

**DEVELOPMENT DEPARTMENT  
PLANNING AND ZONING DIVISION  
MEMORANDUM NO. PZ 18-064**

**STAFF REPORT**

TO: Chair and Members  
Planning and Development Board

THRU: Ed Breese  
Planning and Zoning Administrator

FROM: Hanna Matras, Senior Planner

DATE: December 7, 2018

PROJECT: Boynton Beach Mall's Future Land Use Map Amendment (LUAR 19-002) and related Comprehensive Plan's Text Amendment (CPTA 19-001)

REQUEST: Approve Boynton Beach Mall Future Land Use Map Amendment from Development of Regional Impact (DRI) to Mixed Use Low (MXL) and the Comprehensive Plan's Future Land Use Element text amendment to delete the Boynton Beach Mall DRI from the list of DRI-classified sites. City-initiated.

---

**PROJECT DESCRIPTION**

Property Owners: Boynton Beach Mall, LLC (owned by Washington Prime Group, LLC)—four (4) parcels; remaining parcels owned by Macy's Florida Stores, LLC; Regional Enterprises, LLC; Dillard's, Inc.; Istar Florida 2015 Cinemas, LLC; and Christ Fellowship Church, Inc. (**Exhibit "A1"**)

Applicant: City of Boynton Beach

Location: Area bounded by Boynton Canal on the north, Old Boynton Road on the south, developed commercial properties/Congress Avenue on the east, LWDD L-23 Canal on the northwest and Javert Street on the southwest (**Exhibit "A2"**)

Existing Land Use/  
Zoning: Development of Regional Impact (DRI), **Exhibit "B"** / C-3, Community Commercial (**Exhibit "D"**);

Proposed Land Use/  
Zoning: Mixed Use Low (MXL), **Exhibit "C"**) / No change in zoning

Acreage: +/- 108.30 acres

---

Adjacent Uses:

- North: Right-of-way for Boynton Canal; farther to the northwest, a mobile home community Sand and Sea Village in the unincorporated Palm Beach County, classified HR-8 High Residential and zoned RS, Residential Single Family; to the northeast, Savannah Lakes Apartments, classified Medium Density Residential (MeDR) and zoned PUD, Planned Unit Development, and farther east, Courtyard By Marriott Boynton Beach Hotel, classified Local Retail Commercial (LRC) and zoned C-3, Community Commercial;
- South: Right-of-way for Old Boynton Road, and farther south, Walmart and other developed commercial properties, classified Local Retail Commercial (LRC) and Office Commercial (OC) and zoned C-3, Community Commercial and C-1, Office Commercial;
- East: Developed commercial office and retail properties, then right-of-way for Congress Avenue; farther east-northeast, developed commercial outparcels of the the mixed use development of Boynton Village, classified Mixed Use Low (MXL) and zoned SMU, Suburban Mixed Use; to the southeast, commercial development of Town Center, classified Local Retail Commercial (LRC) and zoned C-3, Community Commercial; and
- West: To the southwest, right-of-way for Javert Street; farther west, developed single-family home subdivision of West Boynton in the unincorporated county, classified Medium Residential (MR) and zoned RS, Residential Single Family; to the northwest, LWDD L-23 Canal and then a pine preserve area, classified Recreational (R) and zoned REC, Recreation.

### **BACKGROUND**

The Boynton Beach Mall (the Mall), an enclosed shopping center, is a Development of Regional Impact (DRI) pursuant to the provisions of Chapter 380.06 of the Florida Statutes. It was approved as a DRI by Palm Beach County through issuance of Development Order dated May 7, 1974 (Resolution No. 74-343). The Development Order included 10 (ten) impact-mitigating conditions, with 7 (seven) pertaining to road improvements/traffic circulation and a requirement that the pine area located in the northwest area of the site be preserved.

## **THE SITE**

The Mall is bounded by Javert Street on the southwest, LWDD L-23 Canal on the northwest, North Congress Avenue on the east, Boynton Canal on the north and Old Boynton Road on the south. The four parcels owned by the Boynton Beach Mall LLC comprise the largest part of the area under consideration (the company also owns the pine preserve area, which will retain its current future land use of Recreational). The other property owners are Macy's Florida Stores, Regional Enterprises, Dillard's, Istar Florida 2015 Cinemas and Christ Fellowship Church.

The Mall's main, single-story structure houses the anchor retail tenants of Macy's, Dillards, JCPenney and Sears as well as the Christ Fellowship Church. The other two buildings are the Cinemark Boynton Beach movie theater and Sears Auto Center.

The current mall includes 1,074,939 sq. ft. GLA (gross leasable area) of retail and 79,500 sq.ft. GFA (gross floor area) of theater, for a total of 1,154,439 sq.ft..

## **THE BRIEF HISTORY OF THE MALL**

- **1982:** The City annexes the property with the proposed development (Ordinance No. 82-38); adopts a development order for the Boynton Beach Mall permitting 1,108,000 GLA retail (consistent with the Palm Beach County's Resolution No. 74-343); approves Future Land Use amendment for the property from the Palm Beach County's Commercial Potential to the City's Local Retail (Ordinance No. 82-41) and rezoning from the County's CG General Commercial to the City's C-3 Community Commercial (Ordinance No. 82-44). Outparcels fronting North Congress Avenue are also annexed, and likewise reclassified/rezoned to the same categories.
- **1985:** The Mall opens on October 2<sup>nd</sup>.
- **1988:** The City annexes a 5.83 acre parcel included in the original DRI area as a pine preserve area (Ordinance No. 88-11), giving the property Recreational (R) future land use classification and REC (Recreation) zoning designation in 1991.

## **Amendments to the Boynton Beach Mall DRI Development Order (1989-2005)**

- **1989:** Amendments allow for the increase of the retail GLA from 1,108,000 to 1,244,449 sq. ft. to accommodate addition of the Sears store (**Resolution No. 89-UUU, 12/19/89**).

Amendments are appealed by the state planning agency (the former Department of Community Affairs) and the Treasure Coast Regional Planning Council for inadequate protection of the pine area, and deficiencies pertaining to drainage and mitigation of traffic impacts.

- **1991:** Amendments reflect settlement of the above mentioned appeal. The developer revises the site plan and agrees to preserve the native habitat in the area in perpetuity through Restrictive Covenants. Additional conditions include requirements pertaining to littoral zone planting design and management plan and hazardous materials management plan (**Resolution No. 91-37, 3/5/91**).
- **1996/1998:** Amendments extend the buildout date and include revisions to the transportation mitigation conditions (**Resolution No. 96-26, 2/20/96 and Resolution No. 98-123**).
- **2005:** Amendments provide for a conversion of 169,510 square feet of the existing retail GLA (through the demolition of the Macy's store, which relocated to the former Burdines' space) to a 79,500 square foot multi-screen movie theater with 3,650 seats, and the addition of 17,528 of new retail space (**Resolution No. 05-049**). The overall square footage is reduced from 1,244,449 to 1,154,439.

#### **Amendment to Boynton Beach Mall FLU with DRI as New FLU Category (2008)**

In 2004, the City approved the amendment to the text of the Comprehensive Plan's Future Land Use Element establishing a Development of Regional Impact (DRI) as a future land use classification (Ordinance No. 04-012). The new DRI FLU category was a solution generated in collaboration with Florida Department of Community Affairs, the former state land planning agency; it addressed the absence of a mixed use classification applicable for property outside downtown area where such classification already existed. The DRI FLU was defined separately for the City's three (3) DRIs, using the density, intensity and traffic generation limits for each as approved in the respective DRI development orders.

Initially, the DRI FLU was only applied to one of the three sites, Motorola DRI, which redeveloped under the name of Renaissance Commons. The two remaining DRIs, Quantum and Boynton Beach Mall, were not reclassified till 2008, as a part of the state-mandated Evaluation and Appraisal (EAR)-based Comprehensive Plan text and map amendments (Ordinance No. 08-007).

The pine preserve—a part of the Boynton Beach Mall DRI—retained its Recreation (R) FLU category.

#### **Expiration of Boynton Beach Mall DRI Development Order (2012)**

The initial termination date of the Boynton Beach Mall DRI Development Order was set for December 31, 2010. However, prior to that date, in 2009, the mall owner requested and was granted a two (2) – year extension pursuant to the Community Renewal Act, a growth management law that intended, among other things, to assist local communities' economic recovery after the period of inactivity forced by the "Great Recession." Ultimately, the development order expired on December 12, 2012.

### **Purchase of Dillard's Property by Christ Fellowship Church (2012)**

In December of 2012, Christ Fellowship Church (CFC) purchased one of the two Dillard's properties. The CFC became one of a growing number of churches locating in vacant or obsolete former commercial spaces such as malls and abandoned "big-box" buildings, taking advantage of lower cost of remodeling a vacant building rather than constructing a new facility.

### **Washington Prime Group Takes Over the Mall (2014)**

In 2014, Simon Property Group, the Mall's owner, spun off their lower-tier mall assets, including the Boynton Beach property, to an entity known as Washington Prime Group.

## **THE PROPOSED ACTION AND THE PROCESS**

This action—the future land use amendment changing the Mall's future land use classification from Development of Regional Impact (DRI) to Mixed Use Low (MXL)—has been initiated by City staff in preparation for the site's future redevelopment. While the redevelopment will likely proceed in phases and involve site planning for each, the rezoning will be processed concurrently with a master plan for the entire site. There is at present no master plan application.

The subject amendment to the Future Land Use Map (FLUM) is accompanied by the concurrently processed amendment to the Comprehensive Plan's Future Land Use Element (CPTA 19-001), which eliminates the Boynton Beach Mall DRI from the list of DRI-classified sites.

Since the size of the property under consideration exceeds ten acres, both the proposed FLUM amendment and the concurrent text amendments to the Future Land Use Element are subject to the Expedited State Review Process per provisions of Chapter 163.3184(3) and (5), Florida Statutes. If the Commission approves the proposed amendments, they will be transmitted for review to the Florida Department of Economic Opportunity (DEO), the state land planning agency. The final adoption by the City Commission is tentatively planned for April 2019.

## **REVIEW BASED ON CRITERIA**

The following analysis addresses all the criteria for review of Comprehensive Plan Map amendments and rezonings listed in the Land Development Regulations, Chapter 2, Article II, Section 2.B.3 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.***

There are several factors contributing to the need for the proposed amendment:

- Development order for Boynton Beach Mall DRI expired.

The Future Land Use Element's definition of the DRI future land use for the Mall includes minimum and maximum intensity of retail/commercial development measured in square feet of gross leasable space as approved by the DRI development order. Since the subject development order expired, this definition no longer has actionable meaning and will be eliminated. Concurrently, the Mall would be assigned a new FLU of Mixed Use Low.

- Enclosed mall as model for a shopping center has become obsolete.

Boynton Beach Mall has been ailing for several years, as shown by the the Palm Beach County Property Appraiser's annual "Top Taxpayers" reports for the City. There was an especially sharp drop in appraised value of Boynton Mall LLC properties between 2016 and 2017—nearly \$13 million, from \$46,339,832 to \$33,517,168, as the mall's anchors JC Penney and Sears continued to suffer declining sales.

Closures of traditional enclosed malls in the U.S. have been reported for over a decade. Some of these malls are able to reinvent themselves to become "lifestyle shopping" mixed use projects or outlet centers, some are redeveloped as health or conference facilities, and some have accommodated nontraditional tenants such as churches and schools. The *Outlook* section in the Cushman & Wakefield U.S. Shopping Center report for the first quarter of 2018 states: "*The gap will widen between mall classes (...). Class B will look at non-traditional mall tenants and innovation to survive (...). Closures of weakest malls and centers will ramp up in the second half of 2018. The reinvention of these dying malls as mixed use projects will gain momentum in 2019 and beyond.*"

The proposed Mixed Use Low FLU reclassification (and subsequent rezoning) will provide flexibility in both uses and design to allow the Mall to "reinvent" itself. The variety of options MXL offers is crucial to the successful redevelopment of the property and the continued success of the entire Congress Avenue commercial hub.

- The Mall's current zoning is not conducive for redevelopment

The Mall's current zoning is C-3, Community Commercial, a conventional zoning district under the Local Retail Commercial (LRC) future land use. Neither provides appropriate framework for creativity and flexibility in design that the property needs to be successfully redeveloped.

- Mall redevelopment is included in City's strategic plans

The City's *Strategic Plan 2018-2022* lists the Mall's redevelopment as item #18 in the

portfolio of strategic projects starting FY2018-2019. The document notes that the redevelopment of the Mall site will be part of a future planning effort embracing an area tentatively referred to as the Congress Avenue Corridor District.

As expected, the need for improvements/redevelopment of the Mall was also recognized by the City's 2016-2021 *Economic Development Strategic Plan* (Goal 4, Objective 4.2)

**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 and strategic plans

The proposed FLUM amendment is consistent with the intent of several Comprehensive Plan Future Land Use Element policies, including:

*Policy 1.3.1d      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.*

*Policy 1.7.4      By the end of 2017, the City shall evaluate a need for redevelopment plans for specific areas of the City that are not within the City's designated Community Redevelopment Area. If an evaluation determines such a need, the development of such plans shall be added to staff work program.*

*Policy 1.8.2      The City shall discourage urban sprawl by;*

- A. Continuing to promote 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.*

As per the response to criterion "a," the proposed amendment is also consistent with, and initiates the implementation of, the objectives of the City's *Strategic Plan 2018-2022* and the 2016-2021 *Economic Development Strategic Plan* pertaining to redevelopment of Boynton Beach Mall.

In 2019, pursuant to Policy 1.7.4, staff will resume work—initiated in 2018—on a comprehensive redevelopment plan for the Congress Avenue corridor. Since the proposed Mixed Use Low is the only mixed use classification for lands west of Interstate 95, it will be a clear choice as the plan’s FLU recommendation for the site. Moreover, the incoming master plan for the Mall will be reviewed with the anticipated recommendations regarding the FLU, connectivity and overall design for the nearby corridor areas in sight.

*Consistency with Land Development Regulations (LDR)*

The consistency with the LDRs and the need for any Code reviews— potentially required given the size and complexity of the project—will be assessed at the master plan/rezoning phase of the project. The sole zoning district corresponding to the proposed MXL future land use category and applicable to the areas west of Interstate 95 is SMU, Suburban Mixed Use.

**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 would not be contrary to the established land use pattern nor would it create an isolated FLU classification. The land use pattern in adjacent and nearby areas is eclectic: it incorporates commercial uses of small and large retail (including Walmart), offices, a hotel (Courtyard by Marriott), as well as residential uses of single-family, multi-family and mobile homes. Given that the subject site contains about 108 acres, the proposed amendment can hardly be considered an “isolated land use classification”; moreover, the proposed FLU category of MXL extends over an 80 acre area of Boynton Village community on the east side of North Congress Avenue. Finally, the MXL future land use classification will very likely be recommended for other areas of the Congress Avenue Corridor District and will replace the DRI classification of Renaissance Commons when that DRI expires.

**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 subject FLUM amendment is not accompanied by rezoning with a master plan; however, the proposed MXL will eventually support a large mixed use project with uses



complementary to those within the project as well as those in the surrounding areas. Interconnectivity will be one of the top project design requirements. Visitors and residents will have access to PalmTran bus service along Congress Avenue.

***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.*

Water and Sewer. Long-term capacity availability for potable water and sewer for the subject request has been confirmed by the Utilities Department (see attached letter).

Solid Waste. The Palm Beach County Solid Waste Authority determined that sufficient disposal capacity will be available at the existing landfill through approximately the year 2046.

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

Traffic. The traffic impacts associated with the future redevelopment of the mall are not expected to exceed the 3,306 PM Peak Hour trip cap established in the Boynton Beach Mall DRI Development Order for the approved 1,244,449 Sq. ft. GLA. (Note that the constructed square footage and the related PM Peak Hour trips are below the above thresholds). The trip generation equivalency analysis will be performed at the rezoning/master plan phase.

Schools. The School Capacity Availability Determination application will be submitted with a site plan/master plan package.

***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 proposed FLUM amendment would be compatible with the current and future use of adjacent and nearby properties. As previously stated (see response to criterion “c”), the land use pattern in adjacent and nearby areas is eclectic: it incorporates commercial uses of small and large retail (including Walmart), offices, a hotel (Courtyard by Marriott), as well as residential uses of single-family, multi-family and mobile homes. The

proposed FLU category of MXL covers 80 acres of Boynton Village on the east side of North Congress Avenue. Moreover, the MXL will likely be recommended for lands along the Congress Avenue Corridor District currently designated Local Retail Commercial (LRC), as this FLU classification would not effectively promote redevelopment. MXL will also replace the DRI classification of Renaissance Commons when that DRI expires.

The redevelopment of the Mall will have a positive effect on property values of surrounding properties. (At the master planing/site planning phases of the project, efforts will be taken to mitigate any negative impact of redevelopment on the single-family residential neighborhood to the west of the site.) While expanding the “Urban Village” model with its emphasis on walkability and public spaces from the Congress Avenue’s east to the west side, the proposed amendment will assure that the Congress Avenue Corridor continues to grow and thrive as the City’s main commercial hub. It would benefit both 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.*

As mentioned above (criterion “b”), redevelopment of the Boynton Beach Mall is supported by the City’s *Strategic Plan 2018-2022* and the *2016-2021 Economic Development Strategic Plan* and therefore the requested action meets criterion “g(1)”. Furthermore, the ensuing project has a potential to:

- Enhance the City’s tax base, reversing the downside of the Mall’s “legacy” properties’ taxable value. As noted in response to criterion “a,” between 2016 and 2017 the value of properties owned by Boynton Beach Mall LLC declined from \$46,339,832 to \$33,517,168 (criterion “g2”);
- Replace the economically obsolete shopping center—enclosed mall—with a mixed use project driven by market demand and promoting sustainability through design attributes pertaining to energy saving, public realm development, alternative transportation etc. (criteria “g3”, “g5”, and “g7”);

- Create/strengthen synergy of land uses on-site and within the Congress Avenue Corridor area as a whole (criterion “g6”).
- Contribute to the net job growth and/or replace some lost low-wage retail positions with better employment opportunities (criterion “g4”) if uses such as professional offices are eventually included.

***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 FLUM amendment can potentially reduce the amount of land available for commercial development since the MXL category encourages a mix of residential and commercial uses. Inclusion of residential uses supports the “live, work and play” motto embodying the lifestyle of the “Urban Village.”

As noted above in response to criterion “g”, the amendment has a potential to deliver all listed benefits, meeting condition “h(2).”

***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.***

N/A (See response to criterion “a.”)

***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.***

N/A. The request is for FLUM only.

### **CONCLUSION/RECOMMENDATION**

As a result of the above analysis, the proposed request is consistent with the intent of the policies of the Comprehensive Plan and the recommendations of the City's Strategic Plan and the Economic Development Strategic Plan.

Staff recommends approval of the proposed Future Land Use Map amendments for transmittal to the State for an Expedited State Review.

### **ATTACHMENTS**

S:\Planning\SHARED\WP\PROJECTS\Boynton Beach Mall LUAR 19-002\STAFF REPORT\BB Mall LUAR 18-003 Staff Report 11\_01.doc