

5C-1

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

Meeting Date:	December 21, 2010	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) Approve a County Deed in favor of the City of West Palm Beach (City) reconveying a .35 acre parcel of property located at 826 Evernia Street; and

B) Request Board Direction regarding further implementation of the Transit Oriented Development (TOD).

Summary: In 1957, the City conveyed a .35 acre parcel on Evernia Street (the "Property") to the County, subject to a reverter in the event the Property is not used for a Public Health Center. The State constructed an 11,000 s.f. building (the "Building") which spans both the Property and adjacent County-owned land, for use by the Health Department. The Health Department recently constructed a new facility on the State's block on Clematis Street and vacated the Building in 2009. The Building is old, cannot be cost effectively reused and therefore needs to be demolished. While technically the Property has already reverted to the City, Staff recommends the County approve and record the County Deed to: (i) eliminate potential title issues and (ii) lessen the County's potential liability and maintenance responsibilities. Since a portion of the Building is now owned by the City, Staff will not proceed with the demolition of the Building until such time that: (i) the City funds \$136,000 representing its proportionate share (69%) of the Building's demolition cost or (ii) the City conveys the Property to the County for inclusion in the County's TOD offering. This Property is a critical component to the County being able to complete the next step in the issuance of a Request for Proposal (RFP) for the larger TOD. Staff attempted to negotiate an interlocal agreement which would provide for the City's release of the reverter and define the terms upon which the Property would remain owned/controlled by the County and be marketed as part of the TOD, including the County assuming full responsibility for demolition of the Building. Since the County would fund the demolition and has borne all of the costs to date of pursuing implementation of the TOD, County Staff proposed that in the event the City took a future action to change the redevelopment concept to something other than a TOD, that the Property remain vested in the County and be free of further restrictions on its use. City Staff was unwilling to agree to this nor was willing to fund its share of the cost of demolition of the Building. While City Staff has indicated their willingness to cooperate in marketing the Property as part of the larger TOD and negotiate parking arrangements with the State, County Staff remains extremely concerned about the impact this separate ownership will have on the County's ability to conclude its negotiations with the State for alternate property (the next step in the TOD implementation process). As such, Staff is requesting that the Board provide direction regarding implementation of the TOD. All purchases, sales and exchanges of real estate must be approved by a supermajority vote (5 Commissioners) pursuant to recent amendments to the PREM Ordinance. **(PREM) Countywide (HJF)**

Background & Policy Issues: Beginning in 1998 when it was first known that the Health Department would be vacating the facilities on Evernia/Datura for a soon to be constructed State-owned building on Clematis, the County first reminded the City of its reverter rights and the need to plan for the area, now known as the TOD. At a CRA meeting on 7/13/98 the County made a presentation regarding the County's holdings and specifically identified the property that is subject to the reverter. In the following months, the City began its efforts to plan for the area. At all times since and up until approximately two months ago, the agreed upon approach would be that the County would own all parcels and therefore be able to package, offer and have the Board be in a position to make all decisions related to the disposal of the property.

Attachments:

1. Location Map
2. County Deed
3. Graphic Depicting County Properties in TOD with Reverter Property Identified

Recommended By: [Signature] Amy Wolf 12/8/10
Department Director Date

Approved By: [Signature] J. Barker 12/14/10
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>18</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
Program _____

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

No fiscal impact from this item.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

* Fiscal Impact cannot be determined until board directions

OFMB

Contract Development and Control

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Background and Policy Issues Continued

County Staff believes that approach to be key to the ultimate development of the TOD for the following reasons:

- 1) The City Property is part of the overall property that needs to be committed to the State in order to demonstrate that sufficient parking is available for the State's uses when any of its three users expand, parking structures need to be constructed and/or the County develops on the western portion of the State owned land. This commitment is a critical business term in the State being able to offer the western portion of the Dimick Block to the County for the County's development.
- 2) The County needs to enter into an agreement with the State for the County's use of the western portion of the Dimick Block in order to be able to declare the current County holdings as surplus and offer them in the RFP.

County Staff is extremely concerned about the impact this separate ownership will have on the County's ability to conclude its negotiations with the State for alternate property. While City Staff has indicated their willingness to cooperate with the County in addressing the new obstacles presented by the City's ownership of the Property, there is really no way to incorporate the City into the County's acquisition transaction with the State and the State has indicated that it is unwilling to split its commitments between agencies or have multiple parties obligated to fulfill those commitments. Staff agrees with the State's position.

As such, this issue is going to re-appear shortly as the County is very close to being able to commence negotiations with the State for the acquisition of the western portion of the Dimick Block. The following chart indicates where we are in the process to issue the RFP.

Steps to the Issuance of a Request for Proposals West Palm Beach Transit Oriented Development

Step	Description	Lead Agency	Status and Outstanding Issues
1	Preparation of due diligence study demonstrating that Health Care District of Palm Beach can meet its development objectives on the eastern portion of the State owned block ("Dimick Block").	Department of Health (DOH)	Completed on January 13, 2009.
2	Health Care District's acceptance of alternate site, mid-block, on Dimick Block.	HCD	Completed on June 7, 2010
3	Detailed plan supporting determination that State can meet its development objectives including parking either on-site or off-site.	DOH Department of Management Services (DMS) Palm Beach County (PBC)	Completed on February 16, 2010.
4	Confirmation that State's off-site parking needs can be met through the use of vacant County owned land adjacent to the Dimick Block.	DOH DMS PBC	Completed on September 27, 2010 under the assumption that County would have ownership/control of the Reverter Property. This will now have to be revisited.

Background and Policy Issues Continued

Step	Description	Lead Agency	Status and Outstanding Issues
5	Amendment of three (3) existing State leases to make western 30% of Dimick available for other governmental uses.	State Lands	Drafts of the three separate but related amendments have been prepared by FDO and were transmitted to the State for their review and further processing on November 8, 2010. Do not have estimated date for completion of review and approval; the amendments being reviewed include the parking plan that reflects the property subject to the reverter in County ownership.
6	Declaration of certain State owned lands (western 30%) on Dimick as surplus or available for sub-lease.	State Lands upon recommendation of DMS	The basic terms (structure, term and compensation and interim accommodations) were negotiated in January of 2008 and reconfirmed and further defined in January 2010. However, the concept of the TOD and the plan for the build-out of the Dimick Block will need to be presented to new DMS Administration which will likely be unaware of the WPBTOD and that participation in the TOD deviates from the typical future development planning and management practices of the State.
7	Conclusion of negotiations for acquisition of land from the State on Dimick Block to meet the County's development objectives.	State Lands on recommendation of DMS	Estimated completion date approximately 120 days after either approval of leases or approximately 120 days after May 31, 2011 and assuming leases are amended prior to May 31, 2011; whichever is later. The various State departments involved have indicated that they will not have time to negotiate the transaction during session.
8	Declaration of certain County-owned lands as surplus.	PBC	Within 30 days of completion of Step #7 and approval by County.
9	Approval of State/County agreement by State Trustees	State Lands	Within 30 days of completion of Step #8.
10	Issuance of the TOD RFP for the disposition of County-owned lands within TOD.	PBC	Within 30 days of completion of Step #9.

Because of the complications associated with the City having ownership/control of a parcel within overall lands to be offered via the RFP, and because the very next step in the process (commitment to parking rights over those lands) is the step requiring unified control of the property, County Staff began discussions with City Staff regarding the release of the reverter.

On April 28, 2010, the County submitted a DAC application for the demolition of all buildings with the City Council Item for approval of release of the reverter (prepared by the City Attorney) scheduled for the May 17th City Commission agenda. The Release of Reverter was pulled from the May 17 City Commission agenda just days before that meeting, however, both Staffs believed that the issues were resolvable with the City scheduling the DAC application for consideration on July 14. That DAC approval for the demolition of the buildings was granted. After subsequent discussions, the City Staff advised that it concurred with proceeding with the release of the reverter and replacement with an interlocal agreement containing certain deal terms written in a September 3 e-mail and requested that the County prepare the interlocal agreement accordingly. Those same deal terms were incorporated almost verbatim into the interlocal agreement prepared by the County.

Background and Policy Issues Continued

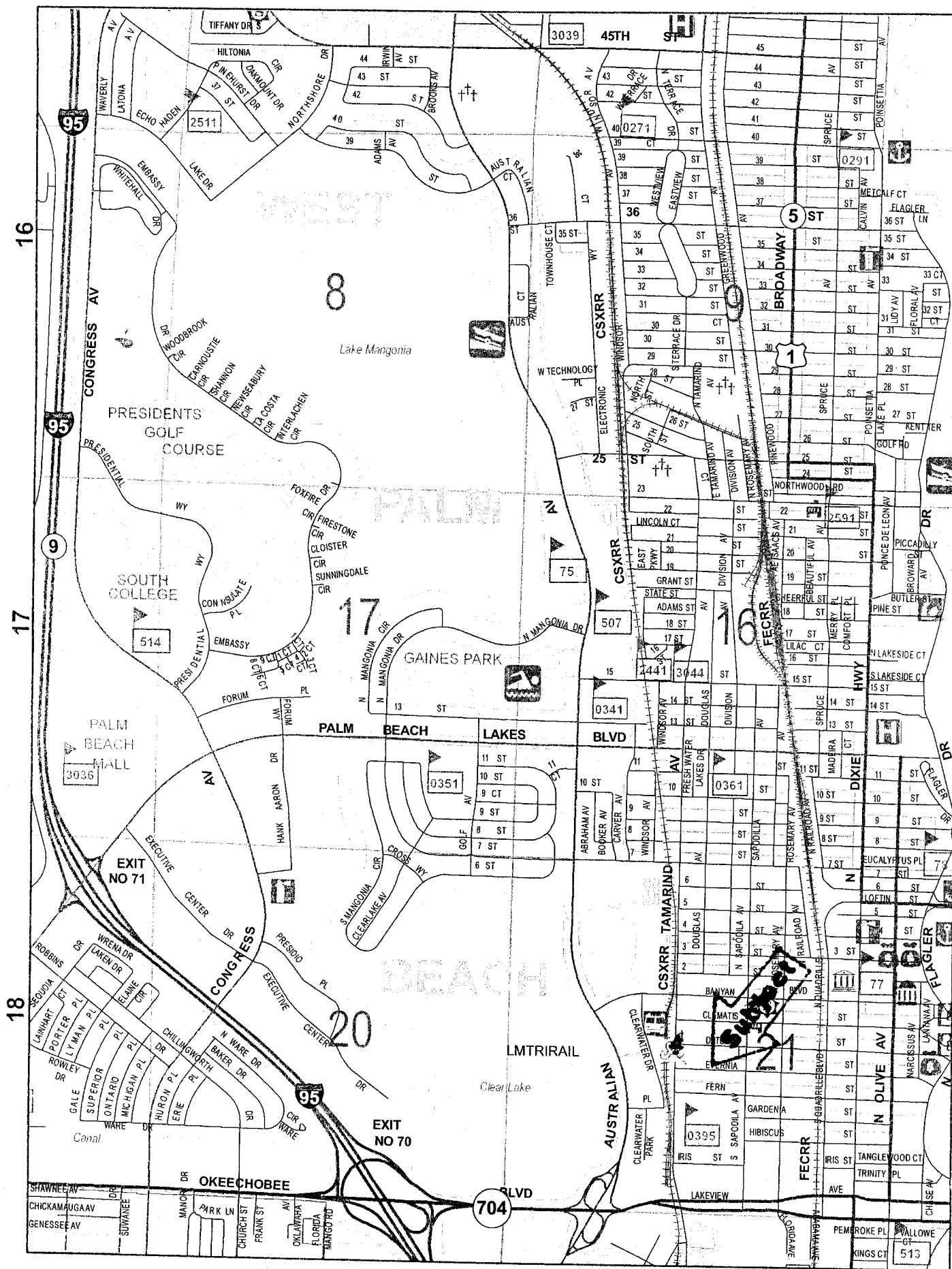
The interlocal proposed by the County provided for; 1) the County to demolish the entire building at its cost, 2) the County to manage and maintain the property until disposed of, 3) pursue the disposal of the combined property for the development of the TOD; all of which require financial participation by the County in this and subsequent fiscal years. The interlocal also included the following language.

"Notwithstanding the foregoing, in the event that the City no longer endorses the TOD or changes its plans or zoning laws to favor a redevelopment scenario other than that of a TOD, the County may terminate this Agreement upon written notice to the City whereupon the County shall be relieved of all further obligations hereunder. Upon such termination, the County shall have the option to either (i) retain the Property unencumbered by the City's Remainder Rights and any other obligations under this Agreement, or (ii) convey the Property to the City via County deed."

County Staff believes that this position was more than reasonable in that the County already has spent close to \$200,000 in pursuing the TOD, and expects that between the demolition costs (on the reverter property) and the consultant and staff time necessary to conclude the State transaction and RFP support, another \$500,000-\$600,000 will be required over the next two to three years. In addition, it has already been demonstrated that the County will incur between \$20 – \$46 million in increased development costs as a result of its participation in implementation of the TOD, while all of the tax revenues will accrue to the CRA. In comparison, the value of the land is maybe \$100,000-\$200,000 in this market, and approximately \$350,000 using the same valuation assumptions used to calculate the value of the County land in the TOD.

After reviewing the interlocal, the City responded that it was unable to agree to the County having the right to retain ownership of the Property. In an effort to keep the TOD moving forward, County Staff offered alternate language that would require the County to reconvey the Reverter Property back to the City if the City funded its share of the demolition costs, \$136,000. County Staff still believed this was a very favorable position for the City in light of the County's costs outlined above.

The City indicated that it was still unable to recommend the terms for approval. As such, an impasse was reached resulting in the action today.



LOCATION MAP

ATTACHMENT #1

PREPARED BY AND RETURN TO:
Samara J. Cooper
PALM BEACH COUNTY
PROPERTY & REAL ESTATE MANAGEMENT DIVISION
2633 Vista Parkway
West Palm Beach, FL 33411-5605

Portion of PCN: 74-43-43-21-01-043-0010
Closing Date: _____
Purchase Price: N/A

COUNTY DEED

This COUNTY DEED, made _____, by **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose legal mailing address is 301 North Olive Avenue, West Palm Beach, Florida, 33401-4791, (the County") and the **CITY OF WEST PALM BEACH**, a municipal corporation of the State of Florida, whose address is 401 Clematis Street, West Palm Beach, Florida 33401 (the "City").

WITNESSETH:

WHEREAS, by Special Warranty Deed, dated August 26, 1957, recorded in Official Records Book 117, Page 303 in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida ("Deed"), the City conveyed to the County, the following described parcel of land, situate, lying and being in the County of Palm Beach, State of Florida, to-wit:

Lot 1, of Block 43, less the North twenty feet (20'), original townsite of West Palm Beach, according to the plat thereof, as recorded in Plat Book 1, Page 2 filed in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida (the "Property"); and

WHEREAS, the Deed provides that if the Property is not used for a Public Health Center it shall revert to the City ("Reverter"); and

WHEREAS, the Property is no longer used by County as a Public Health Center.

NOW THEREFORE, the County, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) to it in hand paid by the City, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the City, its successors and assigns forever the Property.

IN WITNESS WHEREOF, County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

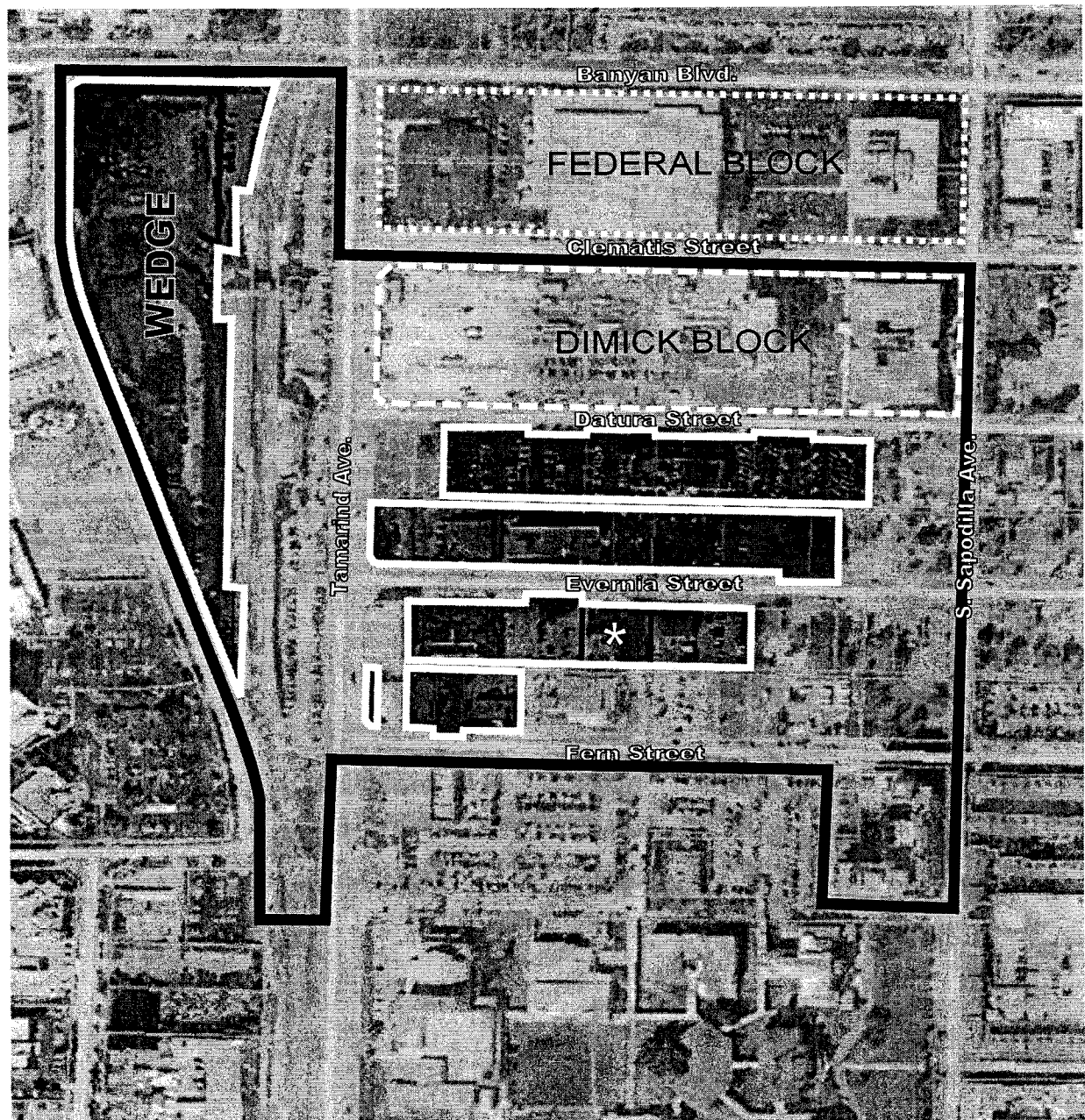
By: _____
Assistant County Attorney

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Karen T. Marcus, Chair

(OFFICIAL SEAL)

Graphic Depicting County Properties In TOD with Reverter Property Identified



LEGEND:
■ County Owned Property
* Reverter Property