

Agenda Item #:

4-6

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: December 18, 2007

☐ Consent ☐ Regular
☒ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: adopt Ordinance XX-XX, adopting a Remedial Comprehensive Plan Amendment, in accordance with the Stipulated Settlement Agreement with Gerald M. Ward ("Ward"), as a settlement of the compliance issues raised in the administrative challenge styled, Gerald M. Ward vs. State of Florida Department of Community Affairs and Palm Beach County, DOAH Case No. 07-1502GM, relating to the Comprehensive Plan Amendment adopted for Transportation Concurrency Exception Area (TCEA) for Riviera Beach, as Ordinance 2006-057.

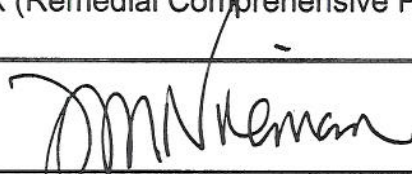
Summary: Palm Beach County adopted a Comprehensive Plan Amendment for the TCEA for Riviera Beach by Ordinance No. 2006-057 on November 27, 2006. The Plan Amendment proposes to amend provisions relating to the TCEA for Riviera Beach, to prevent further deterioration to the level of service on North Ocean Drive at Singer Island. The DCA issued a Notice and Statement of Intent to find the Plan Amendment "in compliance" on February 23, 2007. However, Intervenor Gerald Ward challenged the finding. A stipulated settlement agreement between the parties was proposed as a result of mediation between the parties and requires the adoption of a remedial plan amendment that removes the property located at 3930 North Ocean Drive, Riviera Beach Florida, (also known as "Coral Sea") from Table TE-4.B, as well as from any associated maps. Adoption of the attached Remedial Plan Amendment will fulfill the County's obligations under the Stipulated Settlement Agreement and resolve the formal administrative proceeding referenced above. District 1 (ATP)

Continued on Page 3

Attachments:

1. Stipulated Settlement Agreement
2. Ordinance XX-XX (Remedial Comprehensive Plan Amendment)

Recommended by:


County Attorney

12/10/07
Date

Approved by:

N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____ No _____				
Budget Account No.:	Fund _____	Department _____	Unit _____	Object _____	
	Reporting Category _____				

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

No Fiscal Impact
[Signature] 12/13/07
 OFMB
[Signature] 12/13/07
[Signature] 12/14/07
 Contract Development and Control

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

Background and Justification: Palm Beach County adopted a Comprehensive Plan Amendment for the TCEA for Riviera Beach by Ordinance No. 2006-057 on November 27, 2006. The Plan Amendment proposes to amend provisions relating to the TCEA for Riviera Beach, to prevent further deterioration to the level of service on North Ocean Drive at Singer Island. The DCA issued a Notice and Statement of Intent to find the Plan Amendment "in compliance" on February 23, 2007. The City of Riviera Beach filed a petition for a formal administrative hearing, pursuant to Chapter 163, Florida Statutes, challenging the DCA's Notice of Intent, but later dismissed its petition. Intervenor Gerald Ward also filed a petition challenging the DCA's Notice of Intent to find the Comprehensive Plan Amendment "in compliance." The parties attended mediation in the case, and the attached stipulated settlement agreement has been proposed. The stipulated settlement agreement requires adoption of a remedial plan amendment that removes the property located at 3930 North Ocean Drive, Riviera Beach Florida, (also known as "Coral Sea") from Table TE-4.B, as well as from any associated maps that depict projects for which the level of service were changed as a result of the challenged Comprehensive Plan Amendment. Adoption of the attached Remedial Plan Amendment will fulfill the County's obligations under the stipulated settlement agreement and will resolve all outstanding issues in the formal administrative proceeding referenced above.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

GERALD M. WARD,

DOAH Case No.: 07-1502 GM

Petitioner,

v.

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS,
and PALM BEACH COUNTY,

Respondents.

_____ /

STIPULATED SETTLEMENT AGREEMENT

THIS STIPULATED SETTLEMENT AGREEMENT is entered into by PETITIONER GERALD M. WARD (hereinafter "Ward") and RESPONDENTS, STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (hereinafter "DCA") and PALM BEACH COUNTY (hereinafter "County"), as a complete and final settlement of all claims relating to the Comprehensive Plan Amendment adopted by Palm Beach County Ordinance 2006-057 raised in the above-styled administrative proceeding.

RECITALS

WHEREAS, DCA, is the state land planning agency and has the authority to administer and enforce the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes; and

WHEREAS, the County is a local government with the duty to adopt comprehensive plan amendments that are "in compliance;" and

WHEREAS, Ward owns the property which is the subject of the Comprehensive Plan Amendment adopted in Ordinance No. 2006-057, and is the Petitioner in the above-styled case; and

WHEREAS, the County adopted the Plan Amendment by Ordinance No. 2006-057 on November 27, 2006; and

WHEREAS, the Plan Amendment proposes to amend provisions relating to the Transportation Concurrency Exception Area (TCEA) for Riviera Beach to prevent further deterioration of the level of service on North Ocean Drive at Singer Island; and

WHEREAS, DCA issued its Notice and Statement of Intent dated February 23, 2007 finding the Plan Amendment "in compliance"; and

WHEREAS, pursuant to Section 163.3184(9), Florida Statutes, Ward has initiated the above-styled formal administrative proceeding challenging the Plan Amendment; and

WHEREAS, the County and DCA dispute the allegations in Ward's petition regarding the Plan Amendment; and

WHEREAS, all parties wish to settle the above-styled administrative proceeding to avoid the time and expense involved in a final hearing on the disputed allegations;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein below set forth, and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby represent and agree as follows:

GENERAL PROVISIONS

1. **Definitions.** As used in this Agreement, the capitalized terms defined in the Recitals above shall have the meanings as stated there in and the following words and phrases shall have the following meanings:
 - a. **Act:** The Local Government Comprehensive Planning and Land Development Regulation Act, as codified in Part II Chapter 163, Florida Statutes.
 - b. **Agreement:** This stipulated settlement agreement.
 - c. **DOAH:** The Florida Division of Administrative Hearings.
 - d. **In compliance or into compliance:** The meaning set forth Section 163.3184(1)(b), Florida Statutes,
 - e. **Notice:** The notice of intent issued by the Department to which was attached its statement of intent to find the plan amendment in compliance.
 - f. **Petition:** The petition for administrative hearing and relief filed by Ward in this case and is attached as Exhibit A.
 - g. **Statement of Intent:** The statement of intent to find the Plan Amendment "in compliance" issued by DCA in this case.
 - h. **Remedial Plan Amendment:** An amendment to the plan substituted for the challenged Plan Amendment, the need for which is identified in this Agreement, and which the County must adopt to comply with this Agreement. The remedial plan amendment adopted pursuant to this Agreement must, in the opinion of DCA, be consistent with and substantially similar in concept and content to the one identified in this Agreement or be otherwise acceptable to DCA.

2. **Negotiation of Agreement.** DCA issued its Notice and Statement of Intent to find the Plan Amendment in compliance, and Ward filed the Petition in this case to contest DCA's finding. Subsequent to the filing of the Petition, the parties to this Agreement conferred and agreed to resolve the issues in the Petition through this Agreement. It is the intent of this Agreement to resolve fully all issues between the parties that were or could have been raised in this proceeding.

3. **Dismissal.** If the County adopts the Remedial Plan Amendment required by this Agreement, Ward shall dismiss his Petition in the above-styled administrative proceeding within five days of receipt of the Remedial Plan Amendment as adopted.

4. **Description of Provisions Alleged to be Not in Compliance and Remedial Actions; Legal Effect of Agreement.** Ward has alleged that changes to the required levels of service for property located at 3930 North Ocean Drive, Riviera Beach, Florida, are not "in compliance." The Remedial Plan will remove the property located at 3930 North Ocean Drive, Riviera Beach, Florida, (also referred to as "Coral Sea") from Table TE-4.B, as well as from any associated maps depicting projects for which changes have been made to the level of service requirements as a result of the challenged Plan Amendment. This Agreement constitutes a stipulation that if the Remedial Plan Amendment is adopted, the Remedial Plan Amendment will be in compliance.

5. **Adoption or Approval of Remedial Plan Amendments.** Within 60 days after execution of this Agreement by the parties, the County shall consider for adoption the Remedial Plan Amendment. This may be done at a single adoption hearing. Within 10 working days after adoption of the Remedial Plan Amendment, the County shall transmit 5 copies of the adopted

amendment to DCA as provided in Rule 9J-11.011(5), Florida Administrative Code. The County also shall submit one copy to the regional planning agency and to any other unit of local or state government that has filed a written request with the governing body for a copy of the Remedial Plan Amendment and a copy to Ward, as the Petitioner. The Remedial Plan Amendment shall be transmitted to DCA along with a letter which describes the remedial action adopted for each part of the plan amended, including references to specific portions and pages.

6. **Acknowledgment.** All parties to this Agreement acknowledge that the "based upon" provisions in Section 163.3184(8), Florida Statutes, do not apply to the Remedial Plan Amendment.

7. **Review of Remedial Plan Amendment and Notice of Intent.** Within 30 days after receipt of the adopted Remedial Plan Amendment, DCA shall issue a cumulative Notice of Intent pursuant to Section 163.3184(16), Florida Statutes, for the adopted amendment in accordance with this Agreement.

8. **Compliance Determination.**

a. If the adopted Remedial Plan Amendment satisfies this Agreement, DCA shall issue a cumulative Notice of Intent finding the Remedial Plan Amendment as being in compliance.

b. If DCA determines that the Remedial Plan Amendment does not satisfy this Agreement, DCA may issue a Notice of Intent finding the Remedial Plan Amendment not in compliance. In that event, Ward and the County reserve the right to proceed to hearing in this matter.

c. If the Remedial Plan Amendment adopted by the County is accepted by the DCA, although not in the same form as the remedial amendment attached to this Agreement as Exhibit B, Ward reserves the right to file a petition or otherwise proceed with respect to issues arising out of any change made to the Remedial Plan Amendment after the execution of this Agreement, pursuant to Section 163.3184(9) and (16), Florida Statutes.

9. **Effect of Amendment.** Adoption of any Remedial Plan Amendment shall not be counted toward the frequency restrictions imposed upon plan amendments pursuant to Section 163.3187(1), Florida Statutes.

10. **Purpose of this Agreement; Not Establishing Precedent.** The parties enter into this Agreement in a spirit of cooperation for the purpose of avoiding costly, lengthy and unnecessary litigation and in recognition of the desire for the speedy and reasonable resolution of disputes of government related land use arising out of or related to the Plan Amendment. The acceptance of proposals for purposes of this Agreement is part of a negotiated agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other government related circumstances or by any other local government.

11. **Approval by Governing Body.** This Agreement has been approved by the County's governing body at a public hearing advertised at least 10 days prior to the hearing in a newspaper of general circulation in the manner prescribed for advertisements in Section 163.3184(15)(c), Florida Statutes. This Agreement has been executed by the appropriate officer as provided in the County's charter or other regulations.

12. **Changes in Law.** Nothing in this Agreement shall be construed to relieve the parties from adhering to the law, and in the event of a change in any statute or administrative regulation inconsistent with this Agreement, the statute or regulation shall take precedence and shall be deemed incorporated in this Agreement by reference.

13. **Other Persons/Property Unaffected.** Nothing in this Agreement shall be deemed to affect the rights of any person not a party to this Agreement. This Agreement is not intended to benefit any third party or property, except the property at 3930 North Ocean Drive, Riviera Beach.

14. **Attorney Fees and Costs.** Each party shall bear its own costs, including attorney fees, incurred in connection with the above-captioned case and this Agreement.

15. **Order of Execution and Effective Date.** The parties agree that this Agreement shall be sent to Ward to execute first. Upon execution by Ward, the Agreement shall be sent to DCA for execution. Once Ward and DCA have executed the Agreement, the Agreement shall be submitted to the County's Board of County Commissioners for approval and execution. This Agreement shall become effective immediately upon execution by the Board of County Commissioners, as the final signator to the Agreement.

16. **Filing and Continuance.** This Agreement shall be filed with DOAH by DCA after execution by the parties. Upon the filing of this Agreement, the administrative proceeding as to the Plan Amendment shall be stayed by the Administrative Law Judge in accordance with Section 163.3184(16)(b), Florida Statutes.

17. **Construction of Agreement.** All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the

parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.

18. **Entire Agreement.** This is the entire agreement between the parties and no verbal or written assurance or promise is effective or binding unless included in this document.

19. **Governmental Discretion Unaffected.** This Agreement is not intended to bind the County in the exercise of governmental discretion which is exercisable in accordance with law only upon the giving of appropriate public notice and required public hearings.

20. **Multiple Originals.** This Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose.

21. **Captions.** The captions inserted in this Agreement are for the purpose of convenience only and shall not be utilized to construe or interpret any provision of this Agreement.

In witness whereof, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

DEPARTMENT OF COMMUNITY AFFAIRS

By:

Mike McDaniel

Date:

11/07/07

Approved as to form and legality:

Samuel D. Burt

Date:

11/8/07

PALM BEACH COUNTY

By:

ADDIE L. GREENE
CHAIRPERSON

Date:

Approved as to form and legality:

Amy Taylor Petrick

Amy Taylor Petrick, Esq.

Date:

11-9-07

GERALD M. WARD

By:

Gerald M. Ward

Date:

5 November 2007



FILING AND ACKNOWLEDGEMENT
 FILED, on this date, with the designated
 Agency Clerk, receipt of which is hereby
 acknowledged.

Paula P. Ford 3/14/07
 Paula P. Ford
 Agency Clerk Date

BEFORE THE STATE OF FLORIDA
 DIVISION OF ADMINISTRATIVE HEARINGS

GERALD M. WARD

Petitioner,

vs.

STATE OF FLORIDA
 DEPARTMENT OF COMMUNITY AFFAIRS
 (Division of Community Planning)

Respondent,

DOAH Case No. 07-
 DCA No. 06-2
 NOI-5001-(A)-(1)

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner pursuant to 120.569, 120.57(1) and 163.3184(9),
 Florida Statutes hereby files this Petition for Formal
 Administrative Hearing.

Parties

1. Petitioner, Gerald M. Ward (Ward) is a citizen,
 property owner, resident, professional engineer and business
 owner within the City of Riviera Beach, Palm Beach County,
 Florida. Property ownership includes single family residential
 at 1150 Coral Way, multifamily residential Straits of
 Florida/Atlantic Ocean riparian ownership at 3930 North Ocean
 Drive (State Road A1A, the subject of direct addressal by this
 Palm Beach County Comprehensive Plan action (Table TE-4.B)),
 tenant and business owner at 31 West 20th Street and tenant at
 1124 Avenue C, all Riviera Beach, Florida. Petitioner has
 participated verbally or in writing at most all of the Palm Beach
 County Public Hearings (affected party). Petitioner can be reached
 at the address and phone number given at the end of the Petition.

Parties (continued)

2. Respondent is the State of Florida, Department of Community Affairs (Department), 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399 (850/488-0410). Respondent is the state land planning agency with the authority to administer and enforce the Local Government Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes (163.3184(20) F.S.). Among the responsibilities of the Department under the Act is the duty to review comprehensive plans and amendments thereto submitted by Palm Beach County (County) to determine if they are "in compliance" with state law (163.3184 F.S.). "In compliance" means consistent with the requirements of Sections 163.3178, 163.3180, 163.3191 and 163.3245 Florida Statutes, with the State Comprehensive Plan (Chapter 187 Florida Statutes), the Treasure Coast Strategic Regional Policy Plan and with Chapters 9J-5 and 9J-11 Florida Administrative Code.

Background

3. On or about late July 2006, Palm Beach County transmitted and submitted a proposed Comprehensive Plan Amendment to the current Comprehensive Plan with some associated proposed Data and Analyses to the Department for beginning an Amendment to the City of Riviera Transportation Concurrency Exception Area which has been part of the County Comprehensive Plan since 2003.

Background (continued)

4. Beginning in June 2006 the County's Local Planning Agency public hearing meetings. On 19 July 2006 the Palm Beach County Board of County Commissioners voted to transmit a draft Comprehensive Plan Amendment to the Department.

5. On 31 July 2006 the Department received from the County proposed Comprehensive Plan Amendment Package 06-2.

6. On or about 29 September 2006 the Department issued its Objections, Recommendations and Comments Report (ORC) for Palm Beach County Amendment No. 06-2. A copy of the ORC is attached hereto as EXHIBIT A, and is incorporated by this reference as if fully set forth herein.

7. In the Department's September 2006 ORC, the Department's three Objections and two Potential Objections, three were related to the Transportation Element, plus inadequacies related to Consistency with the State Comprehensive Plan Goal and Consistency with the Strategic Regional Policy Plan. The "2. Text Amendments ... 1. Potential ORC Objection: TCEA Statutory Requirements----...modifications to the Riviera Beach TCEA not conforming to 163.3180 F.S...." are now at issue.

8. On or about 13 & 27 November 2006, the County adopted the Comprehensive Plan Amendment (ORDINANCE NO. 2006-057) which is the subject of this petition and EXHIBIT B.

9. On or about December 2006 the Department received the "adopted" Comprehensive Plan Amendment and took action required by Section 163.3184 Florida Statutes. The Department determined on or about the second week of February 2007 its determination on the plan should be published as "in compliance".

Background (continued)

10. On 21 February 2007 the Petitioner was advised verbally that on Friday 2/23/2007 the Department's Notice of "in compliance" would be posted on the Department's web site. (Although requested, Petitioner has never received any 9J-11.009(3) or (6) Florida Administrative Code notice.) A copy of the web site notice is attached hereto as EXHIBIT C and is incorporated by this reference as if fully set forth herein.

Count I: TCEA Boundaries and Applicability

11. The Comprehensive Plan Amendment is not "in compliance" because the Amendment fails to correctly delineate, evaluate and apply the Traffic Concurrency Exception Area. Violations of 9J-5 including 9J-5.0055(6)(a), (b), (c) and (d) FAC, 9J-5.006(4)(a)11 FAC and 9J-5.019(5(a)4 FAC occur.

Count II: Targeting Parcels & Failure to Involve Property Owners

12. The Comprehensive Plan Amendment is not "in compliance" by discrimination in selecting parcels addressed. The action did not evaluate all State Road A1A parcels currently with development or redevelopment not completed or uncompleted. The action is contrary to 187.101(3) Florida Statutes relating to private property rights. The action did not accomplish the provisions of 187.201(19)(b) 3., 13. and 15. Florida Statutes, 187.201(20)(b) 5. Florida Statute, 187.201(25)(a), (b)2., 3., 4. and 6. Florida Statutes as well as 9J-5.006 (1)(a)11. & (2)(b)5. & (3)(c)8. & (4)(a)10. Florida Administrative Code and 163.3177(6)(a) & 163.3177(6)(g)10. Florida Statutes.

Demand for Relief

WHEREFORE the Petitioner respectfully requests that:

1. That the matter be referred to the Division of Administrative Hearings for assignment to an Administrative Law Judge.

2. That a formal hearing be conducted in accordance with 120.569, 120.57 and 163.3184 Florida Statutes in Palm Beach County, Florida. (Pursuant to the mediation concepts of 163.3189(3)(a) Florida Statute and 9J-11.012(7) and 9J-5.002(6) Florida Administrative Code, the Petitioner intends to request such at a specific time prior to the Hearing). Petitioner suggests the formal Hearing be not scheduled until informal mediation is first attempted after initial discovery.) (The Petitioner may request "intervention" in related issues by other potential Petitioners, particularly related to internal inconsistencies.)

3. That the Administration Commission enter a Final Order finding the Comprehensive Plan Amendment as related to the Riviera Beach TCEA applicability to State Road 1A be found not "in compliance" and specifying remedial actions to bring the Comprehensive Plan Amendment in compliance including:

a) Re-initiation of the process for making changes pursuant to 163.3184 Florida Statutes to achieve compliance including the Florida Constitution protection requirements:

1) Restricting applicability of the Riviera Beach Transportation Concurrency Exception Area to the defined boundaries of the adopted Area.

Demand for Relief (continued)

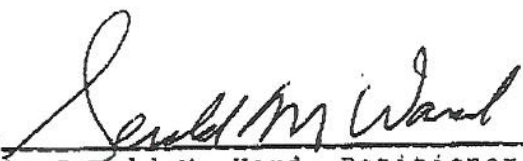
2) Removal of specifically identified State Road A1A (North Ocean Drive) parcels within Riviera Beach from the County Comprehensive Plan (Tables TE-4.A.&B.).

b) That the DATA AND ANALYSIS be revised to support the Comprehensive Plan Amendment in accordance with 9J-11.011(5) Florida Administrative Code.

4. That Petitioner be granted such other relief as may be deemed appropriate.

Respectfully submitted this 14th day of March 2007 at
Tallahassee, Florida.

By



Gerald M. Ward, Petitioner
P.O. Box 10441
Riviera Beach, Florida 33419
31 West 20th Street, Suite 202
Riviera Beach, Florida 33404
Telephone (561/863-1215)
Facsimile (561/863-1216)
wardgm@gate.net

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION FOR ADMINISTRATIVE HEARING has been hand delivered by to the AGENCY CLERK, Florida Department of Community Affairs 2555 Shumard Oak Boulevard, Suite 315, Tallahassee, Florida 32399, this 14th day of March 2007.


Gerald M. Ward

Copies via US Mail to:

Palm Beach County - 561/355-2225
Office of the County Attorney
301 North Olive Avenue
West Palm Beach, Florida 33401

City of Riviera Beach-845-4069
Attn: Pam Ryan, City Attorney
600 West Blue Heron Boulevard
Riviera Beach, Florida 33404

Community Redevelopment Agency
Riviera Beach - 561/844-3408
2001 Broadway, Suite 300
Riviera Beach, Florida 33404

Robert Diffenderfer, Special Counsel
for the City of Riviera Beach
Lewis Longman & Walker - 561/640-0820
1700 Palm Beach Lakes Blvd, Suite 1000
West Palm Beach, Florida 33401

0700PET

EXHIBIT "A"
9 pages

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

September 29, 2006

The Honorable Tony Masiotti
Chairman, Palm Beach County
Board of County Commissioners
301 N. Olive Avenue
West Palm Beach, Florida 33401

Dear Chairman Masiotti:

The Department has completed its review of the proposed Comprehensive Plan Amendment for Palm Beach County (DCA No. 06-2), which was received on July 31, 2006. Copies of the proposed amendment have been distributed to appropriate state, regional, and local agencies for their review and their comments are enclosed.

The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code (F.A.C) and Chapter 163, Part II, Florida Statutes (F.S.) and has prepared the attached Objections, Recommendations, and Comments (ORC) Report which outlines our findings concerning the comprehensive plan amendment.

The Department has raised several objections pertaining to lowering the level of service on State Intermodal System facilities and lack of coordination with the Metropolitan Planning Organization and the Florida Department of Transportation regarding Beeline Highway.

My staff and I are available to assist the County in addressing these objections. If you have any questions, please contact Richard Post, AICP, Senior Planner, at (850) 922-1813.

Sincerely,

Roger Wilburn
Regional Planning Administrator

RW/rps

Enclosures: Objections, Recommendations and Comments Report
Review Agency Comments

cc: Mr. Lorenzo Aghemo, AICP, Planning Director, Palm Beach County
Michael Busha, Executive Director, Treasure Coast Regional Planning Council

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8486 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2750 Overseas Highway, Suite 212
Marathon, FL 33050-7227
(305) 299-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2055

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-5909

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7955

DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT
FOR
PALM BEACH COUNTY
AMENDMENT 06-2

September 29, 2006
Division of Community Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

Introduction

The following objections, recommendations and comments are based upon the Department's review of Palm Beach County 06-2 proposed Comprehensive Plan Amendment pursuant to Section 163.3184, F.S.

Objections relate to specific requirements of relevant portions of Chapter 9J-5, F.A.C., and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have been raised initially by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

The County should address each of these objections when the amendment is resubmitted for our compliance review. Objections which are not addressed may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis, items which the County considers not to be applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination as to the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments which follow the objections and recommendations are advisory in nature. Comments will not form a basis for determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies, other agencies, organizations and individuals. These comments are advisory to the Department and may not form a basis for Departmental objections unless they appear under the "Objections" heading in this report.

ORC REPORT
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September 29, 2006

PALM BEACH COUNTY
DCA # 06-2

OBJECTIONS, RECOMMENDATIONS AND COMMENTS

PALM BEACH COUNTY

PROPOSED AMENDMENT DCA #06-2

Palm Beach County has proposed changes to its adopted Comprehensive Plan—text changes affecting the Transportation Element (TE) and related Map Series.

The Department has identified several objections regarding internal inconsistencies with the adopted comprehensive plan, data and analysis regarding public facilities and cumulative traffic, Transportation Concurrency Exception Areas (TCEAs), and overlay mapping requirements. These objections, recommendations, and comments are intended to identify areas that require improvement. The Department stands ready to work closely with the County to resolve all outstanding issues contained in this report prior to the adoption of the proposed amendment.

I. CONSISTENCY WITH RULE CHAPTER 9J-5, F.A.C., AND CHAPTER 163, F.S.**A. ORC OBJECTIONS:****1. Future Land Use Map (FLUM) Amendments**

a. 112th/NORTHLAKE OFFICE PROPERTY [LGA 2006-00022] This amendment proposes to change the land use on a 10.8-acre site from RR-5 to CL-O/RR-5, AVOCADO/NORTHLAKE COMMERCIAL PROPERTY [LGA 2006-00021] This amendment proposes to change the land use on a 35.31-acre site from RR-10 to CL/RR-5, and COCONUT/NORTHLAKE COMMERCIAL PROPERTY [LGA 2006-00023] This amendment proposes to change the land use on a 30.71-acre site from RR-20 to CL/RR-5.

1. ORC Objection: Internal Inconsistency—The above proposed FLUM amendments are internally inconsistent with the following text and policies of the adopted Palm Beach County Comprehensive Plan and Future Land Use Element [FLUE], Transportation Element [TE], and Capital Improvements Element [CIE]:

- *FLUE Section III.G.10* implementation language because the change does not follow the Western Northlake Corridor Land Use Study [WNCLUS] recommendations for development in accordance with the study, such as locating any needed commercial at a node within the Urban Service Area Boundary;
- *FLUE Policy 2.2-c* and its referenced *FLUE Section I—Introduction, A Purpose, B Assessment & Conditions, and C. County Directions* because the amendment does not show how it will discourage the proliferation of urban sprawl and does not comply with County Directions 2, 3, 4, & 5, regarding urban sprawl and requiring infill development in urban areas, ensuring densities of land uses not in conflict with those of surrounding areas, and neighborhood integrity; the amendment does not address the urban sprawl indicators as raised by the County staff;
- *FLUE Policy 2.1-f* because the grant of this amendment would violate the clear meaning of the policy language indicating that future land use designations, and corresponding density and intensity assignments shall not exceed the natural or manmade constraints of an area, considering assessment of soil types, wetlands, floodplains, committed residential development, the

ORC REPORT
Page 2

September 29, 2006

PALM BEACH COUNTY
DCA # 06-2

transportation network, and available facilities and services. Assignments will not be made that underutilize the existing or planned capacities of urban services:

- *FLUE Policy 2.2.2-e* because the grant of this amendment would violate the clear meaning of the policy language indicating that the County shall not designate additional commercial areas on the Future Land Use Atlas that would result in or encourage the proliferation of strip commercial development;
- *FLUE Policy 2.2-f* because the amendment appears to encourage piecemeal development or create an isolated or residual parcel;
- *CIE Policy 1.1-a, TE Policies 1.1-b and 1.1-e* and regarding meeting adopted levels of service has not been demonstrated;
- *FLUE Policy 2.2-d* because the amendment would allow the encroachment of incompatible land uses into a rural area raising a compatibility issue and the amendment is internally inconsistent with *FLUE Policy 2.2.1-b* regarding incompatibility of future land uses, *FLUE Policy 2.2-e* regarding the encroachment of strip commercial development;
- *FLUE Policy 1.4-f* that prohibits commercial future land use designations on parcels that do not have two frontages on an arterial and collector roadway because the development is not located at a major intersection and would promote mid-block commercial development; and
- *FLUE Policy 3.5-d* because the County shall not approve a change to the Future Land Use Atlas which results in an increase in density or intensity of development generating additional traffic that significantly impacts any roadway segment projected to fail to operate at the adopted level of service standard based upon the Long Range Transportation Plan because the maximum development intensity project traffic and distribution would cause Northlake Boulevard east of 112th Terrace North to operate at an unacceptable LOS and the project traffic on this segment is projected to be more than 3% of LOS D volumes making its impact(s) significant.

Authority: Section 163.3177(1), (2), (6)(a), and (8), *F.S.*, and Rule 9J-5.005(2) and (5), 9J-5.006(1)(b), (2)(a), (2)(b), (2)(c), (3)(b)1, (3)(b)8, (4)(b), and (5), 9J-5.013(1)(a), (1)(b), (2)(b)3, (2)(c)3 and 6, and (3)(a) and (b), 9J-5.019(4)(b)2, *F.A.C.*

Recommendation: The County should demonstrate consistency with the plan policies cited above that are contained in the adopted County Comprehensive Plan. Specifically, the County should take into consideration its Special Areas studies, such as the WNCLUS, and follow its recommendations. The amendment should discuss why it cannot or will not follow these public guidance studies and plans and update them as necessary. The County should follow its policies and procedures regarding County Directions and urban infill and sprawl, neighborhood integrity, encroachment of incompatible land uses into a rural area, compatibility, and required commercial frontage requirements as appropriate. The County should also include with the amendment appropriate data and analysis regarding existing conditions, including soils, vegetative communities, wetlands, floodplains, and assess the suitability of the proposed use regarding these constraints.

2. ORC Objection: Public Facilities—These map amendments do not adequately demonstrate through data and analysis what impacts the proposed amendments would have on public facilities for which the County has adopted level of service standards. The analysis does not show the ability of the County to meet and maintain its adopted level of service standards through the five year planning period. Or, how, if any deficiencies are identified, the necessary capital improvements to maintain level of service are included in the 5-yr schedule of capital improvements. Thereby, the County has not demonstrated whether the plan remains financially feasible with the change. The analysis should be done with the maximum amounts of impact created by the change. The amendment was not supported by referenced, but not submitted traffic analyses, the most recent data available, such as the MPO's 2030 Long Range Transportation Plan. Additionally, although a statement that the FIAM model was utilized to determine

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fiscal impact, the assumptions were not given, nor was the fiscal impact of the development and necessary facilities to serve the development demonstrated.

Authority: Section 163.3164(32), 163.3177(1), (2), (3)(a)5 and 6, (3)(b)1 and 2, (5)(a), (6)(a), (c), (e), (f), and (j), (8), and (12) and 163.3180(12) and (16), *F.S.*, and Rule 9J-5.025, 9J-5.005(2), (2)(c), 9J-5.0055(2)(c), 9J-5.011(1)(f)2, *F.A.C.*

Recommendation: Include with the amendment sufficient data and analysis to demonstrate the proposed amendment impacts upon public facilities, such as required to provide water, sewerage, and roads necessary to serve the expected population increase at adopted levels of service. This should be done for both the short-range and long-range planning horizon and if any deficiencies are noted, the measures to correct the deficiencies should be provided along with the timing and sources of funding to demonstrate financial feasibility for the 5-Year CIS as indicated in the objection. If any needed improvements are necessary which are not currently programmed, revisions should be made to the CIS and CIE accordingly. If fiscal impact modeling is utilized, the assumptions including revenues and expenditures, and a working copy of the software program and spreadsheet provided, along with a written description of any departure from the basic model. In addition to any summary data provided, a short-term project impact should be provided.

3. ORC Objection: Lack of Cumulative Traffic Analysis—The proposed amendments are not based upon a maximum impact analysis or supported by a traffic study; no traffic data was submitted with the amendment. Further, the proposed amendment contains three future land use map amendments in close proximity to each other on the same road segment. These three amendments, if approved, would cumulatively impact local roadways and facilities in the immediate area, particularly Northlake Boulevard which should be analyzed cumulatively. According to the individual data and analysis for these amendments and the Florida Department of Transportation, Northlake Blvd. west of SR 7 is projected to fail in 2011 and 2025, Northlake Blvd. between Coconut Blvd. and SR 7 is projected to fail in 2010, and Northlake Blvd. between SR 7 and each site is projected to fail in 2025. is not based upon a maximum impact analysis or supported by a traffic study.

Authority: Section 163.3177(1), (5)(a), (6)(a), and (j), and 163.3180(16)(e), *F.S.*, and Rule 9J-5.005(2), (2)(a), (2)(c), (5)(a), and (6), 9J-5.0055(2)(c), 9J-5.019(1), (3)(a), (3)(f), (3)(g), (4)(b)3, (4)(c)1, 5, 6, and 7, *F.A.C.*

Recommendation: The County should prepare a cumulative traffic analysis addressing impacts of the proposed amendments upon the adopted levels of service of the regional roadway network for both the short-range and long-range planning horizons, both with and without the proposed amendments. Any roadways requiring improvements to achieve and maintain adopted LOS standards should be appropriately addressed in the 5-Year CIS.

2. Text Amendments

a. Transportation Element: Riviera Beach Transportation Concurrency Exception Area (TCEA) Modification—The County proposes to modify the existing TCEA provisions so that the LOS D may be maintained to the extent possible at buildout on North Ocean Drive at Singer Island.

1. Potential ORC Objection: TCEA Statutory Requirements—The proposed modifications to the existing Riviera Beach TCEA do not conform to s. 163.3180, *F.S.*, as revised, in the following regards:

- Although the County has referenced its TCEA guidelines in its LDRs, the County has not established its guidelines for granting the transportation exceptions *in the Comprehensive Plan*.

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- These guidelines have not been shown to be consistent with and support a comprehensive strategy to promote the purpose of the exception, i.e., the redevelopment activities of the Community Redevelopment Agency and Area;
- The County has not included in the plan implementation strategies to support and fund mobility within the designated exception area, including alternative modes of transportation;
- The plan amendment has not demonstrated how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided or how the strategies address urban design, appropriate land use mixes, including intensity and density, and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization;
- The plan amendment for the TCEA modification did not contain a map showing the location of the revised TCEA and designating the concurrency exception area, nor was there any accompanying data and analysis justifying the size of the area based upon the type of TCEA; and
- The County did not provide documentation that the Department of Transportation was consulted by the City to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities or that the City appropriately mitigated for any impacts to the Strategic Intermodal System.

Authority: Section 163.3177(1), (6)(a), and 163.3180(5), F.S., and Rule 9J-5.0055(6)(a), (b), (c), and (d), 9J-5.006(4)(a)11, and 9J-5.019(5)(a)4, F.A.C.

Recommendation: Prepare appropriate TCEA guidelines which are consistent with and support a comprehensive TCEA strategy promoting the purpose of the TCEA. Also include in the plan appropriate implementation strategies to support and fund mobility within the TCEA, including alternative modes of transportation. Demonstrate through appropriate and adequate data and analysis and include strategies that show how urban design, appropriate urban mixes with various densities and intensities of use, network connectivity plans promoting urban infill, redevelopment, or downtown revitalization will help achieve the purpose of the TCEA. Include and show on the Future Land Use Map or Map Series, the area designated as the TCEA with sufficient detail to show its location in relation to the City and its surroundings. Also, include sufficient and appropriate data and analysis that support the designation of the area as a TCEA according to the type of TCEA being sought. Finally, include documentation showing coordination with the Department of Transportation in assessing the TCEA's impact on the adopted level-of-service standards established for Strategic Intermodal System facilities and show that the City appropriately mitigated for any impacts to the Strategic Intermodal System.

b. Future Land Use Element: Bioscience Research Protection Overlay (BRPO) not shown on Map Series—The Board of County Commissioners selected the North County proposal for location of the Scripps Research Institute on February 14, 2006. In carrying out this initiative, the County proposes amendments to its FLUE, Economic Element, and Map Series to incorporate policies that will prevent the loss of industrial and commercial sites for biotechnology use in support of the SCRIPPS cluster in coordination with impacted municipalities. The County is creating a new overlay through new *FLUE Objective 2.10*, and *Policies 2.10-a through 2.10-g*, revisions to *FLUE Table 2.1-3* adding the BRPO and by new *Economic Element Policy 1.1-h*, and new *Intergovernmental Coordination Element Policies 1.1-g, 1.1-r, and 1.1-s*. These policies reflect a joint interlocal agreement between Palm Beach County, the City of Palm Beach Gardens, the Town of Jupiter, the Town of Mangonia Park, the Town of Lake Park, and the City of Riviera Beach to establish and protect Bioscience Research Protection Overlays.

1. Potential ORC Objection: Location and Mapping of Overlay—Although the County included a map entitled "*Biotechnology Research Protection Overlay*", the County has not shown the BRPO on *FLUE Map LU 1.1 Managed Growth Tier System Map* or on *FLUE Map LU 3.1 Special Planning Areas Map* of the Comprehensive Plan Map Series, both of which show the location of all other overlays.

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Authority: Section 163.3177(1), (6)(a), F.S., and Rule 9J-5.005(1)(c)5, (2)(a), 9J-5.006(4), F.A.C.

Recommendation: Update *Future Land Use Element Map Series Maps LU 1.1* and *LU 3.1* to reflect the location of where the new BRPO will be located within the County.

IV. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

The proposed amendments DCA # 06-2 [LGA 2006-00022, LGA 2006-00021, and LGA 2006-00023] are not consistent with the following goals and policies of the State Comprehensive Plan Chapter 187, Florida Statutes, as noted:

Goal 15 (a) (Land Use), Policy (b)1. Promote state programs, investments, and development and redevelopment activities which encourage efficient development and occur in areas which will have the capacity to service new population and commerce.

Goal 15 (a) (Land Use), Policy (b)6. Consider, in land use planning and regulation, the impact of land use on water quality and quantity; the availability of land, water, and other natural resources to meet demands;

Goal 17 (a) (Public Facilities), Policy (b)7. Encourage the development, use, and coordination of capital improvement plans by all levels of government.

Goal 19 (a) (Transportation), Policy (b)13. Coordinate transportation improvements with state, local, and regional plans.

Recommendation: Revise the proposed amendment to be consistent with and further the above referenced goals and policies of the State Comprehensive Plan as recommended elsewhere in this report.

V. CONSISTENCY WITH THE STRATEGIC REGIONAL POLICY PLAN

The Treasure Coast Regional Planning Council determined that three of the proposed amendments, 112th/Northlake Office [LGA 2006-00022], Avocado/Northlake Commercial (LGA 2006-00021), and Coconut/Northlake Commercial (LGA 2006-00023), are not consistent with and do not adequately address and further the following *Treasure Coast Strategic Regional Policy Plan* [SRPP] goals, strategies, and policies [Section 163.3177(4), F.S.]:

Regional Strategy 1.1.2. Promote compatibility of urban areas, regional facilities, natural preserves and other open spaces.

Regional Strategy 2.1.2: Discourage sprawling development patterns to ensure compatibility of urban areas, natural preserves and other open spaces.

Regional Goal 4.1: Future development should be part of existing or proposed cities, towns, or villages.

Recommendation: By addressing the concerns noted above, these inconsistencies with the Strategic Regional Policy Plan can be addressed.

Department of Community Affairs
Division of Community Planning

PREPARED BY: Richard Dot DATE: 9/28/06
SUBJECT: Palm Bch. Co. 06-2 MAILOUT DATE 9/29/06
ORC

* REFERRAL	INIT.	DATE	* REFERRAL	INIT.	DATE
SECRETARY			DIVISION DIRECTOR-DCP		
CHIEF OF STAFF			CHIEF COMP. PLAN		
LEGAL			ADMINISTRATOR	<u>RM</u>	<u>9/28/06</u>
PERSONNEL			PLANNER	<u>RM</u>	<u>9/28/06</u>

COMMENTS: ORC w/ Objections

PLEASE INDICATE SEQUENCE OF ROUTING

4.03

EXHIBIT "B"
7 pages

ORDINANCE NO. 2006 -057

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE TRANSPORTATION ELEMENT (TO MODIFY THE RIVIERA BEACH TRAFFIC CONCURRENCY EXCEPTION AREA); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on June 9 and June 23, 2006 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on July 19, 2006 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated September 29, 2006 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, on November 13, 2006 and November 27, 2006 the Palm Beach County Board of County Commissioners held a public hearing to

1 review the written comments submitted by the Department of Community
2 Affairs and to consider adoption of the amendments; and

3 WHEREAS, the Palm Beach County Board of County Commissioners has
4 determined that the amendments as modified satisfy the concerns
5 addressed in the Department of Community Affairs' "Objections,
6 Recommendations and Comments Report" and comply with all requirements
7 of the Local Government Comprehensive Planning and Land Development
8 Regulations Act.

9 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
10 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

11 Part I. Amendments to the 1989 Comprehensive Plan

12 Amendments to the text of the following Elements of the 1989
13 Comprehensive Plan are hereby adopted and attached to this Ordinance
14 in Exhibit 1:

15 A. Transportation Element, to modify text regarding the
16 Riviera Beach Traffic Concurrency Exception Area (TCEA).

17 Part II. Repeal of Laws in Conflict

18 All local laws and ordinances applying to the unincorporated area
19 of Palm Beach County in conflict with any provision of this ordinance
20 are hereby repealed to the extent of such conflict.

21 Part III. Severability

22 If any section, paragraph, sentence, clause, phrase, or word of
23 this Ordinance is for any reason held by the Court to be
24 unconstitutional, inoperative or void, such holding shall not affect
25 the remainder of this Ordinance.

26 Part IV. Inclusion in the 1989 Comprehensive Plan

27 The provision of this Ordinance shall become and be made a part
28 of the 1989 Palm Beach County Comprehensive Plan. The Sections of the
29 Ordinance may be renumbered or relettered to accomplish such, and the
30 word "ordinance" may be changed to "section," "article," or any other
31 appropriate word.

32 Part V. Effective Date

33 The effective date of this plan amendment shall be the date a
34 final order is issued by the Department of Community Affairs or
35 Administration Commission finding the amendment in compliance in

1 accordance with Section 163.3184(1)(b), Florida Statutes, whichever is
2 applicable. No development orders, development permits, or land uses
3 dependent on this amendment may be issued or commence before it has
4 become effective. If a final order of noncompliance is issued by the
5 Administration Commission, this amendment may nevertheless be made
6 effective by adoption of a resolution affirming its effective status,
7 a copy of which resolution shall be sent to the Florida Department of
8 Community Affairs, Division of Community Planning, Plan Processing
9 Team. An adopted amendment whose effective date is delayed by law
10 shall be considered part of the adopted plan until determined to be
11 not in compliance by final order of the Administration Commission.
12 Then, it shall no longer be part of the adopted plan unless the local
13 government adopts a resolution affirming its effectiveness in the
14 manner provided by law.

15 APPROVED AND ADOPTED by the Board of County Commissioners of Palm
16 Beach County, on the 27th day of November, 2006.

17 ATTEST:
18 SHARON R. BOCK,
19 & COMPTROLLER

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

20 BY:

Deputy Clerk

Addie L. Greene, Vice-Chairperson

21 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

22 COUNTY ATTORNEY

23 Filed with the Department of State on the ____ day of

24 _____, 2006.

25 T:\planning\AMEND\06-2\admin\beccadpt\Ordinances\Ordinance_06-2_Transport_RivieraTCBA.doc

EXHIBIT 1**A. Policy 1-2.i, to revise with regards to a Riviera Beach TCEA**

REVISIONS: To modify language to ensure LOS is not further deteriorated on North Ocean Drive at Singer Island. The added and deleted text is provided in underlining and ~~strike-through~~ format respectively. The added text since the Transmittal is shown in double underlining format.

Policy 1.2-i

The City of Riviera Beach Redevelopment Area (CRA) - Transportation Concurrence Exception Area (TCEA) is hereby established and designated. The boundaries of the TCEA are shown on TE Map 15.1 and TE Map 15.3 in the Map Series. The TCEA shall be limited to the maximum allowable number of units, square footage, total daily trips, and total pm peak season, peak hour trips identified in the Table TE-4.A of this policy. Any project utilizing this TCEA and significantly impacting the Florida Intrastate Highway System (FIHS) shall be required to address its impacts on FIHS facilities pursuant to the ULDC.

The TCEA shall not take effect unless and until the City of Riviera Beach demonstrates to the satisfaction of the County Engineer in his sole discretion that peak hour, peak season traffic on North Ocean Avenue Drive (SR A1A) does not exceed level of service D at buildout, based on maximum density/ intensity/zoning established by the City of Riviera Beach Comprehensive Plan and land development regulations for properties on the Singer Island outside the boundaries of the TCEA. Any increase in use outside the CRA boundaries over that shown in Table 4 of the traffic study prepared by Kinley Horn and Associates, Inc., dated July 17, 2003 (attached as Exhibit 4 of the Staff report prepared for the adoption hearing November 24, 2003), shall require reevaluation by the County Engineer. If the reevaluation shows that the level of service is exceeded on Ocean Avenue then the TCEA should be reconsidered by the Board of County Commissioners. Any Development Order (D.O.) application for any project set forth in Table TE 4.B shall not be approved if the County Engineer determines that such project will cause peak season pm peak hour traffic on North Ocean Drive to exceed LOS D at project buildout or anticipated Singer Island buildout in year 2025 except for a project utilizing its vested traffic pursuant to County's ULDC. Projected traffic at the anticipated Singer Island buildout shall be calculated by using: the traffic count on North Ocean Drive (SR A1A) 100 feet south of Harbor Drive South; a background traffic annual growth rate of 0.5%; and include the allowable approved but unbuild traffic for the TCEA and for Singer Island outside the TCEA. On or before December 1, 2011, the County staff shall submit a written report to the Board of County Commissioners which recommends whether or not the TCEA and its associated policy restrictions should remain in effect on Singer Island.

Prior to issuance of Any Development Order for a project within the TCEA on Singer Island, the project must submit a traffic generation study, showing external traffic, for approval to the County Engineer. No Development Order approvals shall be given without approval of the County Engineer, which shall be based on This traffic study shall show external project traffic and all other existing and committed development traffic within the TCEA on Singer Island, to demonstrate that the proposed project is within the limits for allowable land uses and trips the limits set forth in Table TE-4.A.

Beginning March 1, 2006, the City shall submit an annual report to the County's Planning Director to demonstrate compliance with the conditions set forth in this policy. Upon review by the Planning Director and the County Engineer, the annual report will be submitted to the Board of County Commissioners (BCC) for consideration. In the event that any of the conditions below is not met, the BCC may amend or rescind any or all of this policy. The conditions are:

1. The development approvals utilizing within this TCEA shall remain at or below the maximum allowable limits for units, square footage, total daily trips, and total pm peak hour trips set by Table TE-4.A of this policy. No building permits shall be issued for new development when the applicable maximum allowable limit for that development is reached.
2. Beginning with the March 1, 2006 annual report, and at the end of each reporting period thereafter, the cumulative ratio of approved residential units to 1,000 square foot approved office space shall remain between the maximum and minimum allowable ratios identified in Table TE-4.A.
3. Beginning with the March 1, 2006 annual report, and at the end of each reporting period thereafter, the cumulative ratio of approved residential units to 1,000 square foot approved other non-residential space shall remain between the maximum and minimum allowable ratios identified in Table TE-4.A.
4. By January 2005, the City shall amend its land development regulations to require developments within the TCEA to contribute toward the cost of public transit infrastructure as

one means to offset the impact of the concurrency exception on the arterial roadway network and the FHHS.

5. The City, in coordination with the Riviera Beach CRA, shall maintain and annually update a master phasing plan and infrastructure budget and schedule that targets needed improvements within the TCEA boundaries and sets priority for funding and construction in the City's Five Year Capital Improvements Program.

6. By January 2005, the City shall revise its street design standards for all City streets within the TCEA to install street design features so that construction of new streets and repair of existing streets create safe, balanced, livable streets that can be used for all forms of travel including non-vehicular modes of travel.

7. By January 2006, the City shall undertake a detailed transit study to develop a local transit circulator plan (complementing the County's public transit service) for the TCEA including specific route alignments, infrastructure needs, headways, hours of operation and other service characteristics. The City shall act on the conclusions and recommendations contained within the transit circulator plan and move forward with efforts to implement improvements according to the phasing and schedule provided in the plan.

8. By January 2007, the City, with its own funding source, shall provide local transit circulator service within a 1/4 mile of 50 percent of all developed mixed-use and medium and high density residential areas identified on the Future Land Use Map of the City's Comprehensive Plan and within the TCEA boundaries, within the Palm Tran service area.

9. By January 2010, the City shall provide a site for the new Tri-Rail station at a cost no greater than City's acquisition cost. Concurrent with the opening of this new Tri-Rail station, the City with its own funding source, shall provide a new circulator service and/or expand an existing circulator service to connect to this new station.

10. Concurrent with the development, the City shall provide hurricane shelter space for at least 20% of the population increase associated with hotel/motel developments, residential developments, mobile home and trailer park developments, and recreational vehicle developments within the hurricane vulnerability zone. A long-term comprehensive shelter program shall be coordinated in conjunction with public, private and non-profit organizations to ensure that adequate shelter space is located in an area outside of the hurricane evacuation zone and meets current American Red Cross standards.

11. The City shall provide 2 through lanes, 2 left-turn lanes and 1 right-turn lane on all approaches of the intersection of US-1 and Blue Heron Boulevard concurrent with the construction of new US-1. One left-turn lane, however, on the east approach (westbound) shall suffice only if 2 left-turn lanes are not feasible.

12. The City shall annually monitor the intersection of Blue Heron Boulevard and Old Dixie Highway, and coordinate with FDOT and the County to improve this intersection when necessary, and if feasible.

13. Consistent with the intent of the City's Redevelopment Plan dated 2001, Section 3.2.10.3, Methods of Assuring Availability of Housing, the City shall ensure that the development (with any residential component) within each phase (as contemplated by the Phasing Plan in the TCEA Justification Report dated July 9, 2003) of the CRA, be required to provide no less than 5% of the total residential units for occupancy by very low income (less than or equal to 50% of the County's median annual adjusted gross income) households, and low income (more than 50% but less than or equal to 80% percent of the County's median annual adjusted gross income) households. The City shall also ensure that these affordable units remain affordable for no less than 10 years for ownership units and no less than 20 years for rental units.

14. By March 1, 2005, the City shall submit to County's Emergency Management Division a site-specific study determining evacuation times from Singer Island in case of mandatory evacuation.

The Transportation Concurrency Exception Area (TCEA) for the Riviera Beach CRA shall become effective upon the finding of compliance by the Florida Department of Community Affairs (DCA) for both the County's and the City's amendments to their respective comprehensive plans for the TCEA. It is the County's position that development orders issued within the CRA area shall be consistent with the policies in the County's TCEA.

TABLE TE-4A
RIVERIA BEACH CDA - TCEA
MONITORING TABLE

MAYLAND DEVELOPMENT					
Allowable Land Use Intensities	Residential/ Rental Units	Hotel Units	Conference Area (SF)	Office/ Technical Area	Other Non- residential
Planned Land Use Totals	3,945	300	53,000	1,145,855	1,535,506
Allowable variance +/- (%)	15%	25%	25%	10%	10%
Maximum Allowable Development	4,537	375	41,250	1,260,441	1,689,157
Minimum Allowable Development	3,353	225	24,750	1,031,270	1,472,855
Maximum Allowable Vehicle Trips	Daily Traffic		PM Peak Hour Traffic		
Planned Land Use Net New Trips	49,703		5,226		
Allowable Land Use Ratios	Residential/ Office		Residential/ Other Non-Residential		
Maximum Allowable Ratios	4.50		3.10		
Minimum Allowable Ratios	2.10		1.30		

SINGER ISLAND DEVELOPMENT					
Allowable Land Use Intensities	Residential/ Rental Units	Hotel Units	Conference Area (SF)	Office/ Technical Area	Other Non- residential
Planned Land Use Totals	426	335	50,000	0	134,010
Allowable variance +/- (%)	15%	25%	25%	0%	10%
Maximum Allowable Development	490	669	62,500		147,411
Minimum Allowable Development	362	401	37,500		120,609
Maximum Allowable Vehicle Trips	Daily Traffic		PM Peak Hour Traffic		
Planned Land Use Net New Trips	4,213		327		
Allowable Land Use Ratios	Residential/ Office		Residential/ Other Non-Residential		
Maximum Allowable Ratios	-		6.10		
Minimum Allowable Ratios	-		2.60		

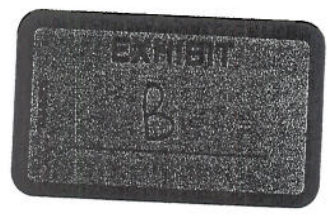
TABLE TB-4-B Singer Island Development (Outside TCEA)		
Land Use	Existing/Approved Intensity	
Phoenix Towers	182	MF du
Tara	320	MF du
Amrit Island Beach Resort	258	rooms
Amrit Island Beach Resort	26	MF du
Crown Plaza/Flaglers Gate	183	rooms
Ocean Trac	192	MF du
Villas On the Ocean	54	MF du
Villa Towers	61	MF du
Hilton/Cocoanut on the Beach	222	rooms
Mirador (Rosedale Inn)	59	MF du
Island Spa (Canopy Palms)	306	rooms
Oasis	38	MF du
Beachfront	60	MF du
Ocean's Edge	40	MF du
One Singer Island	15	MF du
Harbor Point	27	MF du
Coastal Spa	33	MF du

* current development reflected in existing base traffic count

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk & Comptroller certify
this to be a true and correct copy of the original
filed in my office on NOV 27 2006

dated at West Palm Beach, FL on 12-7-2006
By: [Signature]
Deputy Clerk





ORDINANCE NO. 2007 -

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE **TRANSPORTATION ELEMENT** (TO MODIFY THE RIVIERA BEACH TRAFFIC CONCURRENCY EXCEPTION AREA); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County adopted an amendment to the Comprehensive Plan on November 27, 2006 in Ordinance No. 2006-057; and

WHEREAS, the Department of Community Affairs issued a statement of intent to find the Comprehensive Plan amendment in Ordinance 2006-057 in Compliance on January 12, 2007; and

WHEREAS, Gerald Ward filed a Petition challenging the State of Florida Department of Community Affairs statement of intent to find the Comprehensive Plan amendment in Ordinance 2006-057 in Compliance, alleging that Ordinance 2006-057 did not comply with state statute and administrative rule; and

WHEREAS, Palm Beach County and State of Florida Department of Community Affairs entered into a stipulated settlement agreement with Gerald Ward on ~~XXXXXX~~ which identifies a remedial amendment to be enacted by Palm Beach County within 60 days following approval of the settlement agreement; and

WHEREAS, Exhibit B to the Stipulated Settlement Agreement set forth the remedial amendment which Palm Beach County and the Department of Community Affairs agreed would resolve the issues raised

1 consistent with the terms of the stipulated settlement agreement
2 approved on ~~XXXXX~~.

3 WHEREAS, this Ordinance repeals and replaces Ordinance No. 2006-
4 057 as adopted on November 27, 2006 that amended Palm Beach County's
5 Comprehensive Plan; and

6 WHEREAS, this Ordinance makes no changes to maps contained within
7 the Comprehensive Plan;

8 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
9 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

10 Part I. Amendments to the 1989 Comprehensive Plan

11 Amendments to the text of the following Elements of the 1989
12 Comprehensive Plan are hereby adopted and attached to this Ordinance
13 in Exhibit 1:

14 A. Transportation Element, Riviera Beach Traffic Concurrency
15 Exception Area (TCEA).

16 Part II. Repeal of Laws in Conflict

17 All local laws and ordinances applying to the unincorporated area
18 of Palm Beach County in conflict with any provision of this ordinance
19 are hereby repealed to the extent of such conflict.

20 Part III. Severability

21 If any section, paragraph, sentence, clause, phrase, or word of
22 this Ordinance is for any reason held by the Court to be
23 unconstitutional, inoperative or void, such holding shall not affect
24 the remainder of this Ordinance.

25 Part IV. Inclusion in the 1989 Comprehensive Plan

26 The provision of this Ordinance shall become and be made a part
27 of the 1989 Palm Beach County Comprehensive Plan. The Sections of the
28 Ordinance may be renumbered or relettered to accomplish such, and the
29 word "ordinance" may be changed to "section," "article," or any other
30 appropriate word.

31 Part V. Effective Date

1 applicable. No development orders, development permits, or land uses
2 dependent on this amendment may be issued or commence before it has
3 become effective. If a final order of noncompliance is issued by the
4 Administration Commission, this amendment may nevertheless be made
5 effective by adoption of a resolution affirming its effective status,
6 a copy of which resolution shall be sent to the Florida Department of
7 Community Affairs, Division of Community Planning, Plan Processing
8 Team. An adopted amendment whose effective date is delayed by law
9 shall be considered part of the adopted plan until determined to be
10 not in compliance by final order of the Administration Commission.
11 Then, it shall no longer be part of the adopted plan unless the local
12 government adopts a resolution affirming its effectiveness in the
13 manner provided by law.

14 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm
15 Beach County, on the ____ day of _____, 2007.

16
17 ATTEST:
18 SHARON R. BOCK, CLERK
19 & COMPTROLLER
20

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

21 By: _____ By: _____
22 Deputy Clerk Addie L. Greene, Chairperson
23

24 APPROVED AS TO FORM AND LEGAL SUFFICIENCY
25

26
27 _____
28 COUNTY ATTORNEY

29 Filed with the Department of State on the ____ day of
30
31 _____, 2007.
32

33 T:\planning\AMEND\06-2 & 06-D2\reports\SettlementAdopt\Ordinance_06-2_Settlement_RivieraTCEA-
34 revised.doc

EXHIBIT 1

A. Transportation Element, Riviera Beach Traffic Concurrency Exception Area (TCEA).

REVISIONS: To modify language to ensure LOS is not further deteriorated on North Ocean Drive at Singer Island. The added and deleted text is provided in underline and ~~strike-through~~ format respectively.

REVISED: **Policy 1.2-t:**The City of Riviera Beach Redevelopment Area (CRA) - Transportation Concurrency Exception Area (TCEA) is hereby established and designated. The boundaries of the TCEA are shown on TE Map 15.1 and TE Map 15.3 in the Map Series. The TCEA shall be limited to the maximum allowable number of units, square footage, total daily trips, and total pm peak season, peak hour trips identified in the Table TE-4.A of this policy. Any project utilizing this TCEA and significantly impacting the Florida Intrastate Highway System (FIHS) shall be required to address its impacts on FIHS facilities pursuant to the ULDC.

The TCEA shall not take effect unless and until the City of Riviera Beach demonstrates to the satisfaction of the County Engineer in his sole discretion that peak hour, peak season traffic on North Ocean Avenue Drive (SR A1A) does not exceed level of service D at buildout, based on maximum density/intensity/zoning established by the City of Riviera Beach Comprehensive Plan and land development regulations for properties on the Singer Island outside the boundaries of the TCEA. ~~Any increase in use outside the CRA boundaries over that shown in Table 1 of the traffic study prepared by Kimley-Horn and Associates, Inc., dated July 17, 2003 (attached as Exhibit 4 of the Staff report prepared for the adoption hearing November 24, 2003), shall require reevaluation by the County Engineer. If the reevaluation shows that the level of service is exceeded on Ocean Avenue then the TCEA should be reconsidered by the Board of County Commissioners.~~ Any Development Order (D.O.) application for any project set forth in Table TE 4.B shall not be approved if the County Engineer determines that such project will cause peak season pm peak hour traffic on North Ocean Drive to exceed LOS D at project buildout or anticipated Singer Island buildout in year 2025 except for a project utilizing its vested traffic pursuant to County's ULDC. Projected traffic at the anticipated Singer Island buildout shall be calculated by using: the traffic count on North Ocean Drive (SR A1A) 100 feet south of Harbor Drive South; a background traffic annual growth rate of 0.5%; and include the allowable approved but unbuilt traffic for the TCEA and for Singer Island outside the TCEA. On or before December 1, 2011, the County staff shall submit a written report to the Board of County Commissioners which recommends whether or not the TCEA and its associated policy restrictions should remain in effect on Singer Island.

Prior to issuance of Aany Development Order for a project within the TCEA on Singer Island, the project must submit a traffic generation study, showing external traffic, for approval to the County Engineer. No Development Order approvals shall be given without approval of the County Engineer, which shall be based on This traffic study shall show external project traffic and all other existing and committed development traffic within the TCEA on Singer Island, to demonstrate that the proposed project is within the limits for allowable land uses and trips the limits set forth in Table TE-4.A.

Beginning March 1, 2005, the City shall submit an annual report to the County's Planning Director to demonstrate compliance with the conditions set forth in this policy. Upon review by the Planning Director and the County Engineer, the annual report will be submitted to the Board of County Commissioners (BCC) for consideration. In the event that any of the conditions below is not met, the BCC may amend or rescind any or all of this policy. The conditions are:

- units to 1,000 square foot approved office space shall remain between the maximum and minimum allowable ratios identified in Table TE-4.A.
3. Beginning with the March 1, 2006 annual report, and at the end of each reporting period thereafter, the cumulative ratio of approved residential units to 1,000 square foot approved other non-residential space shall remain between the maximum and minimum allowable ratios identified in Table TE-4.A.
 4. By January 2005, the City shall amend its land development regulations to require developments within the TCEA to contribute toward the cost of public transit infrastructure as one means to offset the impact of the concurrency exception on the arterial roadway network and the FIHS.
 5. The City, in coordination with the Riviera Beach CRA, shall maintain and annually update a master phasing plan and infrastructure budget and schedule that targets needed improvements within the TCEA boundaries and sets priority for funding and construction in the City's Five Year Capital Improvements Program.
 6. By January 2005, the City shall revise its street design standards for all City streets within the TCEA to install street design features so that construction of new streets and repair of existing streets create safe, balanced, livable streets that can be used for all forms of travel including non-vehicular modes of travel.
 7. By January 2006, the City shall undertake a detailed transit study to develop a local transit circulator plan (complementing the County's public transit service) for the TCEA including specific route alignments, infrastructure needs, headways, hours of operation and other service characteristics. The City shall act on the conclusions and recommendations contained within the transit circulator plan and move forward with efforts to implement improvements according to the phasing and schedule provided in the plan.
 8. By January 2007, the City, with its own funding source, shall provide local transit circulator service within a ¼ mile of 50 percent of all developed mixed-use and medium and high density residential areas identified on the Future Land Use Map of the City's Comprehensive Plan and within the TCEA boundaries, within the Palm Tran service area.
 9. By January 2010, the City shall provide a site for the new Tri-Rail station at a cost no greater than City's acquisition cost. Concurrent with the opening of this new Tri-Rail station, the City with its own funding source, shall provide a new circulator service and/or expand an existing circulator service to connect to this new station.
 10. Concurrent with the development, the City shall provide hurricane shelter space for at least 20% of the population increase associated with hotel/motel developments, residential developments, mobile home and trailer park developments, and recreational vehicle developments within the hurricane vulnerability zone. A long-term comprehensive shelter program shall be coordinated in conjunction with public, private and non-profit organizations to ensure that adequate shelter space is located in an area outside of the hurricane evacuation zone and meets current American Red Cross standards.
 11. The City shall provide 2 through lanes, 2 left-turn lanes and 1 right-turn lane on all approaches of the intersection of US-1 and Blue Heron Boulevard concurrent with the construction of new US-1. One left-turn lane, however, on the east approach (westbound) shall suffice only if 2 left-turn lanes are not feasible.
 12. The City shall annually monitor the intersection of Blue Heron Boulevard and Old Dixie Highway, and coordinate with FDOT and the County to improve this intersection when necessary, and if feasible.
 13. Consistent with the intent of the City's Redevelopment Plan dated 2001, Section 3.2.10.3, Methods of Assuring Availability of Housing, the City shall ensure that the development (with any residential component) within each phase (as contemplated by the Phasing Plan in the TCEA

14. By March 1, 2005, the City shall submit to County's Emergency Management Division a site-specific study determining evacuation times from Singer Island in case of mandatory evacuation.

The Transportation Concurrency Exception Area (TCEA) for the Riviera Beach CRA shall become effective upon the finding of compliance by the Florida Department of Community Affairs (DCA) for both the County's and the City's amendments to their respective comprehensive plans for the TCEA. It is the County's position that development orders issued within the CRA area shall be consistent with the policies in the County's TCEA.

TABLE TE-4.A
RIVIERA BEACH CRA - TCEA
MONITORING TABLE

MONITORING TABLE

MAINLAND DEVELOPMENT

Allowable Land Use Intensities	Residential/ Rental Units	Hotel Units	Conference Area (SF)	Office/ Technical Area	Other Non- residential
<i>Planned Land Use Totals</i>	3,945	300	33,000	1,145,855	1,636,506
<i>Allowable variance +/- (%)</i>	15%	25%	25%	10%	10%
<i>Maximum Allowable Development</i>	4,537	375	41,250	1,260,441	1,800,157
<i>Minimum Allowable Development</i>	3,353	225	24,750	1,031,270	1,472,855

Maximum Allowable Vehicle Trips	Daily Traffic	PM Peak Hour Traffic
<i>Planned Land Use Net New Trips</i>	49,703	5,226

Allowable Land Use Ratios	Residential/ Office	Residential/ Other Non-Residential
<i>Maximum Allowable Ratios</i>	4.50	3.10
<i>Minimum Allowable Ratios</i>	2.10	1.30

SINGER ISLAND DEVELOPMENT

Allowable Land Use Intensities	Residential/ Rental Units	Hotel Units	Conference Area (SF)	Office/ Technical Area	Other Non- residential
<i>Planned Land Use Totals</i>	426	535	50,000	0	134,010
<i>Allowable variance +/- (%)</i>	15%	25%	25%	0%	10%
<i>Maximum Allowable Development</i>	490	669	62,500		147,411
<i>Minimum Allowable Development</i>	362	401	37,500		120,609

Maximum Allowable Vehicle Trips	Daily Traffic	PM Peak Hour Traffic
<i>Planned Land Use Net New Trips</i>	4,213	337

Allowable Land Use Ratios	Residential/ Office	Residential/ Other Non-Residential
<i>Maximum Allowable Ratios</i>	-	4.10
<i>Minimum Allowable Ratios</i>	-	2.40

TABLE TE-4.B Singer Island Development (Outside TCEA)		
Land Use	Existing/Approved	
	Intensity	
*Phoenix Towers	192	MF du
Tiara	320	MF du
Amrit (Island Beach Resort)	258	rooms
Amrit (Island Beach Resort)	28	MF du
*Crowne Plaza/Flaglers Grill	193	rooms
*Ocean Tree	152	MF du
*Villas On the Ocean	54	MF du
*Villa Towers	51	MF du
*Hilton/Coconuts on the Beach	223	rooms
Mirasol (Rutledge Inn)	58	MF du
Island Spa (Canopy Palms)	306	rooms
*Oasis	38	MF du
Beachfront	60	MF du
Ocean's Edge	40	MF du
One Singer Island	15	MF du
*Harbor Point	37	MF du

**current development reflected in existing base traffic counts*

ORDINANCE NO. 2007 -

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE **TRANSPORTATION ELEMENT** (TO MODIFY THE RIVIERA BEACH TRAFFIC CONCURRENCY EXCEPTION AREA); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County adopted an amendment to the Comprehensive Plan on November 27, 2006 in Ordinance No. 2006-057; and

WHEREAS, the Department of Community Affairs issued a statement of intent to find the Comprehensive Plan amendment in Ordinance 2006-057 in Compliance on January 12, 2007; and

WHEREAS, Gerald Ward filed a Petition challenging the State of Florida Department of Community Affairs statement of intent to find the Comprehensive Plan amendment in Ordinance 2006-057 in Compliance, alleging that Ordinance 2006-057 did not comply with state statute and administrative rule; and

WHEREAS, Palm Beach County and State of Florida Department of Community Affairs entered into a stipulated settlement agreement with Gerald Ward on **XXXXXX** which identifies a remedial amendment to be enacted by Palm Beach County within 60 days following approval of the settlement agreement; and

WHEREAS, Exhibit B to the Stipulated Settlement Agreement set forth the remedial amendment which Palm Beach County and the Department of Community Affairs agreed would resolve the issues raised in the administrative petition filed by Gerald Ward; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a single public hearing as provided in section 163.3184(16)(d), Fla. Stat. (1993) on **XXXXXX** to consider adoption of the Comprehensive Plan amendment

1 consistent with the terms of the stipulated settlement agreement
2 approved on XXXXX;

3 WHEREAS, this Ordinance repeals and replaces Ordinance No. 2006-
4 057 as adopted on November 27, 2006 that amended Palm Beach County's
5 Comprehensive Plan; and

6 WHEREAS, this Ordinance makes no changes to maps contained within
7 the Comprehensive Plan;

8 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
9 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

10 Part I. Amendments to the 1989 Comprehensive Plan

11 Amendments to the text of the following Elements of the 1989
12 Comprehensive Plan are hereby adopted and attached to this Ordinance
13 in Exhibit 1:

14 A. Transportation Element, Riviera Beach Traffic Concurrency
15 Exception Area (TCEA).

16 Part II. Repeal of Laws in Conflict

17 All local laws and ordinances applying to the unincorporated area
18 of Palm Beach County in conflict with any provision of this ordinance
19 are hereby repealed to the extent of such conflict.

20 Part III. Severability

21 If any section, paragraph, sentence, clause, phrase, or word of
22 this Ordinance is for any reason held by the Court to be
23 unconstitutional, inoperative or void, such holding shall not affect
24 the remainder of this Ordinance.

25 Part IV. Inclusion in the 1989 Comprehensive Plan

26 The provision of this Ordinance shall become and be made a part
27 of the 1989 Palm Beach County Comprehensive Plan. The Sections of the
28 Ordinance may be renumbered or relettered to accomplish such, and the
29 word "ordinance" may be changed to "section," "article," or any other
30 appropriate word.

31 Part V. Effective Date

32 The effective date of this plan amendment shall be the date a
33 final order is issued by the Department of Community Affairs or
34 Administration Commission finding the amendment in compliance in
35 accordance with Section 163.3184(1)(b), Florida Statutes, whichever is

1 applicable. No development orders, development permits, or land uses
2 dependent on this amendment may be issued or commence before it has
3 become effective. If a final order of noncompliance is issued by the
4 Administration Commission, this amendment may nevertheless be made
5 effective by adoption of a resolution affirming its effective status,
6 a copy of which resolution shall be sent to the Florida Department of
7 Community Affairs, Division of Community Planning, Plan Processing
8 Team. An adopted amendment whose effective date is delayed by law
9 shall be considered part of the adopted plan until determined to be
10 not in compliance by final order of the Administration Commission.
11 Then, it shall no longer be part of the adopted plan unless the local
12 government adopts a resolution affirming its effectiveness in the
13 manner provided by law.

14 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm
15 Beach County, on the ____ day of _____, 2007.

16
17 ATTEST:
18 SHARON R. BOCK, CLERK
19 & COMPTROLLER
20

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

21 By: _____ By: _____
22 Deputy Clerk Addie L. Greene, Chairperson
23

24 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

25
26 
27 COUNTY ATTORNEY
28

29 Filed with the Department of State on the ____ day of
30
31 _____, 2007.
32

33 T:\planning\AMEND\06-2 & 06-D2\reports\SettlementAdopt\Ordinance_06-2_Settlement_RivieraTCEA-
34 revised.doc

EXHIBIT 1

A. Transportation Element, Riviera Beach Traffic Concurrency Exception Area (TCEA).

REVISIONS: To modify language to ensure LOS is not further deteriorated on North Ocean Drive at Singer Island. The added and deleted text is provided in underline and ~~strike-through~~ format respectively.

REVISED: ~~Policy 1.2-t:~~The City of Riviera Beach Redevelopment Area (CRA) - Transportation Concurrency Exception Area (TCEA) is hereby established and designated. The boundaries of the TCEA are shown on TE Map 15.1 and TE Map 15.3 in the Map Series. The TCEA shall be limited to the maximum allowable number of units, square footage, total daily trips, and total pm peak season, peak hour trips identified in the Table TE-4.A of this policy. Any project utilizing this TCEA and significantly impacting the Florida Intrastate Highway System (FIHS) shall be required to address its impacts on FIHS facilities pursuant to the ULDC.

The TCEA shall not take effect unless and until the City of Riviera Beach demonstrates to the satisfaction of the County Engineer in his sole discretion that peak hour, peak season traffic on North Ocean Avenue Drive (SR A1A) does not exceed level of service D at buildout, based on maximum density/intensity/zoning established by the City of Riviera Beach Comprehensive Plan and land development regulations for properties on the Singer Island outside the boundaries of the TCEA. ~~Any increase in use outside the CRA boundaries over that shown in Table 1 of the traffic study prepared by Kimley-Horn and Associates, Inc., dated July 17, 2003 (attached as Exhibit 4 of the Staff report prepared for the adoption hearing November 24, 2003), shall require reevaluation by the County Engineer. If the reevaluation shows that the level of service is exceeded on Ocean Avenue then the TCEA should be reconsidered by the Board of County Commissioners.~~ Any Development Order (D.O.) application for any project set forth in Table TE 4.B shall not be approved if the County Engineer determines that such project will cause peak season pm peak hour traffic on North Ocean Drive to exceed LOS D at project buildout or anticipated Singer Island buildout in year 2025 except for a project utilizing its vested traffic pursuant to County's ULDC. Projected traffic at the anticipated Singer Island buildout shall be calculated by using: the traffic count on North Ocean Drive (SR A1A) 100 feet south of Harbor Drive South; a background traffic annual growth rate of 0.5%; and include the allowable approved but unbuilt traffic for the TCEA and for Singer Island outside the TCEA. On or before December 1, 2011, the County staff shall submit a written report to the Board of County Commissioners which recommends whether or not the TCEA and its associated policy restrictions should remain in effect on Singer Island.

Prior to issuance of Any Development Order for a project within the TCEA on Singer Island, the project must submit a traffic generation study, showing external traffic, for approval to the County Engineer. No Development Order approvals shall be given without approval of the County Engineer, which shall be based on This traffic study shall show external project traffic and all other existing and committed development traffic within the TCEA on Singer Island, to demonstrate that the proposed project is within the limits for allowable land uses and trips the limits set forth in Table TE-4.A.

Beginning March 1, 2005, the City shall submit an annual report to the County's Planning Director to demonstrate compliance with the conditions set forth in this policy. Upon review by the Planning Director and the County Engineer, the annual report will be submitted to the Board of County Commissioners (BCC) for consideration. In the event that any of the conditions below is not met, the BCC may amend or rescind any or all of this policy. The conditions are:

1. The development approvals utilizing within this TCEA shall remain at or below the maximum allowable limits for units, square footage, total daily trips, and total pm peak hour trips set by Table TE-4.A of this policy. No building permits shall be issued for new development when the applicable maximum allowable limit for that development is reached.
2. Beginning with the March 1, 2006 annual report, and at the end of each reporting period thereafter, the cumulative ratio of approved residential

- units to 1,000 square foot approved office space shall remain between the maximum and minimum allowable ratios identified in Table TE-4.A.
3. Beginning with the March 1, 2006 annual report, and at the end of each reporting period thereafter, the cumulative ratio of approved residential units to 1,000 square foot approved other non-residential space shall remain between the maximum and minimum allowable ratios identified in Table TE-4.A.
 4. By January 2005, the City shall amend its land development regulations to require developments within the TCEA to contribute toward the cost of public transit infrastructure as one means to offset the impact of the concurrency exception on the arterial roadway network and the FIHS.
 5. The City, in coordination with the Riviera Beach CRA, shall maintain and annually update a master phasing plan and infrastructure budget and schedule that targets needed improvements within the TCEA boundaries and sets priority for funding and construction in the City's Five Year Capital Improvements Program.
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 7. By January 2006, the City shall undertake a detailed transit study to develop a local transit circulator plan (complementing the County's public transit service) for the TCEA including specific route alignments, infrastructure needs, headways, hours of operation and other service characteristics. The City shall act on the conclusions and recommendations contained within the transit circulator plan and move forward with efforts to implement improvements according to the phasing and schedule provided in the plan.
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 10. Concurrent with the development, the City shall provide hurricane shelter space for at least 20% of the population increase associated with hotel/motel developments, residential developments, mobile home and trailer park developments, and recreational vehicle developments within the hurricane vulnerability zone. A long-term comprehensive shelter program shall be coordinated in conjunction with public, private and non-profit organizations to ensure that adequate shelter space is located in an area outside of the hurricane evacuation zone and meets current American Red Cross standards.
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 12. The City shall annually monitor the intersection of Blue Heron Boulevard and Old Dixie Highway, and coordinate with FDOT and the County to improve this intersection when necessary, and if feasible.
 13. Consistent with the intent of the City's Redevelopment Plan dated 2001, Section 3.2.10.3, Methods of Assuring Availability of Housing, the City shall ensure that the development (with any residential component) within each phase (as contemplated by the Phasing Plan in the TCEA Justification Report dated July 9, 2003) of the CRA, be required to provide no less than 5% of the total residential units for occupancy by very low income (less than or equal to 50% of the County's median annual adjusted gross income) households, and low income (more than 50% but less than or equal to 80% percent of the County's median annual adjusted gross income) households. The City shall also ensure that these affordable units remain affordable for no less than 10 years for ownership units and no less than 20 years for rental units.

14. By March 1, 2005, the City shall submit to County's Emergency Management Division a site-specific study determining evacuation times from Singer Island in case of mandatory evacuation.

The Transportation Concurrency Exception Area (TCEA) for the Riviera Beach CRA shall become effective upon the finding of compliance by the Florida Department of Community Affairs (DCA) for both the County's and the City's amendments to their respective comprehensive plans for the TCEA. It is the County's position that development orders issued within the CRA area shall be consistent with the policies in the County's TCEA.

TABLE TE-4.A
RIVIERA BEACH CRA - TCEA
MONITORING TABLE

MAINLAND DEVELOPMENT					
Allowable Land Use Intensities	Residential/ Rental Units	Hotel Units	Conference Area (SF)	Office/ Technical Area	Other Non- residential
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SINGER ISLAND DEVELOPMENT					
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TABLE TE-4.B Singer Island Development (Outside TCEA)		
Land Use	Existing/Approved Intensity	
* <u>Phoenix Towers</u>	<u>192</u>	<u>MF du</u>
<u>Tiara</u>	<u>320</u>	<u>MF du</u>
<u>Amrit (Island Beach Resort)</u>	<u>258</u>	<u>rooms</u>
<u>Amrit (Island Beach Resort)</u>	<u>28</u>	<u>MF du</u>
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* <u>Ocean Tree</u>	<u>152</u>	<u>MF du</u>
* <u>Villas On the Ocean</u>	<u>54</u>	<u>MF du</u>
* <u>Villa Towers</u>	<u>51</u>	<u>MF du</u>
* <u>Hilton/Coconuts on the Beach</u>	<u>223</u>	<u>rooms</u>
<u>Mirasol (Rutledge Inn)</u>	<u>58</u>	<u>MF du</u>
<u>Island Spa (Canopy Palms)</u>	<u>306</u>	<u>rooms</u>
* <u>Oasis</u>	<u>38</u>	<u>MF du</u>
<u>Beachfront</u>	<u>60</u>	<u>MF du</u>
<u>Ocean's Edge</u>	<u>40</u>	<u>MF du</u>
<u>One Singer Island</u>	<u>15</u>	<u>MF du</u>
* <u>Harbor Point</u>	<u>37</u>	<u>MF du</u>

*current development reflected in existing base traffic counts