

**DEVELOPMENT DEPARTMENT
PLANNING AND ZONING DIVISION
MEMORANDUM NO. PZ 16-043
STAFF REPORT**

TO: Chair and Members
Planning and Development Board

THRU: Michael Rumpf *MR*
Planning and Zoning Director *MR*

FROM: Hanna Matras, Senior Planner

DATE: October 13, 2016

PROJECT: Riverwalk
LUAR 16-003

REQUEST: Approve Riverwalk Future Land Use Map amendment from Local Retail Commercial (LRC) to Mixed Use Core (MX-C), and rezoning from C-3 (Community Commercial District) to MU-4 (Mixed Use 4 District) with a master plan for 326 apartments and 51,220 square feet of commercial space.

PROJECT DESCRIPTION

Property Owner: Isram Riverwalk, LLC

Applicant: Shaul Rikman/ Isram Riverwalk, LLC

Agent: Steven S. Wherry/ Greenspoon Marder, P.A.

Location: 1532 South Federal Highway (Exhibit "A")

Existing Land Use/
Zoning: Local Retail Commercial (LRC)/C-3 (Community Commercial District)

Proposed Land Use/
Zoning: Mixed Use Core (MX-C)/MU-4 (Mixed Use 4 District)

Acreage: 9.78 acres

Adjacent Uses:

- North:** Right-of-way for Woolbright Road and farther north, a developed commercial property (PBC bank) classified Local Retail Commercial (LRC) and zoned C-3 (Community Commercial); at the northeast, a developed multifamily residential property (Bermuda Cay), classified High Density Residential (HDR) and zoned R-3, Multifamily Residential;
- South:** Undeveloped properties classified High Density Residential (HDR) with the Conservation Overlay and zoned R-3, Multifamily Residential; at the southwest, a developed commercial property (McDonalds) classified Local Retail Commercial (LRC) and zoned C-3 (Community Commercial);
- East:** Right-of-way for the Intracoastal Waterway; farther east, developed residential properties in the Town of Ocean Ridge;
- West:** Right-of-way for South Federal Highway; farther west, developed commercial property (Sunshine Square), classified Local Retail Commercial (LRC) and zoned C-3 (Community Commercial).

BACKGROUND

The subject property covers most of the land within the Riverwalk Plaza shopping center, which contains a Wendy's restaurant, Wells Fargo bank, a multitenant building with Walgreens and Joann's Fabrics, Prime Catch restaurant and a large vacant "big box" formerly occupied by a Winn Dixie grocery store. The proposed future land use map amendment and rezoning, sought to allow a development of a mixed use project with 326 apartments and 51,220 square feet of commercial space, includes Wendy's and the multitenant building but excludes the properties occupied by Wells Fargo and Prime Catch.

The recently approved, Boynton Beach Community Redevelopment Plan recommends the establishment of a new Mixed-Use Zoning District, MU-4. The staff-initiated code review which creates MU-4 has been completed and is pending approval. The Major Site Plan Modification (MSPM 16-002), Height Exception application (HTEX 16-002) and a Community Design Appeal application (CDPA 16-002) are being processed concurrently.

REVIEW BASED ON CRITERIA

The following criteria used to review Comprehensive Plan Map amendments and rezonings are listed in the Land Development Regulations, Chapter 2, Article II, Section 2.B and Section 2.D.3:

- a. ***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.*

The request reflects an ongoing high demand for rental apartments. The Marcus & Millichap's 2016 Multifamily Investment Forecast stated:

"The Palm Beach County apartment sector enters 2016 holding strong prospects of attaining lower vacancy and higher rents for the sixth consecutive year. A steady pace of hiring maintains a sizable pool of prospective renters, and a consistent flow of new residents into the county provides a growing source of new demand for property owners to target (...). This year's production will finally lift apartment inventory above the peak level registered before removals for condo conversion took place before the economic downturn."

According to the company's multifamily market report for the second quarter of 2016, the vacancy rate in Palm Beach County reached 4.0%, the lowest level of empty apartments since 2005. The rental market is being upheld by "stable employment in service-related positions supporting a large base of retirees, and gains in office jobs commonly held by young professionals, with the latter group contributing to absorption of luxury rentals." The report notes that, over the last 12 months, the Boynton Beach/Delray submarket posted outside rent growth of 8%, bringing the average rent to \$1,530.

Bringing residential use of a considerable density to the subject location is also supported by:

- Its proximity to downtown (one mile south from Boynton Beach Boulevard). Density increases in areas on the fringes of downtown would further support creation of critical mass of downtown-focused residents, potential customers of downtown commercial and entertainment venues. Population growth within the downtown and surrounding neighborhoods is an essential foundation for a dynamic urban environment. Furthermore, the density increases would also support establishment of a second Tri-Rail Coastal Link commuter station at Woolbright Road, which may be considered in the future.
- Its proximity to the Downtown Transit-Oriented Development District (DTODD). Although not within the DTODD, the site is less than one-half mile from the District's boundary. High density/intensity development on lands adjacent to Federal Highway and Woolbright Road intersection will contribute to the functionality of the station and may eventually—as mentioned above—warrant a second Coastal Link stop at that location.

These were the chief arguments underpinning the new recommendations for the area included in the updated CRA Community Redevelopment Plan (henceforth referred to as the "CRA Plan") and adopted by the City Commission on October 4, 2016 (see

response to criterion “b” below). The area is a part of the Plan—designated Federal Highway Corridor District (South). The CRA Plan recommends the proposed FLU of Mixed Use Core (to be renamed Mixed Use High) and MU-4 zoning for properties on all four corners of the Federal Highway and Woolbright Road intersection. The Plan’s goal is to promote establishment of a secondary activity center (node) in this location, of a significant importance but at a slightly lower scale than one recommended for a central and primary node in the Downtown District. Increased residential density will accommodate growth of the local population which is necessary to support more retail and restaurant businesses, which in turn would strengthen the urban character of the area.

*b. **Consistency.** Whether the proposed Future Land Use Map amendment (FLUM) and rezoning would be consistent with the purpose and intent of, and promote, the applicable Comprehensive Plan policies, Redevelopment Plans, and Land Development Regulations.*

Consistency with Comprehensive Plan/ CRA Community Redevelopment Plan

The proposed future land use classification (Mixed Use Core) and zoning district (MU-4), if approved, would constitute implementation of the recommendations of the 2016 CRA Plan. (The Plan renames Mixed Use Core to Mixed Use High, which will be reflected in forthcoming amendments to the Comprehensive Plan.) These recommendations supersede recommendations of the 2006 Federal Highway Corridor Community Redevelopment Plan for the area that suggested lower intensity development (Mixed Use future land use and MU-L3 zoning) for properties on all four corners of the Federal Highway and Woolbright Road intersection.

The proposed future land use amendment and rezoning are also consistent with applicable policies of the Comprehensive Plan, such as:

- Policy 1.3.1.d (Future Land Use Element) provides the definition and lists desirable characteristics of developments intended for the Mixed Use Future Land Use category. The policy states:

“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.”

- Policy 1.8.2.d (Future Land Use Element) under Objective 1.8, which discourages urban sprawl. Given that the City is almost built out, and thus lacks large, undeveloped tracks of land, the policies under this objective focus on compact, non-strip development and a cost-efficient use of public services. The policy states:

“The City shall further discourage urban sprawl by;

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

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.”

Please note that the location of the property also makes it subject to policies of the Coastal Management Element (CME). These policies represent the effort to guide development and redevelopment along the coast while balancing people’s natural desire to live on the water with a need to protect the community from future storm threats. Of a particular concern is the Coastal High-Hazard Area (CHHA): in the areas with the subject designation, the CME’ policies place explicit restrictions on density increases and commit the City to actions that would further minimize concentrations of at-risk population.

Although the site is not located within the CHHA, most of it is nevertheless identified on the FEMA Flood Insurance Map as a Special Flood Hazard Area (the SFHA is the area where the National Flood Insurance Program’s floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies). The City’s Flood Prevention Code (Chapter 4, Article X) regulates development in order to reduce flood losses throughout the City; higher regulatory standards apply for flood hazard areas, with additional, more stringer provisions for properties under the SFHA and CHHA designations.

Lastly, the property falls within the Category 3 Hurricane Evacuation Zone. Residents of Riverwalk would be expected to evacuate if a category 3 hurricane or greater was expected.

Consistency with Land Development Regulations (LDR)

The requested MU-4 zoning district is a new planned district. The code review under concurrent consideration creates MU-4 and the attendant regulations, thus starting the process of implementing the CRA Plan. The MU-4 is recommended by the Plan as one of the two zoning districts—the second in intensity—under the Mixed Use High future land use classification.

Since MU-4 would be a planned zoning district, it would be subject to the code's provision that requires the master plan/site plan to be submitted and reviewed concurrently with the application for rezoning (Chapter 2, Section 2.D.6). The code stipulates that a master plan is an "integral component" of zoning designation for all planned districts.

As submitted, the proposed master plan/site plan includes a building height that exceeds the maximum permitted height in the new MU-4 zoning district and does not comply with the proposed build-to line standards for Woolbright Road.

The applicant submitted a Height Exception application for non-habitable space that includes rooftop access to the stairwells and decorative architectural elements that extend to 105 feet. The maximum building height in the MU-4 zoning district is 100 feet. The applicant also submitted a Community Design Appeal to deviate from the build-to-line requirement for Woolbright Road of zero through fifteen (15) feet to setback the building 139 feet.

*c. **Land Use Pattern.** Whether the proposed Future Land Use Map amendment (FLUM) 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.*

The proposed FLUM amendment and rezoning are intended to put the area on the path to more sustainable, smarter, transit-oriented growth which generally depends on higher development intensity. This is a goal of the CRA Plan, at the core of all its recommendations. The statement above does not portend that the proposed actions would result in a development significantly inconsistent with the established land use pattern, since the said pattern is eclectic: the areas in the vicinity already contain multifamily, mixed use and commercial buildings. Furthermore, all are separated from the subject property by one of the two intersecting state arterial roads while lower density townhomes sit across the Intracoastal, some 400 feet away within the neighboring jurisdiction.

The maximum density allowed in the proposed MU-4 Zoning District is 60 dwelling units per acre, or 20 dwelling units per acre lower than the maximum of 80 dwelling units per acre allowed in the Mixed Use Core FLU classification (and the actual density proposed for the project is much lower, at approximately 33 dwelling units per acre). Moreover:

- The Las Ventanas development on the northwest corner is classified Mixed Use; it carries the "old" Mixed Use Low zoning designation (effective prior to the 2004 code amendments) with the maximum density corresponding to the density threshold for MU-L3 (40 units/acre). The built density is approximately 38 units/acre.

- The two older multifamily projects adjacent to the northeast corner of Federal Highway and Woolbright Road are built with nonconforming densities. Bermuda Cay and Snug Harbor have densities of 31.1 and 27 du/acre, respectively—well above 11 du/acre which is a maximum density permitted in their R-3 zoning.

Finally, even though the proposed FLU and the MU-4 zoning district would temporarily create an “isolated” classification and zoning district, the adopted CRA Plan recommends the said FLU (renamed Mixed Use High) and MU-4 zoning for properties on all four corners of the Federal Highway and Woolbright Road intersection. Note that, in December of 2006, the Sunshine Square property on the southwest corner of Federal Highway and Woolbright Road was rezoned to a Mixed Use Low district (the zoning designation of Las Ventanas), and approved for a mixed use project with 576 dwelling units at 40 du/acre. The approval coincided with the beginning of the housing market collapse and thus the project was aborted. Subsequently, both the mixed use land use and zoning reverted to the previous Local Retail Commercial classification and C-3 designation, which was required to implement improvements on the property.

***d. Sustainability.** Whether the proposed Future Land Use Map amendment (FLUM) 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.*

The proposed land use amendment/ rezoning meets the definition of “sustainable” as it supports a mixed use, high density infill development whose residents will have access to public transit: the Palm Tran bus service along the US 1 corridor (a bus stop is located in front of Wallgreens), and the TriRail Link commuter service with the planned station on Ocean Avenue less than a one mile away and, possibly in the future, with a second station at Woolbright. As already stated, the CRA Plan recommends the proposed FLU and zoning for properties on all four corners of the Federal Highway and Woolbright Road intersection to promote establishment of a secondary activity center (node) in this location. An increase in population—which the subject development would generate—is needed to effectively support more commercial uses within this node and allow for a second station in the future, when the critical ratio of housing units to jobs is reached.

The proposed Master Plan demonstrates good interconnectivity within the project's uses, and provides noteworthy public access to enhanced waterfront area.

***e. Availability of Public Services / Infrastructure.** All requests for Future Land Use Map amendments shall be reviewed for long-term capacity availability at the maximum intensity permitted under the requested land use classification.*

The Utilities Department has confirmed long-term capacity availability for potable water and sewer at the maximum density and intensity allowed under the requested land use classification and zoning designation.

The Palm Beach County School District has approved Concurrency Application for the project. Traffic impact and capacity issues will be reviewed as part of the site plan.

Drainage will be reviewed in detail as part of the site plan, land development, and building permit review processes.

f. Compatibility. *The application shall consider the following factors to determine compatibility:*

(1) Whether the proposed Future Land Use Map amendment (FLUM) 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; and

(2) Whether the proposed Future Land Use Map amendment (FLUM) and rezoning is of a scale which is reasonably related to the needs of the neighborhood and the City as a whole.

The response to the criterion “f” is similar to the one provided in discussion of criteria “c” and “d”: the proposed FLUM amendment and rezoning would build on the existing residential, commercial and mixed uses to create a secondary activity node south of the downtown. The current compatibility—the requests, if approved, would result in development with a higher (potential) density and taller structures as compared to those of the existing uses—is hardly an issue given that, as already stated, they are separated from the subject property by one of the two intersecting state arterial roads while lower density townhomes sit across the Intracoastal, some 400 feet away. There are no compatibility issues pertaining to the proposed mixed use, as the areas in the vicinity already contain multifamily, mixed use and commercial buildings.

In recommending the proposed FLU classification and zoning district for properties at this intersection, the adopted CRA Plan recognizes that increasing the scale of redevelopment in the subject location—to an intensity higher than that of existing uses but below the intensity recommended for the downtown area—will in the long run be beneficial for both the neighborhood and the City as a whole.

Staff is of the opinion it will have no short-term negative impact on property values of nearby properties and those values will eventually increase.

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.*

The proposed FLU amendment/rezoning requests are consistent with the City's 2016-2021 Economic Development Strategic Plan, Objective 1.2, Strategy 1.2.3, which reads "Consider more mixed use and higher density development during the Comprehensive Plan review." Also, as already noted in this report, the requests reflect the ongoing economic recovery and the current market demand, adhering to criterion "g.3", and would, if approved, effect a significant enhancement of the City's tax base (criterion "g.2"). The mixed use project would bring about the demolition of the obsolescent vacant "big box" formerly housing Winn Dixie; in addition to the new buildings, the project would include renovation/upgrading of the aging Joann's/Walgreens structure, integrating it functionally and esthetically into the new development (criterion "g.7").

A synergistic effect of the second high density mixed use project on the Federal Highway and Woolbright Road intersection would promote a sustainable commercial activity center at this node ("g.6"), creating a long-term value.

h. 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 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 rezoning.*

The proposed rezoning with the accompanying Master Plan would reduce the amount of land available for commercial development. However:

- It meets the review criterion "h.2";

- It would create a mixed use project, retaining some commercial uses and adding a new commercial building;
 - The LRC classification and C-3 zoning it would replace allows for multifamily development under R-3 zoning site regulations (though such a development would be highly unlikely to happen on this site);
 - It would generate demand for commercial uses (retail/restaurants); and
 - So far, intensification of the commercial uses on the subject site has not been supported by the market (the “big box formerly occupied by Winn Dixie has remained vacant).
- i. ***Alternative Sites.*** *Whether there are adequate sites elsewhere in the City for the proposed use in zoning districts where such use is already allowed.*

As already noted in this report, the CRA Plan provides site-specific recommendations for future land use classifications. The subject site is located in the Federal Highway Corridor District (South); the Plan recommends the proposed FLU of Mixed Use Core (to be renamed Mixed Use High) and zoning for properties on all four corners of the Federal Highway and Woolbright Road intersection and specifically designates the area as a secondary activity node. The subject requests implement this recommendation.

- j. ***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.*

As noted, the code review establishing the new MU-4 zoning district recommended by the CRA Plan and requested by the applicant is being processed concurrently, as is the request for Community Design Plan Appeal and a Height Exception Application (see the corresponding staff reports).

CONCLUSION/RECOMMENDATION

As indicated herein, staff has reviewed the proposed future land use amendment and rezoning and determined that they are consistent with the policies of the Comprehensive Plan and implement recommendations of the 2016 CRA Community Redevelopment Plan. The staff’s recommendation for the approval of the subject request is contingent on the approval of the two concurrent requests.