

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 19, 2012

Consent [] Regular []
Public Hearing [X]

Department : Water Utilities Department

I. EXECUTIVE BRIEF



Motion and title: Staff recommends motion to: (A) conduct a public hearing as required by the Brownfields Redevelopment Act (the Act) set forth in Sections 376.77-376.85, Florida Statutes to designate the former Pike Utilities property located at 4220 Charleston Street a Brownfield Area; and (B) advertise for public hearing on Tuesday July 10, 2012 at 9:30 a.m. a second public hearing as required by the Act to designate the former Pike Utilities property located at 4220 Charleston Street a Brownfield Area.

Summary: On April 5, 2011, the Palm Beach County Board of County Commissioners approved an Interlocal Subgrant Agreement with Treasure Coast Regional Planning Council (TCRPC) to facilitate Brownfields cleanup and redevelopment of the former Pike Utilities property owned by the County. As part of this process, staff now wishes to designate the property as a Brownfield Area pursuant to the Act. Per Section 376.80(2)(a), Florida Statutes, two (2) public hearings are required in order to designate the property as a Brownfield area. The TCRPC has agreed to allocate from the Environmental Protection Agency (EPA) Brownfields Assessment federal grant funds to the County \$98,550 toward additional site assessment and to provide technical and administrative assistance in compliance with the EPA Grant Agreement. The total project cost for voluntary cleanup is anticipated to be less than \$400,000 with funding in excess of the EPA Brownfields Assessment grant funding coming from WUD's revenues. Designation of the property requires that the Board consider the criteria set forth in Section 376.80(2)(a), Florida Statutes, and also that the Board determine that the designation meet the requirements of Section 376.80(2)(b), Florida Statutes. A staff report reviewing the criteria/requirements is attached. District 2 (MJ)

Background and Justification: Pike Utilities operated a water and wastewater treatment facility during the 1970s, which ceased in the early 1980s when the facility was decommissioned. Palm Beach County acquired the property in 1979. In 2000, contamination was discovered during a preliminary soil investigation, which led to a Phase 1 and limited Phase 2 Environmental Site Assessment, and removal of contaminated soil in 2001. In 2011, TCRPC allocated the County a federal grant in the amount of \$200,000 toward site cleanup activities. These cleanup activities addressed soil and groundwater contamination on the property, which led to removal of contaminated soil in August 2011. Florida Department of Environmental Protection (FDEP) requires site cleanup actions be taken to reach FDEP cleanup standards. Designation of the property as a brownfield area will allow for its development into an open space, provide more favorable cleanup standards, and obtain site closure with FDEP. **Continued on page 3**

Attachments:

1. Resolution
2. Staff report reviewing Brownfield Area designation considerations/requirements
3. Proof of Publication

Recommended By:  6/6/12
Department Director Date
Approved By:  6/14/12
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Expenditures	<u>\$255,632.00</u>	<u>\$112,000</u>	<u>\$65,000.00</u>	<u>\$30,000.00</u>	<u>\$20,000.00</u>
External Revenues	<u>(\$98,550.00)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>\$157,082.00</u>	<u>\$112,000.</u>	<u>\$65,000.00</u>	<u>\$30,000.00</u>	<u>\$20,000.00</u>
		<u>0</u>			

# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
---	----------	----------	----------	----------	----------

Budget Account No.: Fund 4001 Agency 720 Org. 1110 Object 3101

Is Item Included in Current Budget? Yes X No

Reporting Category **N/A**

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

WUD will receive \$98,550 in grant revenue from TCRPC. Remaining project funding of \$384,082 will come from WUD's revenues.

C. Department Fiscal Review: Julia M. West

III. REVIEW COMMENTS


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

OFMB *at* 6/7/12 *6/7/12*

Dr. J. [Signature] 6/13/12
Contract and Development Control
6-12-12 *check*

B. Legal Sufficiency

Legal Sufficiency:


Assistant County Attorney

6/14/12

C. Other Department Review:

Department Director

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

Continued from page 1

A Brownfield Area designation may increase property values for the area, due to cleanup efforts and redevelopment activities. No cost to the County is incurred with the designation. The Brownfield Area designation allows the County to utilize State Brownfield Program incentives for environmental remediation, rehabilitation, and economic development.

Brownfield Area Program benefits:

- Economic incentives
- Loan guaranties
- Liability protection
- Dedicated FDEP staff
- Voluntary cleanup tax credits
- Risk-based corrective action

Per Section 376.80(1), Florida Statutes, the County must notify FDEP when a Brownfield resolution is passed. Water Utilities Department (WUD) staff will perform the notification requirement.

RESOLUTION NO. R-2012-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, DESIGNATING THE PARCEL LOCATED AT 4220 CHARLESTON STREET WITHIN UNINCORPORATED PALM BEACH COUNTY AS A BROWNFIELD AREA; PROVIDING AN EFFECTIVE DATE; PROVIDING THAT COUNTY STAFF SHALL NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF THE BROWNFIELD AREA DESIGNATION.

WHEREAS, the Florida Brownfields Redevelopment Act, Section 376.77 through Section 376.85, Florida Statutes (2011) (the "Act") provides for local governments to designate by resolution areas consisting of one or more brownfield sites as brownfield areas for the purpose of environmental remediation, rehabilitation and economic development; and

WHEREAS, the Board of County Commissioners of Palm Beach County ("Board") desires to designate the parcel located at 4220 Charleston Street within unincorporated Palm Beach County ("Parcel") as a brownfield area; and

WHEREAS, the Parcel is more specifically identified in the map attached hereto as Exhibit "A", which is incorporated herein by reference; and

WHEREAS, Palm Beach County is the owner of the Parcel; and

WHEREAS, the brownfield area designation will enable the County, through its Water Utilities Department, to voluntarily use State of Florida brownfield programs for environmental remediation, rehabilitation and economic development of the Parcel; and

WHEREAS, the County has complied with the notice and public hearing requirements set forth in Sections 376.80(1) and (2)(a) and 125.66(4)(2)(b), Florida Statutes; and

WHEREAS, the Board has considered the criteria set forth in Section 376.80(2)(a)1-4, Florida Statutes, including whether the proposed area warrants economic development and has a reasonable potential for such activities; whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage; whether the proposed area has potential to interest the private sector in participating in rehabilitation; and whether the proposed area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes; and

WHEREAS, The Board has reviewed the requirements for the designation of a brownfield area, as specified in Section 376.80(2)(b), and has determined that the Parcel qualifies for the designation as a brownfield area because the following requirements have been met:

1. Palm Beach County is the owner of the Parcel, and the County's Water Utilities Department has requested the designation and has agreed to rehabilitate and redevelop the Parcel.
2. The rehabilitation and redevelopment of the Parcel will result in economic production in the area, and the job creation requirement of the Act is not applicable because the Parcel will be utilized for the creation of a recreation area, conservation area, or a park.

3. The redevelopment of the Parcel is consistent with the Palm Beach County Comprehensive Plan and is a permissible use under applicable Palm Beach County land development regulations.
4. Proper notice of the proposed rehabilitation of the Parcel has been provided to all required parties and Palm Beach County has provided those receiving comments the opportunity to provide comments and suggestions about the rehabilitation.
5. Palm Beach County, through its Water Utilities Department, has sufficient financial resources to implement and complete a rehabilitation agreement and redevelopment plan.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:

Section 1. The recital and findings set forth in the Preamble to this Resolution are hereby adopted into and are made a part of this resolution.

Section 2. Pursuant to the Act, the Parcel depicted in Exhibit "A" is hereby designated as a brownfield area.

Section 3. This resolution shall become effective upon its adoption.

Section 4. County staff shall notify the Florida Department of Environmental Protection of this brownfield area designation pursuant to Section 376.80, Florida Statutes.

The foregoing Resolution was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote; the vote was as follows:

Commissioner Shelley Vana, Chair
Commissioner Steven L. Abrams, Vice Chairman
Commissioner Karen T. Marcus
Commissioner Paulette Burdick
Commissioner Burt Aaronson
Commissioner Jess R. Santamaria
Commissioner Priscilla A. Taylor

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2012.

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

By: _____
Sharon R. Bock, Clerk and Comptroller

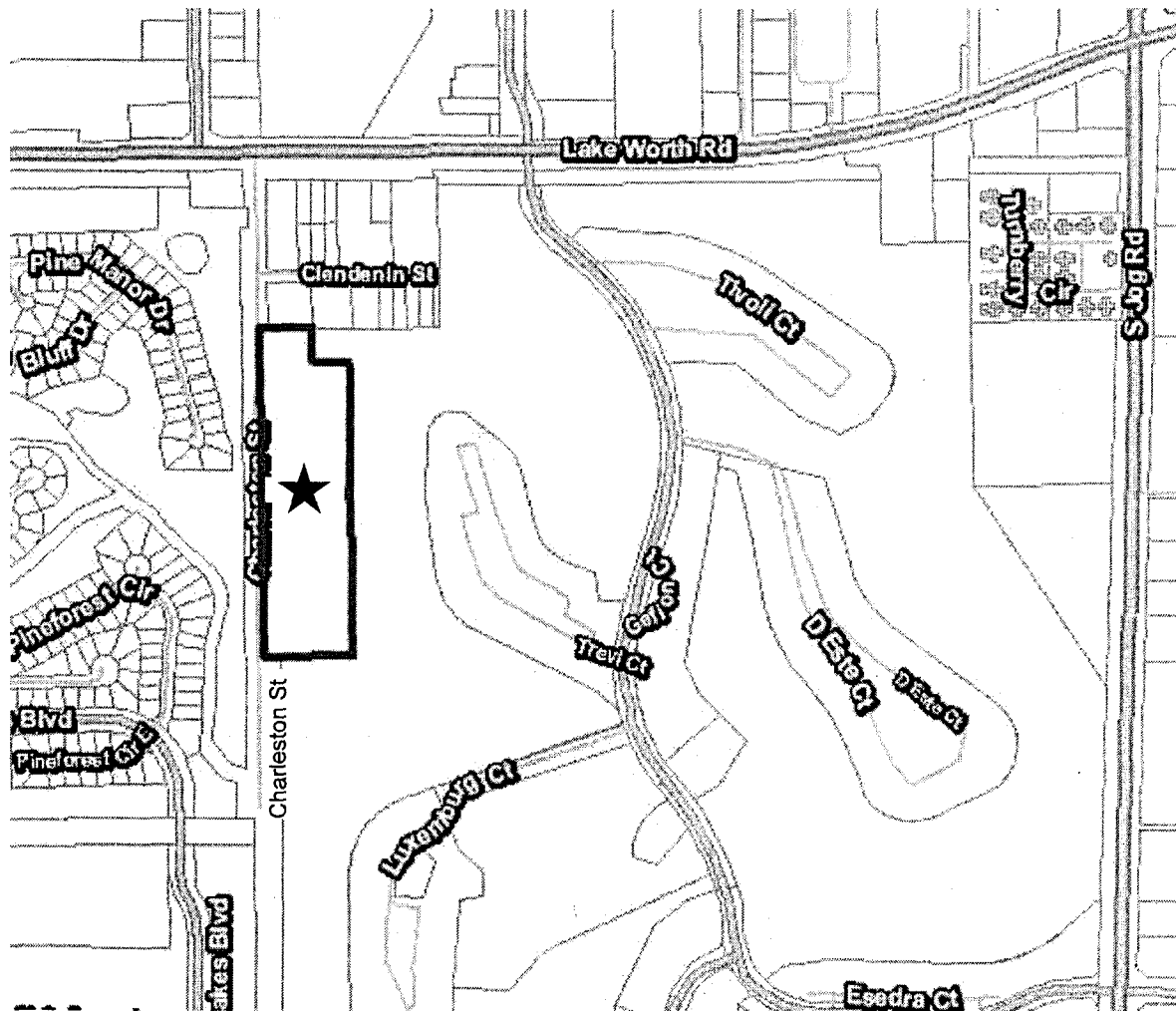
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

4220 Charleston Street

Brownfield Area

EXHIBIT A





**WATER UTILITIES DEPARTMENT
INTER OFFICE MEMORANDUM**

DATE: May 9, 2012
TO: File
FROM: Krystin Berntsen, P.E.
RE: Brownfield area designation considerations/requirements of the former Pike Utilities property located at 4220 Charleston Street within unincorporated Palm Beach County

Property information

The former Pike Utilities property is located at 4220 Charleston Street, Lake Worth in unincorporated Palm Beach County. The property is approximately 9.7 acres, and is bounded to the east and south by the Fountains Golf Course, to the west by Charleston Street and to the north by residences.

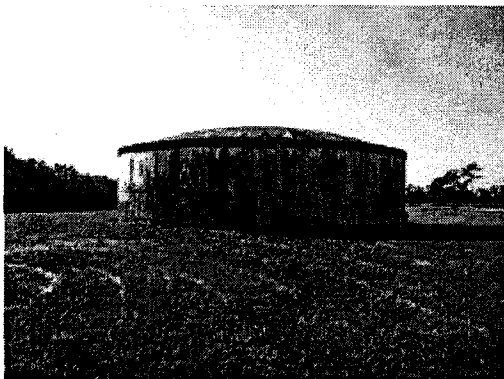
Proposed Brownfield Area



Property Background

Pike Utility Company owned and operated a water and wastewater treatment facility on the property in the 1970s, which consisted of two percolation ponds, a waste pit, drying beds, above ground water storage tank, a wastewater treatment plant, and control building; a site map is provided. Operations ceased in early 1980s, shortly after Palm Beach County Water Utilities Department purchased the property in 1979. Contamination had occurred or existed on the property during the Pike Utility Company's time of operation.

The abandoned above ground water storage tank and control building remain onsite, and the property has remained vacant since operations were stopped in the 1980s. The property is surrounded by a chain link fence for security. However, over the past two years we have noticed an increase of gang activities at this site, which has become a public safety issue. In addition, WUD has received complaints from area residents regarding the unsightliness of the property and associated gang activity, as evidenced by graffiti on existing structures.



View of the former water holding tank from the north



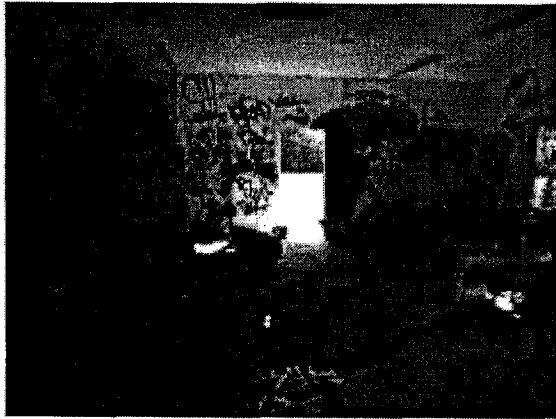
View of the abandoned AST



View of the former control building from the west



View of the former control building from the east



**View of the inside of the former
control building**



**View of the inside of the former
control building**

At the time of purchase in 1979, Environmental Site Assessments (ESAs) were not required nor performed. ESAs were completed in 2000 and 2001 when there was interest in redevelopment of the property. The ESAs indicated the presence of arsenic in soils in the former waste pit area, along the eastern boundary of the property. In 2001, soil remediation was performed by Nodarse & Associates in which approximately 118 tons of soil was excavated and clean fill was brought onsite to backfill the excavated area. In 2007, soil borings indicated presence of arsenic in the former waste pit area, -former southern and northwest percolation ponds; and presence of lead in the former northwest percolation pond.

In 2011 a Phase I ESA and Phase II ESA were completed and indicated the presence of arsenic in the former southern percolation pond, iron and molybdenum near the former wastewater treatment plant, and aluminum near the control building. In 2012 a Pre-Demolition Asbestos Survey Report was completed and detected asbestos in the floor tile, roof flashing, and drywall of the former control building.

The Treasure Coast Regional Planning Council (TCRPC) allocated a federal grant from the Environmental Protection Agency (EPA) in the amount of \$200,000 to the County to assist in site cleanup activities. Tasks completed under the federal grant include an Analysis of Brownfields Cleanup Alternatives, Combined Document Site Assessment and Interim Source Removal. The Interim Source Removal activities removed approximately 507 tons of soil from the former southern percolation pond and just east of the control building, and clean fill was brought onsite to backfill the excavated area.

Brownfield Introduction

In 1997, the Florida legislature enacted the Brownfields Redevelopment Act, set forth in Sections 376.77-376.85, Florida Statutes. The primary goals of the Brownfields Redevelopment Act are to reduce public health and environmental hazards on existing commercial and industrial sites that are abandoned or underused due to these hazards; create financial and regulatory incentives to encourage voluntary cleanup and redevelopment of sites; derive cleanup target levels and a process for obtaining a "No Further Action" letter using Risk-Based Corrective Action principles; and provide the opportunity for Environmental Equity and Justice.

The Brownfields Redevelopment Act allows communities to designate one or more properties as a Brownfield area. Also, a property owner may enter into a specific Brownfield Site Redevelopment Agreement (BSRA) with the State of Florida, and doing so allows the property owner to take advantage of administrative assistance, regulatory assistance, and financial assistance for voluntary clean up of their property.

To designate a brownfield area, the state requires that local governments conduct a minimum of two public hearings. If after the public hearings the local government decides to designate a proposed brownfield area, the local government must adopt a Resolution designating the area as a brownfield area and include a legal description or map of the parcel(s) to be included in the brownfield area.

- *Brownfield site is an abandoned, idled, or underused property where redevelopment is complicated by real or perceived environmental contamination.*
- *Brownfield area means one or more Brownfield site(s) which is designated by a local government through resolution.*

Proposed Brownfield Area Designation

Three site improvement options are available for the property. Option one is do nothing, however FDEP will require the property to be cleaned up to acceptable levels. Option two is residential development which requires cleanup to residential levels so the property can be developed into a multi-family residential community. Option three is open space and brownfield area designation which ~~consists~~ includes of voluntary cleanup of the property to public use levels, ~~as well as the~~ Under Option three, the County is eligible to receive incentives for development. In addition, open space will help to maintain the quality of life enjoyed by existing residents. Therefore, it makes economical sense to designate the property a brownfield area, ~~and redevelop it into an open space, cleanup the property for public use, and obtain a conditional site closure with Florida Department of Environmental Protection (FDEP).~~

Although much environmental cleanup work has already taken place on the property, the former Pike Utilities property has never been officially designated as a brownfield. Such designation and entering into a ~~Brownfield Site Rehabilitation Agreement (BSRA)~~ with FDEP will allow enrollment of the property into the State program and allow for significant benefits described below.

The benefits of designating the property as a brownfield area and executing a Brownfield Site Rehabilitation Agreement (BSRA) with FDEP are:

- All benefits of Brownfield area
- Regulatory Framework for Cleanup (Rules 62-785 and 62-777, F.A.C.)
- Dedicated staff – expedited technical review
- Liability Protection
- Voluntary cleanup tax credits
- Memorandum of Understanding with EPA
- Possible ~~increases~~ in property values for the area

Brownfield Area Designation Criteria

In determining the areas to be designated as a brownfield area, the local government must consider the following:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation;
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

While the above criteria are listed in the Florida Statutes, there is no requirement that a proposed brownfield area meet all of the criteria.

As proposed, the former Pike Utilities brownfield area meets criteria number one in that the property has reasonable potential for development activities. However, the size of the property and upgrades to Charleston Street make the site not suitable for residential development. The most beneficial use of the site is open space.

The 4220 Charleston St. brownfield area meets criteria number two, in that it is not overly large in geographic coverage and represents a focused approach to the property. At this time, the proposed brownfield area is limited to the former Pike Utilities property.

The 4220 Charleston St. brownfield area does not meet criteria number three. This is because there has been little no interest from the private sector in participating in brownfield area rehabilitation activities.

As proposed, the former Pike Utilities brownfield area meets criteria number four, in that future use of the property will be open space.

Brownfield Area Designation Requirements

In addition to the criteria set forth above, Section 376.80(2)(b), Florida Statutes, sets forth certain requirements for the designation of a brownfield area. Water Utilities staff has reviewed these requirements and determined that the requirements are satisfied in relation to designation of this property as a brownfield area for the following reasons:

1. Palm Beach County is the owner of the property, and the County's Water Utilities Department has requested the designation and has agreed to rehabilitate and redevelop the property.
2. The rehabilitation and redevelopment of the property will result in economic production in the area, and the job creation requirement of the Act is not

applicable because the property will be utilized for the creation of a recreational area, conservation area, or a park.

3. The redevelopment of the property is consistent with the Palm Beach County Comprehensive Plan and is a permissible use under applicable Palm Beach County land development regulations. Refer to email from Palm Beach County Planning Department.
4. Proper notice of the proposed rehabilitation of the property has been provided to all required parties and Palm Beach County has provided those receiving comments the opportunity to provide comments and suggestions about the rehabilitation.
5. Palm Beach County, through its Water Utilities Department, has sufficient financial resources to implement and complete a rehabilitation agreement and redevelopment plan.

Proposed Brownfield Area Designation Resolution

Staff recommends approval of the brownfield area designation Resolution. The Resolution meets the requirements of Florida Statutes in that it acknowledges that the County has considered the brownfield area designation criteria and requirements, recognizes that the County has followed public hearing requirements, and provides a map depicting the proposed brownfield area.

email from Palm Beach County Planning Department that redevelopment is consistent with Palm Beach
County Comprehensive Plan

Krystin Berntsen

From: Bryan Davis [BMDavis@pbcgov.org]
Sent: Tuesday, May 22, 2012 1:53 PM
To: Thomas H. Miller; Krystin Berntsen
Cc: Hassan Hadjimiry; Michael W. Jones; Greg Vaday
Subject: Charleston Street/Pike Road WUD site

Good afternoon,

Per your request, the Planning Division finds the proposed removal of the existing abandoned water utility site located on Charleston Street, south of Lake Worth Road, and replacement with a passive enclosure for fallow land to be not inconsistent with the Goals Objectives and Policies of the Comprehensive Plan, particularly within the Future Land Use Element (FLUE). The parcel under consideration features a Medium Residential, 5 units per acre (MR-5) Future Land Use (FLU) designation. This use appears to be consistent with a conservation and/or passive recreation purpose, uses which are generally consistent with a residential FLU designation. Per the FLUE, all residential designations may feature uses such as parks and recreation uses designed to serve the residential area, but may not be those of a regional scale. Furthermore, conservation uses, per FLUE Policy 2.2.7-c, shall be permitted and encouraged in all FLU designations.

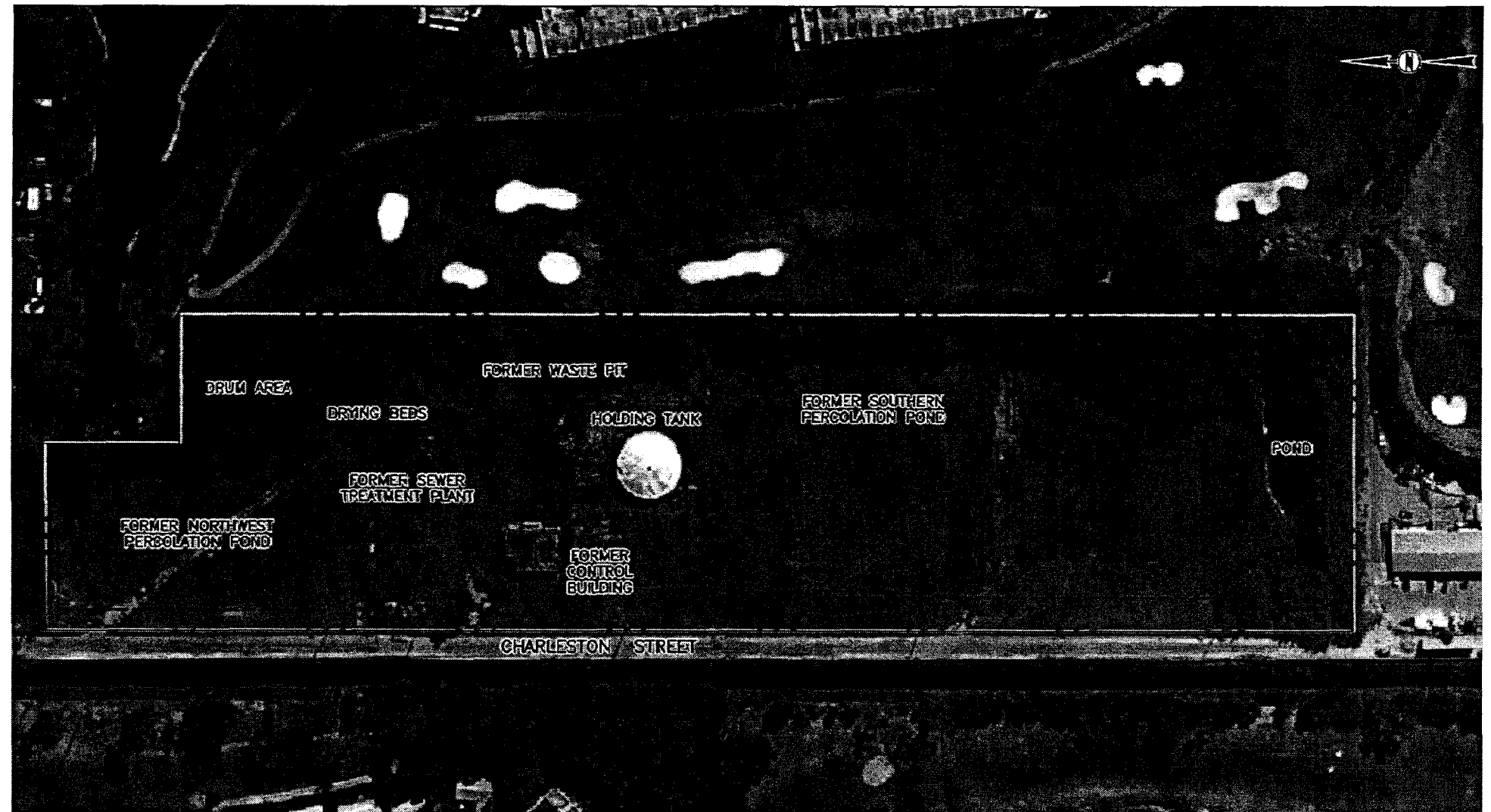
Please be advised that a change in use may require rezoning or other approvals to ensure complete consistency between the FLU designation and the zoning district and the proposed new use. For more information, you are advised to contact the Zoning Division at (561) 233-5200.

Control #: 88-61 "County Utility Site, Pike & Lake Worth Roads"
Zoning Resolutions: R-89-962 & R 89-963
PCN 00-42-44-27-02-000-0040
Zoning: RM/SE
Future Land Use: MR-5

Bryan M. Davis, CNU-A
Urban Designer/Principal Planner
Palm Beach County Planning Division
2300 N. Jog Rd., WPB, FL 33411
Phone/Fax: 561.233.5308 / 5365
E-mail: bmdavis@pbcgov.org

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Figure 2-Site Map



ATTACHMENT 3

THE PALM BEACH POST
Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Ellen Sanita, who on oath says that she is Call Center Revenue Manager of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice in the matter Brownfield Public Hearing was published in said newspaper in the issues of June 7, 2012. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.

[Signature]

Sworn to and subscribed before 7th day of June, A.D. 2012.
Who is personally known to me.

[Signature]

NOTARY PUBLIC-STATE OF FLORIDA
Karen M. McLinton
Commission #DD832672
Expires: NOV. 15, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

NO. 6745079R

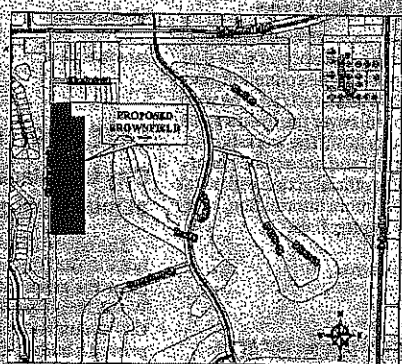
**PALM BEACH COUNTY
BOARD OF COUNTY
COMMISSIONERS**

**NOTICE OF BROWNFIELD
AREA DESIGNATION
PUBLIC HEARING**

NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, gives notice of its intent to consider adopting a resolution establishing a Brownfield Area near Charleston Street and Lake Worth Road within unincorporated Palm Beach County (as shown below). The first of two public hearings, at which parties in interest and citizens shall have an opportunity to be heard, will be held at its regularly scheduled meeting on June 19, 2012. The meeting will be held in the Jane M. Thompson Memorial Chambers of the Board of the Palm Beach County Governmental Center, 301 North Olive Avenue, West Palm Beach, Florida, 33401, commencing at 9:30 a.m. or as soon thereafter as the matter may be heard. The proposed resolution is entitled:

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, DESIGNATING THE PARCEL LOCATED AT 4220 CHARLESTON STREET WITHIN UNINCORPORATED PALM BEACH COUNTY AS A BROWNFIELD AREA, PROVIDING AN EFFECTIVE DATE, PROVIDING THAT COUNTY STAFF SHALL NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF THE BROWNFIELD AREA DESIGNATION.

This is the first of two scheduled public hearings for the Brownfield Area designation and enactment of the above titled resolution. The purpose of this public hearing is to obtain public comment on the proposed Brownfield Area designation of the parcel depicted on the map below. A Brownfield area is an abandoned, idled, or underused site where real or perceived environmental contamination can hinder the use or redevelopment of a property, and where a local government has determined that the area warrants economic development.



All INTERESTED PERSONS are invited to attend said Public Hearing and have a right to appear and file written comments with the Board of County Commissioners prior to or during the Public Hearing. If any person decides to appeal a decision made by this Commission with respect to any matter considered at the Public Hearing, they will need a record of the proceedings, and that for such purposes, they may need to ensure that a verbatim record of the Public Hearing is made, which record includes the testimony and evidence upon which the appeal is to be based.

Palm Beach County, Florida
Board of County Commissioners

PUB: The Palm Beach Post June 7, 2012