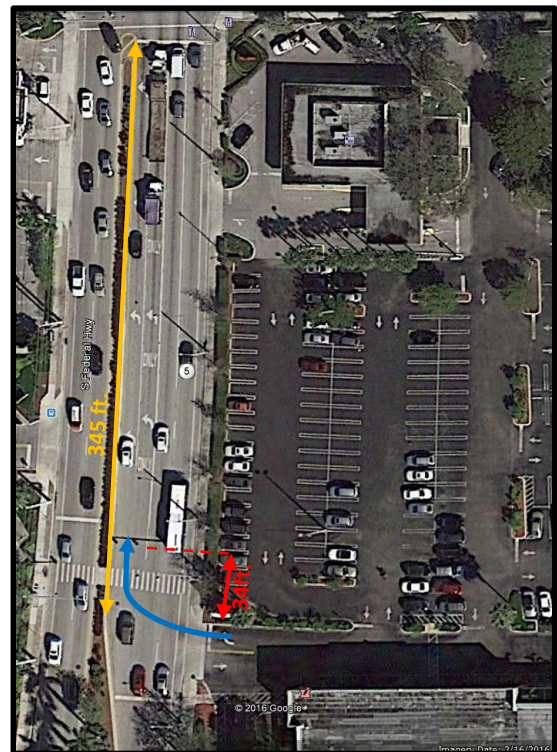


Figure 19 Westbound AM Project Traffic

The issue requires further discussion with City staff.



Figure 20 Photo of Federal Highway at location of Major Project Driveway



Figure 21 Photo of Woolbright Road from Intersection with Federal Highway during bridge opening (photo source: Google Earth)

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**APPENDIX A
QUALIFICATIONS
Mark Alvarez**

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MARK ALVAREZ RESUME

Experience

- Principal** December 2006 - present
Integrated Urban Planning, LLC Miami, Florida
Provides land use, development, community preservation and transportation planning services to private, community and government clients. Expertise in zoning, community compatibility, land use, and highest and best use analysis. Experience in quasi-judicial settings and negotiating complex settlements among private parties, community groups and governments. Provides detailed regional multimodal transportation impact review for very large scale regional and downtown development. Develops regional transit plans through *Lehman Center for Transportation Research*, local transit circulator plans, "last-mile" transit links, alternative fuel transportation, and car-sharing plans.
- Senior Research Associate** June 2003 – December 2006
Center for Urban Transportation Research at USF (CUTR) Tampa, Florida
As CUTR's Principal Investigator to Miami-Dade Transit and the County's Office of Performance Management, led work on county-wide transit system optimization, sub-area service improvements, policy analysis, and staffing organizational analysis. Led student, faculty, and sub-consultant teams ranging from 1 to 40 people, including the scoping, management, report writing, presentations, final production and follow-up.
- Capital Improvements Administrator** August 1999 – June 2003
City of Miami Beach Miami Beach, Florida
After establishing an approved GO Bond program, he integrated the programming of the City's \$400-million Capital Improvement Program through coordination with City departments of finance, budgeting, planning, public works, parking, buildings, and media relations. He developed and verified a new database, then institutionalized functions to help establish the City's CIP Department in 2002-2003.
- Principal** April 1998 – June 2003
North Meridian, Inc. (dba Meridian Consulting) Miami, Florida
Meridian Consulting specialized in strategic advice to redevelopment organizations for developing transportation-related infrastructure and policy improvements to support downtown revitalization programs. Performed analysis for the establishment of community redevelopment areas (CRA). Developed plans for community transit that are still in operation. Developed a successful general obligation (GO) bond program for the City of Miami Beach and led intensive community outreach toward ballot approval.
- Senior Planner** November 1993 – April 1998
The Corradino Group Miami, Florida
Led the company's planning services, managed planning staff in the fields of downtown community redevelopment, designation of community redevelopment areas, regional transit development plans, transportation corridor studies, traffic calming studies, and transit planning for electric bus service implemented in South Beach (Electrowave, 1995-2004).
- Regional Planner** August 1992 – November 93
South Florida Regional Planning Council (SFRPC) Hollywood, Florida
Evaluated local comprehensive plan amendments and updated the Transportation Element of the Strategic Regional Policy Plan. Project Manager for the inception of the US Department of Energy sponsored South Florida Clean Cities Coalition to develop policy for, coordinate, and promote the use of alternative fueled vehicles.
- Transportation Engineer Intern** January 1992 – August 1992
Burgess & Niple Columbus, Ohio
Developed demand models and ridership projections for feasibility study of light rail transit to link Ohio State University Campus athletic venues, hospital complex, and City.
- Engineering Aide** April 1988 – August 1992
Science Applications International Corp. (SAIC) Columbus, Ohio
Performed analysis and preparation of NEPA documents, and related field work for environmental remediation work at DOD and DOE sites in the Midwest.

Professional:

- Commercial Real Estate, Advanced
Miami Association of Realtors, 2015
- Professionalism & Ethics Certification
FIU Metropolitan Center, 2011, 2013
- American Institute of Certified Planners, 1996
- Pedestrian & ADA Safety Program
Florida Dept. of Transportation, 1995
- Dispute Resolution Program
Florida Conflict Resolution Consortium, 93

Education:

- Master of Science, Civil Engineering
Ohio State University, 1992
- Master of City & Regional Planning
Ohio State University, 1992
- Bachelor of Science, Operations Mgt.
Ohio State University, 1988

Community Service:

- Southeast Florida Clean Cities Coalition,
Member, 2014-2015
- South Florida SPCA Horse Rescue
Volunteer, 2014-2015
- MSPCS School Parent Board
Member, 2009-2012; Chair 2011-2012
- Shake-a-Leg Miami
Volunteer Skipper, 2007-2008
- City of Miami Upper East Side Council
Boulevard Oversight Committee, 2004
- City of Miami Selection Committee
Midtown Trolley Plan, 2004
- Miami Beach Transportation & Parking Com.
Commission Appointee, 1999
- Miami Beach Traffic Calming Committee
Chair, 1988-1989

Professional Presentations & Papers

- Using Survey Results to Design Regional
Transit Improvements;*
APTA, Minneapolis, Minnesota; 2005
- Intermodal Trends – Changes Over a
Decade and Emerging Trends;*
APTA, Vancouver, British Columbia, 2004