

Meeting Date: February 9, 2016

Agenda Item 19

REQUESTED COMMISSION ACTION: QUASI-JUDICIAL

Consent	Ordinance	X Resolution	Consideration/ Discussion	Presentation
_____	_____	_____	_____	_____

SHORT TITLE

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ALLOCATING A MAXIMUM OF SIX FLEX UNITS FOR A PROPOSED RESIDENTIAL DEVELOPMENT LOCATED AT THE NORTHEAST CORNER OF NORTHWEST 1<sup>ST</sup> STREET AND NORTHWEST 28<sup>TH</sup> AVENUE; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

This Flex Unit allocation request is for a 0.73-acre property located north of NW 1<sup>st</sup> Street and east of NW 28<sup>th</sup> Avenue. This property is owned by Habitat for Humanity of Broward, Inc., which intends to develop six single-family units on the property. It has a Pompano Beach Land Use designation of Low-Medium (LM) and a Broward County Commercial (C) Land Use designation. If granted, the flex unit allocation would make the City's Land Use Designation consistent with the County's Land Use Designation. The applicant has submitted a conceptual site plan showing the layout of the units on the subject property (Exhibit B of the Resolution). The proposed application was recommended for approval at the April 22, 2015 Planning and Zoning Board meeting with a 6-1 vote (a copy of the meeting minutes are attached). There was one condition requiring the deed restriction for affordable housing. The applicant has submitted a Declaration of Covenants (attached). The applicant just received rezoning approval for the property to RS-4 (Single-Family Residential) at the January 26, 2016 City Commission meeting.

- (1) Origin of request for this action: Perry Ecton of Habitat for Humanity of Broward, Inc.
- (2) Primary staff contact: Robin M. Bird/ Maggie Barszewski Ext. 7921
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: None

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	04/22/2015	Approval	Memo #15-190
City Attorney	11/30/2015	Approval	Memo #2016-224
X Planning and Zoning Board	1/29/2016	Approval	Memo #15-030 (05/07/2015)
X City Manager			

Ordinance Workshop	Resolution	Consideration
1 <sup>st</sup> Reading	1 <sup>st</sup> Reading	Results:
2 <sup>nd</sup> Reading		



**City Attorney's Communication #2016-224**

November 30, 2015

**TO:** Maggie Barszewski, AICP, Planner

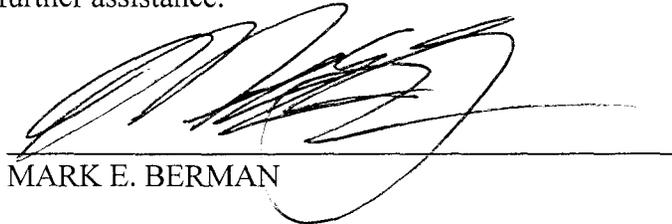
**FROM:** Mark E. Berman, City Attorney

**RE:** Resolution – Flex Allocation for Property Located at NW 1<sup>st</sup> Street, Approximately 230 Feet North of W. Atlantic Boulevard

As requested in your memorandum of November 25, 2015, Department of Development Services Memorandum #15-625, the following form of resolution, relative to the above-referenced matter, has been prepared and is attached:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA ALLOCATING A MAXIMUM OF SIX FLEX UNITS FOR A PROPOSED RESIDENTIAL DEVELOPMENT LOCATED AT THE NORTHEAST CORNER OF NORTHWEST 1<sup>ST</sup> STREET AND NORTHWEST 28<sup>TH</sup> AVENUE; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.



MARK E. BERMAN

MEB/jrm  
l:cor/dev-srv/2016-224

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA ALLOCATING A MAXIMUM OF SIX FLEX UNITS FOR A PROPOSED RESIDENTIAL DEVELOPMENT LOCATED AT THE NORTHEAST CORNER OF NORTHWEST 1<sup>ST</sup> STREET AND NORTHWEST 28<sup>TH</sup> AVENUE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Habitat for Humanity of Broward, Inc. requests an allocation of a maximum of six (6) flex units in order to construct a residential development on property located on the northeast corner of NW 1<sup>st</sup> Street and NW 28<sup>th</sup> Avenue, legally described in Exhibit “A”; and

**WHEREAS**, the City of Pompano Beach has passed Ordinance 2007-48, which requires that applications for flex and reserve units must comply with certain requirements to construct affordable housing; and.

**WHEREAS**, the applicant intends to comply with the affordable housing requirements of Ordinance No. 2007-48, by deed restricting the subject property for 30 years to require “Low income” purchasers; and

**WHEREAS**, in order to construct the proposed project on the subject property, applicant requires a maximum of six flex units; now, therefore,

**BE IT RESOLVED BY THE CITY COMMISSION OF CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That the City Commission of the City of Pompano Beach hereby allocates a maximum of 6 flex units, all of which will come from the unified flex zone for the proposed housing project to be constructed on the property which is legally described in Exhibit “A.”

**SECTION 2.** The number of flex units in the unified flex zone shall be reduced by however many units are necessary for the project, not to exceed six units.

**SECTION 3.** The proposed project must be built in substantial conformity with the attached conceptual site plan as shown in Exhibit “B,” a copy of which is attached hereto and made a part hereof.

**SECTION 4.** The applicant must comply with the affordable housing requirements of Ordinance No. 2007-48, which will be through the Applicant’s voluntary commitment to have a 30-year deed restriction placed on the property requiring sales to be made to only “Low-income” purchasers, as defined by the U.S. Department of Housing and Urban Development.

**SECTION 5.** Failure of the applicant to obtain a principal building permit for its project as shown in Exhibit “B” within two years of the date of this resolution shall render the allocation of the flex units null and void.

**SECTION 6.** Failure of the applicant to construct the project substantially in accordance with the conceptual site plan as shown in Exhibit “B” shall render the allocation of the flex units null and void; the units may not be used for or applied to any other project or projects.

**SECTION 7.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

:jrm  
2/2/16 – 11/30/15  
L:reso/2016-62

Exhibit A

THE WEST 1/2 OF THE SOUTH 1/3 OF THE NORTH 3/5 OF THE SE 1/4 OF THE SE 1/4 OF THE SW 1/4 OF SECTION 33, TOWNSHIP 48 SOUTH, RANGE 42 EAST, LESS THE WEST 25 FEET THEREOF AND LESS THE SOUTH 25 FEET THEREOF, ALL OF SAID LANDS LYING AND BEING IN BROWARD COUNTY, FLORIDA.

SAID LANDS SITUATE IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA.



**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY  
MEMORANDUM #15-030**

**DATE:** May 7, 2015  
**TO:** City Commission  
**FROM:** Planning and Zoning Board/ Local Planning Agency  
**SUBJECT:** FLEX UNIT REQUEST  
Both sides of NW 28<sup>th</sup> Avenue, along NW 1<sup>st</sup> Street  
P&Z #15-05000002 Habitat for Humanity of Broward, Inc. / Habitat for Humanity

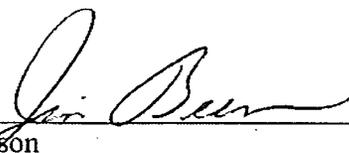
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At the meeting of the Planning and Zoning Board/ Local Planning Agency held on April 22, 2015, the Board considered the request by **HABITAT FOR HUMANITY OF BROWARD, INC.** requesting 12 FLEX UNITS on the above referenced property.

As it is consistent with the goals, objectives, and policies of the Comprehensive Plan stated in Administrative Report 15-190, the Board recommends the approval of the flex allocation subject to the following one (1) condition of staff:

1. The applicant must deed restrict the property to meet Section 154.61(D)(3).

The vote was six (6) to one (1), with Walter Syrek casting the dissenting vote.

  
\_\_\_\_\_  
Jim Beeson  
Chairman  
Planning and Zoning Board/ Local Planning Agency



CITY OF POMPANO BEACH  
FLORIDA

**CITY HALL OFFICES:**

100 W. Atlantic Boulevard  
Pompano Beach, Florida  
PHONE: (954) 786-4662

*Visit Our Website At:*  
<http://www.pompanobeachfl.gov>

**MAILING ADDRESS:**

City of Pompano Beach  
P.O. Box 1300  
Pompano Beach, FL 33061

\*\*\*\*\*

PLANNING AND ZONING BOARD/LOCAL  
PLANNING AGENCY

April 22nd, 2015  
Wednesday

City Commission Chambers

7:00 P.M.

**AGENDA**

A. Call to order by the Chairman of the Board, Mr. Jim Beeson at 7:02pm.

**B. ROLL CALL:**

- Jim Beeson
- Jerry Mills
- Richard Klosiewicz
- M. Dwight Evans
- Tobi Aycock *for Joan Kovac*
- Walter Syrek *for Fred Stacer*
- Jeff Torrey
- Maggie Barszewski
- Paola West
- Kerrie MacNeil
- Debbie Orshefsky
- Sherry Gutierrez
- Fred Goodman
- Janelle Row
- Jay Huebner
- Andrew Speranzini
- Perry Ecton

Also Present:

neighbors' views. Mrs. Orshefsky stated that they are willing to stand by the commitment they made to their neighbor. Mrs. Orshefsky also stated that they received site plan approval from the Zoning Board of Appeals to place the trailer on their property. Mrs. Orshefsky stated that she advised the head of construction to cease work on Sundays as soon as she heard word of them working when they were not supposed to work.

Mr. Beeson stated that he realizes that the applicant is going out of their way reduce the amount of view they block for their neighbors. Mr. Klosiewicz asked the applicant if, by moving the building closer to A1A, if they sacrificed any of the line of sight for the applicant's building. Mr. Klosiewicz restated his question. Mrs. Orshefsky confirmed that they did. Mr. Beeson stated he is happy to see the project starting after the property being vacant for so many years. Mr. Beeson stated that he does not see what else they are going to build there if they do not construct a condo.

**MOTION** was made by Richard Klosiewicz and seconded by Tobi Aycock to approve the proposed Site Plan subject to the eleven (11) conditions of staff; all voted in favor of the above motion; therefore the motion passed.

**I.    OTHER BUSINESS**

→ **5. HABITAT FOR HUMANITY OF BROWARD, INC. / HABITAT FOR HUMANITY - FLEX UNIT REQUEST (This item was heard fourth)**  
**Planning and Zoning #15-0500002**

Consideration of the FLEX UNIT REQUEST submitted by **HABITAT FOR HUMANITY OF BROWARD, INC.** to request twelve (12) Flex units to be allocated on property that has a Commercial Land Use. The 1.956-acre subject property consists of two parcels located on both sides of NW 28<sup>th</sup> Avenue, along NW 1<sup>st</sup> Street and is owned by Habitat for Humanity of Broward, Inc. There is a concurrent rezoning request on the total project site, to change the B-3 (General Business) to RS-4 (Single Family Residential) on the subject property. The purpose for the flex unit allocation and the rezoning requests is to allow the development of the 12 single family units. The applicant has submitted a preliminary site plan (see Attachment I) showing the layout of the units on the subject property. The property is more specifically described as follows:

THE EAST 1/2 OF THE SOUTH 1/3 OF THE NORTH 3/5 OF THE  
SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE  
SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 48 SOUTH,  
RANGE 42 EAST, LESS THE EAST 25 FEET THEREOF,  
DEDICATED TO BROWARD COUNTY FOR PUBLIC ROAD  
PURPOSES.

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Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // kem

SAID LANDS SITUATE IN THE CITY OF POMPANO BEACH,  
BROWARD COUNTY, FLORIDA.

TOGETHER WITH:

THE WEST 1/2 OF THE SOUTH 1/3 OF THE NORTH 3/5 OF THE  
SE 1/4 OF THE SE 1/4 OF THE SW 1/4 OF SECTION 33,  
TOWNSHIP 48 SOUTH, RANGE 42 EAST, LESS THE WEST 25  
FEET THEREOF AND LESS THE SOUTH 25 FEET THEREOF,  
ALL OF SAID LANDS LYING AND BEING IN BROWARD  
COUNTY, FLORIDA.

SAID LANDS SITUATE IN THE CITY OF POMPANO BEACH,  
BROWARD COUNTY, FLORIDA.

AKA: Both sides of NW 28<sup>th</sup> Avenue along NW 1<sup>st</sup> Street  
ZONED: B-3 (General Business)  
STAFF CONTACT: Maggie Barszewski (954) 786-7921

Mrs. Barszewski introduced herself to the board. She stated that this Flex allocation request is for a 1.956-acre subject property consisting of two parcels located on both sides of NW 28<sup>th</sup> Avenue, along NW 1<sup>st</sup> Street, approximately 230 feet north of W. Atlantic Boulevard. The request is for 12 units to be located on property that has a Commercial Land Use. The site is owned by Habitat for Humanity of Broward, Inc. There is a concurrent rezoning request and land use amendment request being considered tonight. The reason this is being heard tonight is because the County's land use will continue to be commercial, therefore the property has to have a flex allocation in order to accommodate the County's commercial land use.

Mrs. Barszewski stated that this item was brought before the DRC and the applicant has met all of the DRC requirements.

Mrs. Barszewski stated that the Zoning and uses of adjacent properties are:

- o North – (RS-4) – Single-Family Units
- o South – (B-2) – Vacant & Retail Buildings
- o East – (B-3) – Multi-Family Units
- o West – (RS-4) – Single-Family Units

Mrs. Barszewski stated that the main access will be through NW 1<sup>st</sup> Street, which will be required to be constructed at the time of platting. Also, the subject property is included in the Flex Receiving Area.

Mrs. Barszewski stated that the review criteria is Section 154.61(c)(2) states the following: Approval by the City Commission for the requested number of reserve and flexibility units, or such lesser number, upon applicant establishing by competent and substantial evidence, the following:

- A. Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.

- B. The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

Section 154.61(D)(3) requires that to be eligible for the allocation of flexibility and reserve units the applicant must agree to provide affordable housing units on the application site of any one type. Mrs. Barszewski stated that this project will be providing 100 percent affordable housing, which meets the requirement.

Mrs. Barszewski stated that the following goals, objectives and policies of the City's Comprehensive Plan have been identified as pertinent to this flex application:

**Goal**

01.00.00 The attainment of a living environment which provides the maximum physical, economic and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

**Policies**

- 01.04.01        The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.
  
- 01.07.21        Annually evaluate the effect of land development regulations and permitting on the affordability of housing and take appropriate actions to support the affordability of housing. Continue to implement the incentives for providing affordable housing currently in the land development regulations including the use of flex units for affordable housing and the expedited permit review process for developments primarily aimed at providing affordable housing.
  
- 01.07.22        The city's land development code shall include provisions to encourage or enable a variety of housing opportunities in varying price ranges, including housing for low and moderate income families in large scale residential developments.

**Recommendation:**

Given the information provided to the Board, as the findings of fact, staff provides the following recommendation and alternative motions, which may be revised or modified at the Board's discretion.

**Alternative Motion I**

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Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // kem

Recommend approval of the Flex allocation with the condition that the applicant deed restrict the property to meet Section 154.61(D)(3). This approval is recommended since the request is consistent with Section 154.61(D)(3) of the Code, and the use of the flexibility units will produce a reasonable development pattern. Furthermore, the request is consistent with the goals, and policies of the Comprehensive Plan that have been read into the record.

**Alternative Motion II**

Table this application for additional information as requested by the Board.

**Alternative Motion III**

Recommend denial as the Board finds that the use of the reserve and flexibility units will not produce a reasonable development pattern, including failure to demonstrate compatibility of adjacent land uses and suitability of the parcel for various development patterns.

Further, the Flex request is found to be not consistent with the goals, objectives and policies of the Comprehensive Plan that have been read into the record.

Mrs. Barszewski stated that the CRA has approved this project.

Mrs. Barszewski placed the conceptual site plan submitted for this flex application on the projector screen. She stated that this was the only item that required a site plan to be submitted. The LUPA and rezoning do not require a site plan.

Mrs. Barszewski stated that her presentation has concluded.

Mr. Beeson asked if the board had any questions for staff. Mr. Evans asked if the CRA recommended approval or state that they do not have any objections. Mrs. Barszewski replied that the CRA wrote that they have no objections rather than they approve the Flex request. Mr. Beeson asked Mr. Evans to clarify the difference between the approval and the statement made by the CRA that they do not object at this time.

Mr. Beeson asked the board if they have any questions for the applicant. Mr. Torrey said that he would like to commend Habitat for meeting with the neighbors and changing their plans in order to appease the neighbors.

Mr. Beeson asked the audience if anyone would like to speak on the item. No one replied.

Mr. Beeson asked if staff would like to hold a discussion on the item and no one replied.

**MOTION** was made by Tobi Aycock and seconded by Richard Klosiewicz to recommend approval of the Flex allocation subject to the one (1) condition of staff. All voted in favor of the above motion, except for Walter Syrek; therefore the motion passed.

# MEMORANDUM

## Development Services

ADMINISTRATIVE MEMORANDUM NO. 15-190

DATE: April 22, 2015

TO: Planning and Zoning Board

VIA: Robin M. Bird, Development Services Director *RB*

FROM: Maggie Barszewski, AICP, Planner *MB*

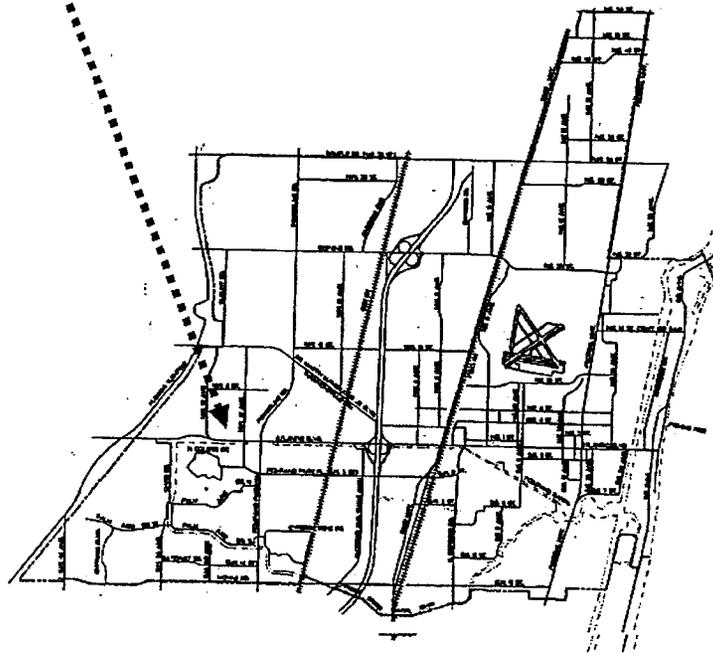
RE: Habitat for Humanity Flex Allocation Request  
April 22, 2015 meeting

P&Z # 15-5000002

**Request**

This Flex allocation request is for a 1.956-acre subject property consisting of two parcels located on both sides of NW 28<sup>th</sup> Avenue, along NW 1<sup>st</sup> Street, approximately 230 feet north of W. Atlantic Boulevard. The request is for 12 units to be located on property that has a Commercial Land Use. The site is owned by Habitat for Humanity of Broward, Inc. There is a concurrent rezoning request on the total project site, to change the B-3 (General Business) to RS-4 (Single Family Residential) on the subject property. The purpose for the flex unit allocation and the rezoning requests is to allow the development of the 12 single-family units. The applicant has submitted a preliminary site plan (see Attachment I) showing the layout of the units on the subject property.

Corner of NW 28<sup>th</sup> Ave.  
& 1<sup>st</sup> Street .....

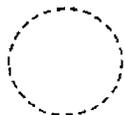


## LEGEND

### FOR LAND USE PLAN

Symbol      Classification Units/ Acre

	Gross Residential Density
	Residential
E	Estate
L	Low
LM	Low- Medium
M	Medium
MH	Medium-High
H	High
*	C Commercial
CR	Commercial Recreation
I	Industrial
T	Transportation
U	Utilities
CF	Community Facilities
OR	Recreation & Open Space
W	Water
RAC	Regional Activity Center
	Boundaries
	City of Pompano Beach
	13 Number



Reflects the maximum total number of units permitted within the dashed line of Palm Aire & Cypress Bend being 9,724 and 1,998

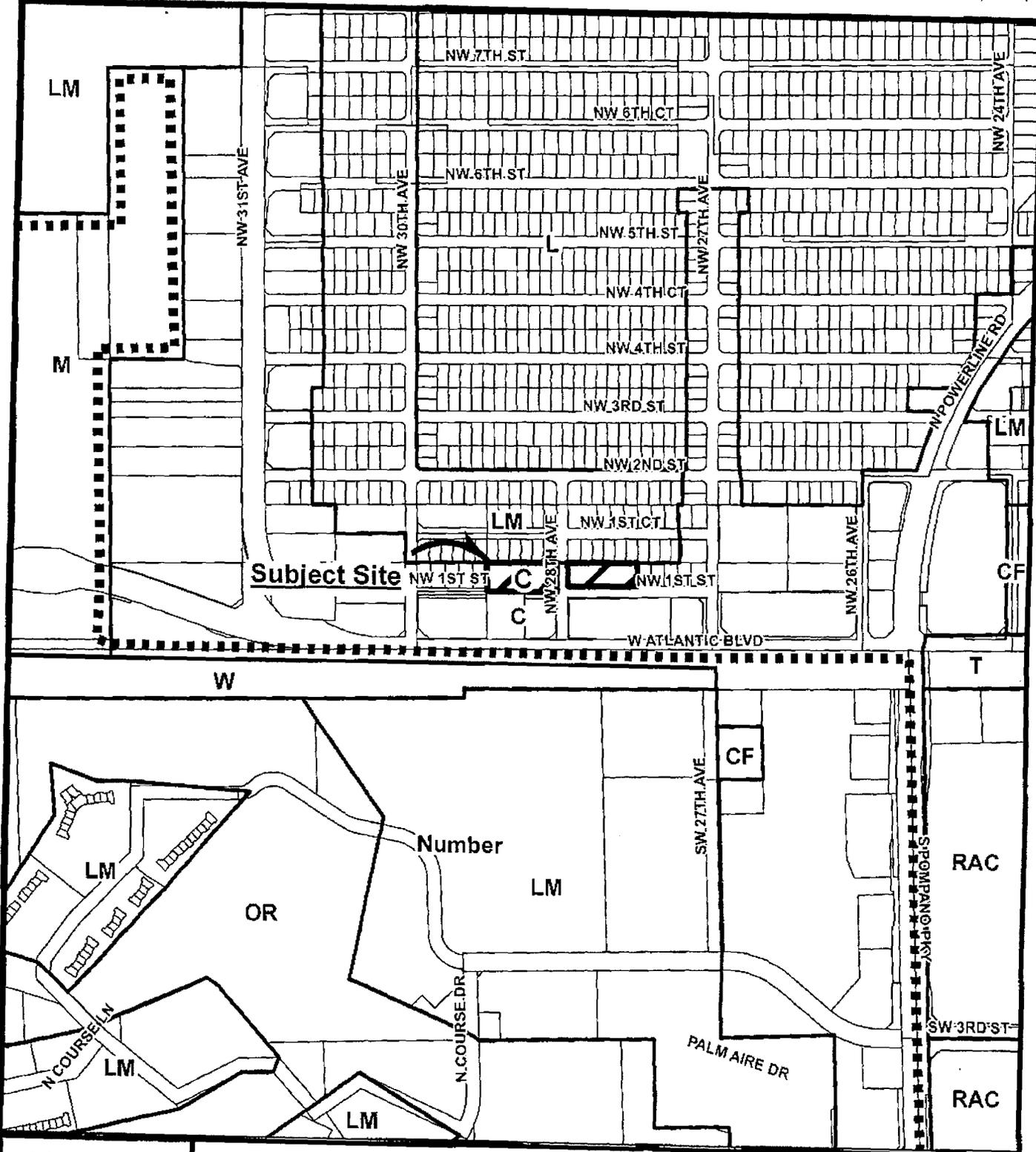
### FOR ZONING MAP

Symbol      District

	RS-1	One-Family Residence
	RS-2	One-Family Residence
	RS-3	One-Family Residence
>	RS-4	One-Family Residence
	RD-1	Two- Family Residence
	RM-12	Multi-Family Residence
	RM-20	Multi-Family Residence
	RM-30	Multi-Family Residence
	RM-45	Multi-Family Residence
	RM-45/HR	Overlay
	RPUD	Residential Planned Unit Dev.
	AOD	Atlantic Boulevard Overlay District
	MH-12	Mobile Home Park
	B-1	Limited Business
	B-2	Neighborhood Business
*	B-3	General Business
	B-4	Heavy Business
	RO	Residence Office
	M-1	Marina Business
	M-2	Marina Industrial
	I-1	General Industrial
	I-1X	Special Industrial
	O-IP	Office Industrial Park
	BP	Business Parking
	BSC	Planned Shopping Center
	PCI	Planned Commercial / Industrial Overlay
	PR	Parks & Recreation
	CR	Commerical Recreation
	CF	Community Facilities
	T	Transportation
	PU	Public Utility

*	Existing
>	Proposed

# CITY OF POMPANO BEACH OFFICIAL LAND USE MAP



**Subject Site**

**C**

1 in = 600 ft

3

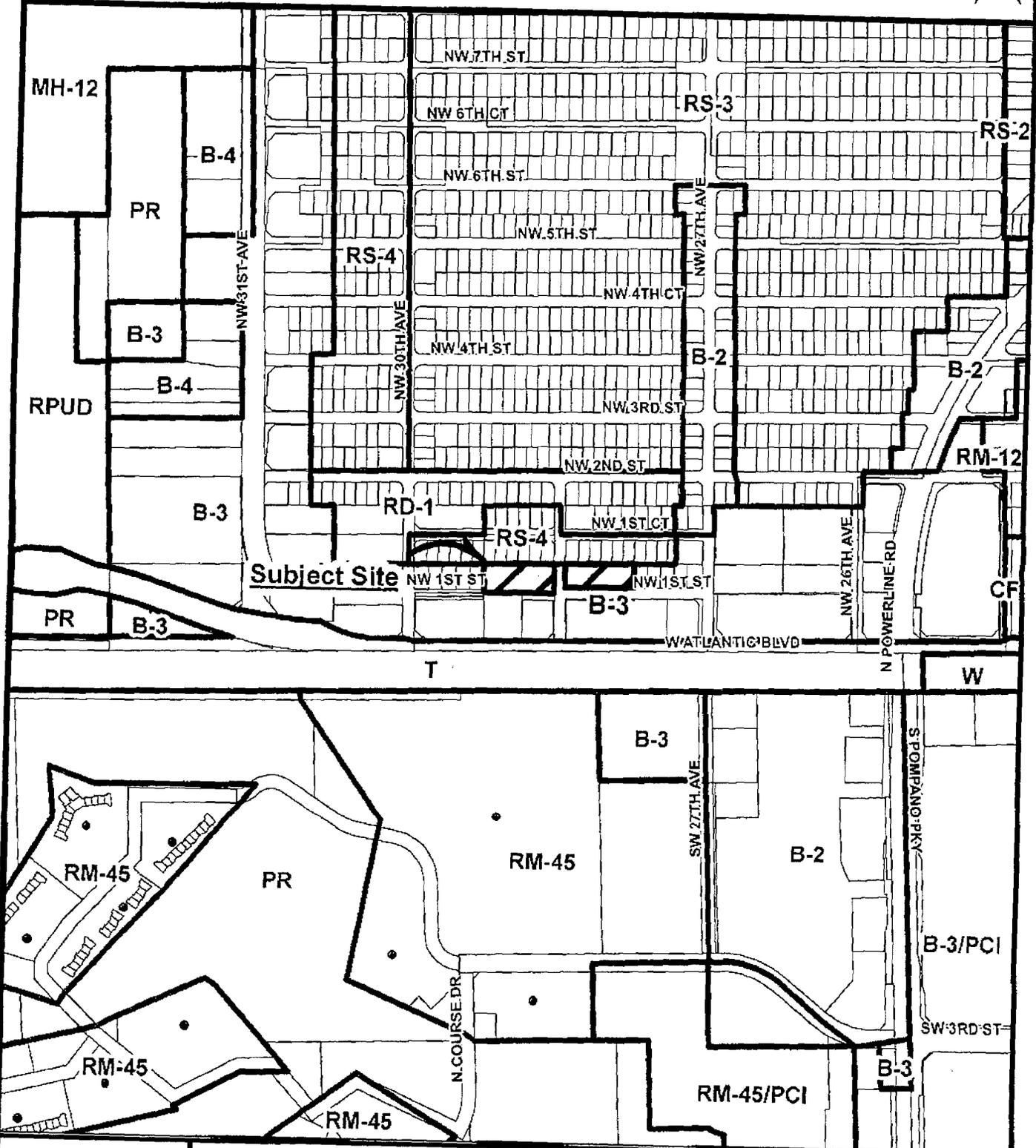
PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES

4/8/2015

macker

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# CITY OF POMPANO BEACH OFFICIAL ZONING MAP

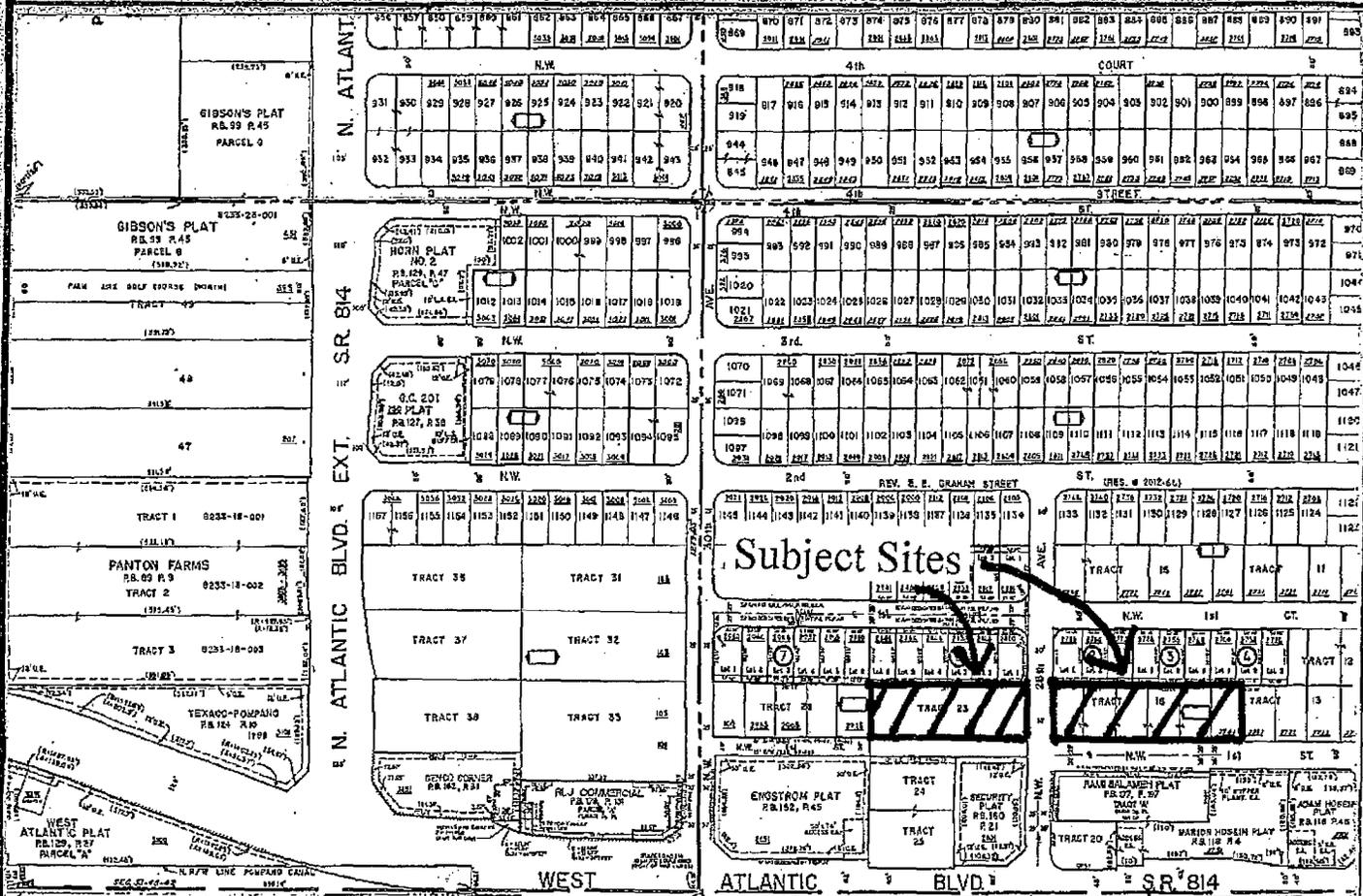


1 in = 600 ft

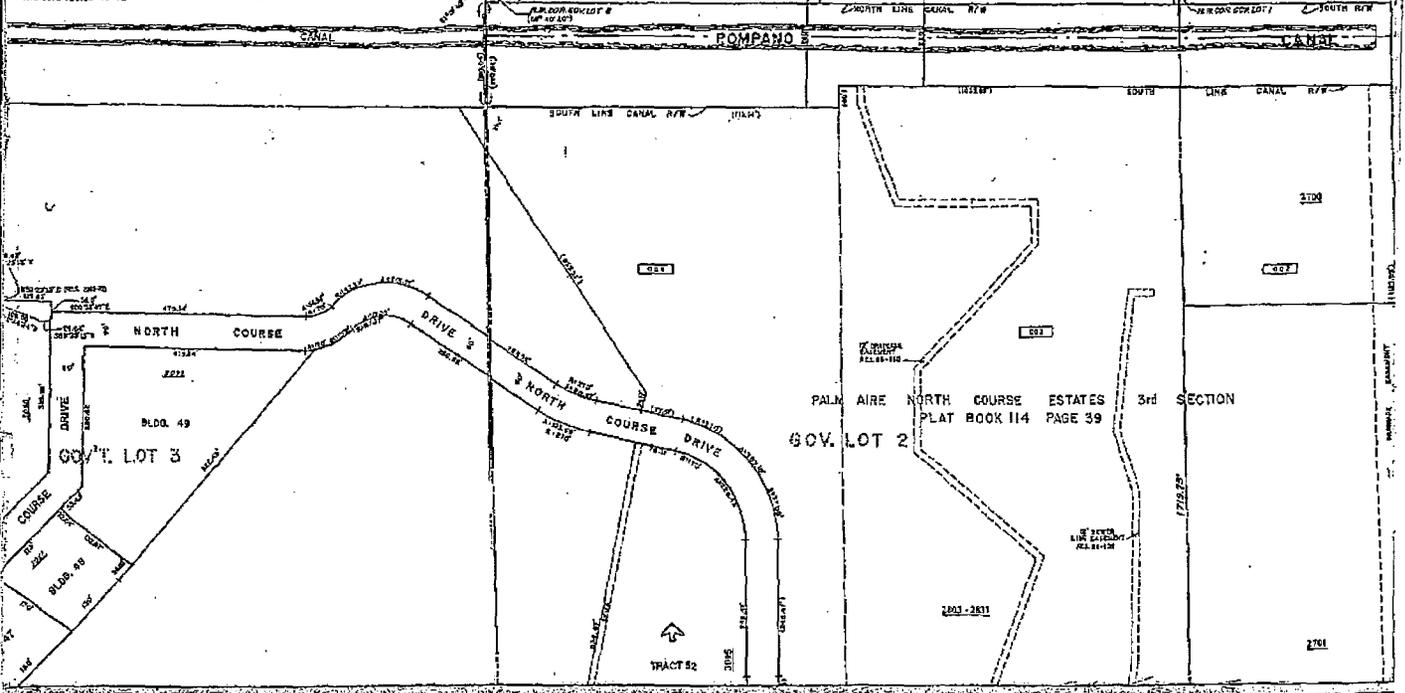
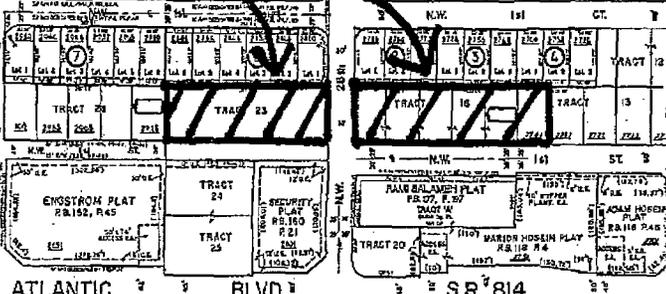
PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES



# EXCERPT FROM THE CITY OF POMPANO BEACH PLAT MAP



Subject Sites



SCALE: **NTS**

NORTH

## REVIEW & SUMMARY

- A. Pursuant to Section 157.31(A) [Major Review: Development Review Committee Report and Notice to Applicant], the Development Services Director has compiled the department comments from the March 4, 2015 Development Review (DRC) meeting which are summarized below:

**ENGINEERING DEPARTMENT** Bob Lawson

02-27-15:

No Comments.

**BSO** Scott Longo

No objection for the 12 flex units

**FIRE DEPARTMENT** Jim Galloway

This P&Z application is able to meet all of the Fire Department requirements at this time for Site Plan Review. However, the petitioner shall maintain all proper fire department access and water supply requirements as per chapter 18 of NFPA 1 as amended from time to time.

\*Additional comments may follow throughout the remainder of the permitting process. The buildings shall be in compliance with All NFPA Standards prior to receiving Fire Department approval.

**ZONING** Maggie Barszewski

The LUPA Application for the subject property should not have been submitted with this Flex request, and the LUPA included the conceptual plan that should have been included in this application,. When submitting for P&Z please include the conceptual S.P. with this Flex application, not in the LUPA.

**UTILITIES** William Herrmann

No utility plans provided in package

Building Division Salvator Pravata

The Building Division has no objections to the requested FLEX UNIT REQUEST in order to allocate 12 flex units to the housing project

\* Additional comments may follow throughout the remainder of the permitting process.

Buildings shall comply with the 2010 Florida Building Code, HVHZ requirements, and appropriate floodplain ordinances.

1. Provide Survey, to verify all elevations applicable to the site, in addition, elevations at plans and survey must be in NAVD format and noted at plans and survey
2. In addition, be aware of the substantial improvement requirements as required by FEMA and the Building Code.
3. 53.14 - Erosion and sedimentation control permit to be submitted at the time of permit

**PLANNING** Chris Clemens

Whereas this project qualifies for the flex unit application, the applicant should still complete the LUPA process through the County level and save the City its limited amount of flex units.

**LANDSCAPE** Wade Collum

No Objections

Urban Forestry reserves the right to comment at time of Site Plan Submittal

**CRA**

Does not have any objections or comments on the request.

**B. Development Services Department staff submits the following factual information which is relevant to this Flex Allocation request:**

1. The property consists of two parcels are located on both sides of NW 28<sup>th</sup> Avenue along NW 1<sup>st</sup> Street, approximately 230 feet north of W. Atlantic Boulevard.
2. The Zoning and uses of adjacent properties are:  
North – (RS-4) – Single-Family Units  
South – (B-2) – Vacant & Retail Buildings  
East – (B-3) – Multi-Family Units  
West – (RS-4) – Single Family Units
3. The main access to this property will be from NW 1<sup>st</sup> Street.
4. The Land Use Designation is C (Commercial) with a concurrent Local LUPA request for LM (Low-Medium Residential).
5. The subject property is included in the Flex Receiving Area.
6. The review criteria is Section 154.61(c)(2) and states the following:  
Approval by the City Commission for the requested number of reserve and flexibility units, or such lesser number, upon applicant establishing by competent and substantial evidence, the following:
  - (a) Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.
  - (b) The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.
7. Section 154.61(D)(3) requires that to be eligible for the allocation of flexibility and reserve units the applicant must agree to provide affordable housing units on the application site of any one type. This project will be providing 100 percent affordable housing.

**B. The following goals, objectives and policies of the City's Comprehensive Plan have been identified as pertinent to this flex application:**

**Goal**

01.00.00 The attainment of a living environment which provides the maximum physical, economic and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

**Policies**

- 01.04.01 The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.
- 01.07.21 Annually evaluate the effect of land development regulations and permitting on the affordability of housing and take appropriate actions to support the affordability of housing. Continue to implement the incentives for providing affordable housing currently in the land development regulations including the use of flex units for affordable housing and the expedited permit review process for developments primarily aimed at providing affordable housing.
- 01.07.22 The city's land development code shall include provisions to encourage or enable a variety of housing opportunities in varying price ranges, including housing for low and moderate income families in large scale residential developments.

**C. Recommendation:**

Given the information provided to the Board, as the findings of fact, staff provides the following recommendation and alternative motions, which may be revised or modified at the Board's discretion.

**Alternative Motion I**

Recommend approval of the Flex allocation with the condition that the applicant deed restrict the property to meet Section 154.61(D)(3). This approval is recommended since the request is consistent with Section 154.61(D)(3) of the Code, and the use of the flexibility units will produce a reasonable development pattern. Furthermore, the request is consistent with the goals, and policies of the Comprehensive Plan specifically:

**Goal**

01.00.00 The attainment of a living environment which provides the maximum physical, economic and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

**Policies**

- 01.04.01 The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.
- 01.07.21 Annually evaluate the effect of land development regulations and permitting on the affordability of housing and take appropriate actions to support the affordability of housing. Continue to implement the incentives for providing affordable housing currently in the land development regulations including the use of flex units for affordable housing and the expedited permit review process for developments primarily aimed at providing affordable housing.
- 01.07.22 The city's land development code shall include provisions to encourage or enable a variety of housing opportunities in varying price ranges, including housing for low and moderate income families in large scale residential developments.

**Alternative Motion II**

Table this application for additional information as requested by the Board.

### **Alternative Motion III**

Recommend denial as the Board finds that the use of the reserve and flexibility units will not produce a reasonable development pattern, including failure to demonstrate compatibility of adjacent land uses and suitability of the parcel for various development patterns.

Further, the Flex request is found to be not consistent with the goals, objectives and policies of the Comprehensive Plan, specifically:

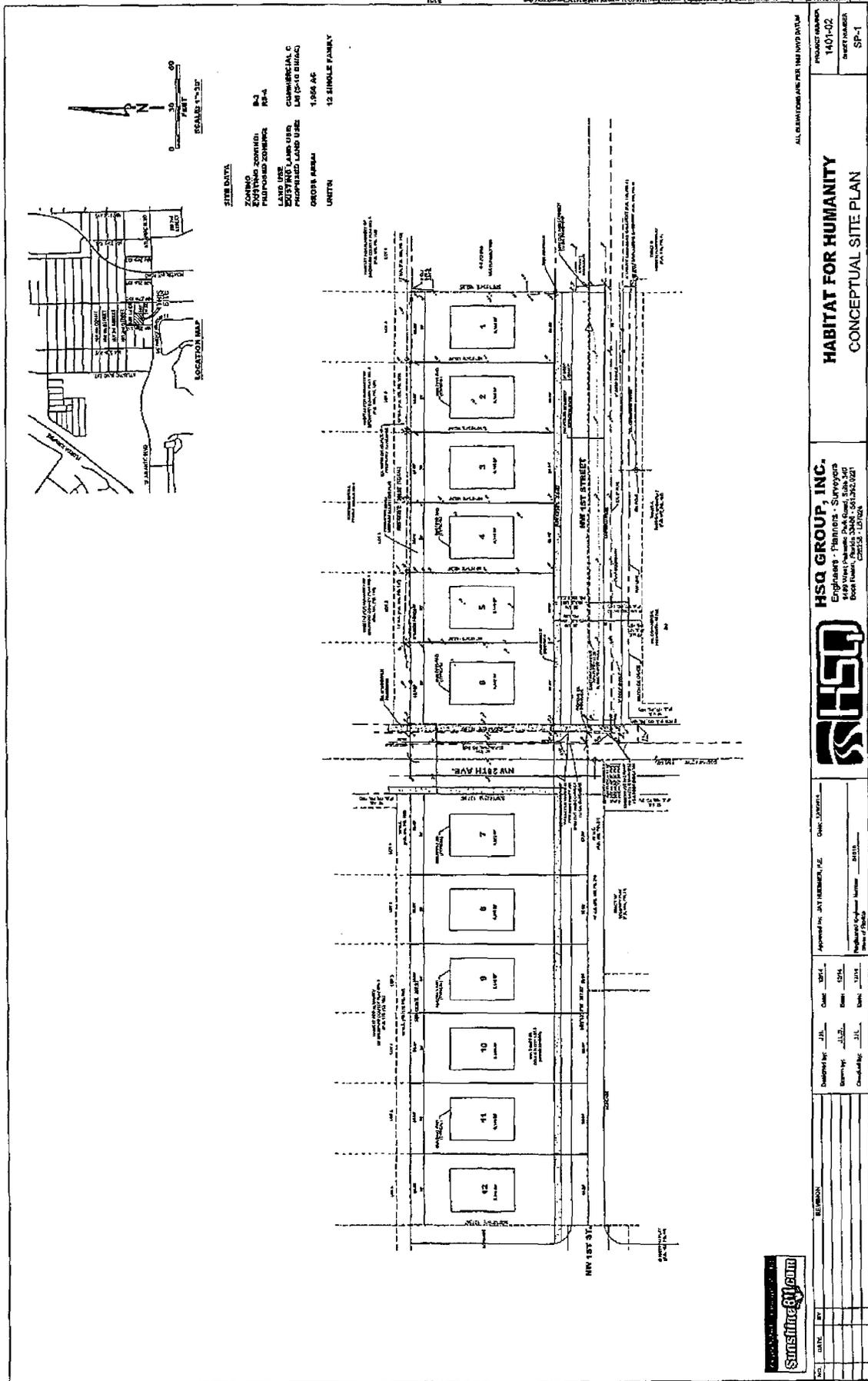
#### **Goal**

01.00.00 The attainment of a living environment which provides the maximum physical, economic and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

#### **Policies**

- 01.04.01 The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.
- 01.07.21 Annually evaluate the effect of land development regulations and permitting on the affordability of housing and take appropriate actions to support the affordability of housing. Continue to implement the incentives for providing affordable housing currently in the land development regulations including the use of flex units for affordable housing and the expedited permit review process for developments primarily aimed at providing affordable housing.
- 01.07.22 The city's land development code shall include provisions to encourage or enable a variety of housing opportunities in varying price ranges, including housing for low and moderate income families in large scale residential developments.

# Attachment I



# CRA

POMPANO BEACH

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## MEMORANDUM

DATE: April 13, 2015

TO: Planning and Zoning

FROM: Juan C. Ayala, CRA Project Manager

THRU: Kim Briesemeister, CRA Executive Director,  
Chris Brown, CRA Executive Director

RE: Habitat for Humanity  
P&Z# 15-13000003, P&Z# 15-05000002 and P&Z# 15-92000002

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### P&Z# 15-13000003

The Community Redevelopment Agency (CRA) does not have any objections or comments on Habitat for Humanity's request for rezoning to change the properties located SW corner of NW 1st Street and NW 28th Avenue from B-3 to RS-4.

### P&Z# 15-05000002

The Community Redevelopment Agency (CRA) does not have any objections or comments on Habitat for Humanity's request to allocate 12 Flex Units on the properties located SW corner of NW 1st Street and NW 28th Avenue.

### P&Z# 15-92000002

The Community Redevelopment Agency (CRA) does not have any objections or comments on Habitat for Humanity's request of approval of a Land Use Plan Amendment (LUPA) for the properties located SW corner of NW 1st Street and NW 28th Avenue to change the land use designation from C (commercial) to LM (low-medium density residential).

### Note:

The CRA reserves the right to review the proposed projects' site plans and floor plans submitted for the properties involved..

RECORD AND RETURN TO:  
This instrument was prepared by:  
MICHELLE J. GOMEZ, ESQUIRE  
KELLEY KRONENBERG, P.A.  
8201 Peters Road, Suite 4000  
Plantation, FL 33324

**DRAFT**

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS THAT the undersigned **HABITAT FOR HUMANITY OF BROWARD, Inc.**, a Florida not-for-profit corporation, and having its principal place of business at 3564 North Ocean Boulevard, Fort Lauderdale, Florida 33308, ("Developer") voluntarily makes this DECLARATION OF RESTRICTIVE COVENANTS this \_\_\_\_\_ day of January 2016, for the benefit of **THE CITY OF POMPANO BEACH**, Florida ("City"), in consideration for certain developmental approvals granted and to be granted to the property by the City.

WITNESSETH:

WHEREAS, Developer has presented a Flex allocation request to the City to develop a 1.956 acre property consisting of two parcels located on both sides of NW 28<sup>th</sup> Avenue, along NW 1<sup>st</sup> Street, approximately 230 feet north of W. Atlantic Boulevard ("Property") in the City which Property is legally described in the attached Exhibit "A."

WHEREAS, as part of developmental approvals granted and to be granted by the City to Developer, Developer has offered to enter into this covenant and restrict the use of the Property as set out herein.

NOW THEREFORE, in consideration of the promises and covenants contained herein, the Developer hereby agrees and declares that the Property specifically referenced herein shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants and restrictions herein, and which shall be binding upon all parties having any right, title, or interest in the Property or any part thereof and all of their heirs, successors or assigns.

1. Recitals: That the above recitals are true and are incorporated herein by reference.

2. Property Use:

- a) Developer shall restrict the use of the Property to meet the requirements of City Code of Ordinance 2007-48 of the City of Pompano Beach.
- b) Developer shall restrict the use of the Property to the development of Six (6) fee simple, detached dwelling units.

3. Term of Covenant: The Covenants shall be in effect for the Property and any portion thereof until the earlier of a period of Thirty (30) years or when this Declaration is modified, amended or released in writing by the City. The appropriate governmental authority of the City shall execute a written instrument effectuating and acknowledging any such modification, amendment or release. Any amendment, modification, or release of this DECLARATION shall be recorded in the Public Records of Broward County, Florida.

4. Inspection: It is understood and agreed that any official inspector of the City has the right at any time during normal business hours to determine if the conditions of this Declaration are being complied with Developer, its successor or assigns.

5. Enforcement: The City, through its City Commission, its successors and assigns, is the beneficiary of these restrictive covenants and, as such, the City may enforce these restrictive covenants by actions at law or equity against any persons, entity or entities violating or attempting to violate the terms of these restrictions. Any failure of the City to enforce these restrictive covenants shall not be deemed a waiver of the right to do so thereafter.

6. Severability: Invalidation of any one of these covenants by judgment of a court of competent jurisdiction shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

7. Effective Date: This Declaration shall become effective upon its recordation in the Public Records of Broward County, Florida and shall constitute a covenant running with the land and shall be binding on the Developer, its successors or assigns.

8. Captions: Articles and paragraph captions, headings, and titles inserted throughout this DECLARATION are intended as a matter of convenience only and in no way shall such caption, heading or title define, limit, or in any other way affect the subject matter of any terms or provisions thereunder or the terms and provisions of this Declaration.

9. Context: Whenever the context requires or admits any pronoun used herein may be deemed to mean the corresponding masculine, feminine, or neutral form thereof, and the singular of any nouns or pronouns herein may be deemed to mean the corresponding plural thereof or vice versa as needed by the DECLARATION and its intent.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this \_\_\_\_\_ day of January, 2016.

**HABITAT FOR HUMANITY OF BROWARD, INC.,**  
a Florida not-for-profit corporation

\_\_\_\_\_  
Witness:

\_\_\_\_\_  
By: PERRY L. ECTON, Executive Director

\_\_\_\_\_  
Witness

STATE OF FLORIDA  
COUNTY OF FLORIDA

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of January, 2016, by PERRY L. ECTON, EXECUTIVE DIRECTOR OF HABITAT FOR HUMANITY OF BROWARD, INC., a Florida not for profit corporation who is personally known to me and who did not take an oath.

\_\_\_\_\_  
Notary Public State of Florida

Exhibit A

THE WEST 1/2 OF THE SOUTH 1/3 OF THE NORTH 3/5 OF THE SE 1/4  
OF THE SE 1/4 OF THE SW 1/4 OF SECTION 33, TOWNSHIP 48  
SOUTH, RANGE 42 EAST, LESS THE WEST 25 FEET THEREOF AND  
LESS THE SOUTH 25 FEET THEREOF, ALL OF SAID LANDS LYING  
AND BEING IN BROWARD COUNTY, FLORIDA.

SAID LANDS SITUATE IN THE CITY OF POMPANO BEACH,  
BROWARD COUNTY, FLORIDA.