

ORDINANCE NO. 2014-01

1
2 AN ORDINANCE OF BROWARD COUNTY, FLORIDA, ADOPTING AN
3 AMENDMENT TO THE BROWARD COUNTY COMPREHENSIVE PLAN;
4 LOCATED IN THE CITY OF FORT LAUDERDALE; PROVIDING FOR
5 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

6 WHEREAS, Broward County adopted the 1989 Broward County Comprehensive
7 Plan on March 1, 1989; and

8 WHEREAS, the Department of Economic Opportunity has found the Broward
9 County Comprehensive Plan in compliance with the Community Planning Act; and

10 WHEREAS, Broward County now wishes to propose an amendment to the
11 Broward County Comprehensive Plan within the City of Fort Lauderdale; and

12 WHEREAS, the Planning Council, as the local planning agency for the Broward
13 County Land Use Plan has held its hearings on June 27, 2013, and
14 December 12, 2013, with due public notice; and

15 WHEREAS, the Board of County Commissioners held its transmittal public
16 hearing on September 10, 2013, having complied with the notice requirements specified
17 in Subsection 163.3184(11), Florida Statutes; and

18 WHEREAS, the Board of County Commissioners held an adoption public hearing
19 on January 28, 2014, at 2:00 p.m. [also complying with the notice requirements
20 specified in Subsection 163.3184(11), Florida Statutes] at which public comment was
21 accepted and comments of the Department of Economic Opportunity, South Florida
22 Regional Planning Council, South Florida Water Management District, Department of
23 Environmental Protection, Department of State, Department of Transportation, Fish and
24

Approved BCC 1/28/14, #7
Submitted By Planning Council
RETURN TO DOCUMENT CONTROL

1 Wildlife Conservation Commission, Department of Agriculture and Consumer Services,
2 and Department of Education, as applicable, were considered; and

3 WHEREAS, the Board of County Commissioners after due consideration of all
4 matters hereby finds that the following amendment to the 1989 Broward County
5 Comprehensive Plan is consistent with the State Plan, Regional Plan, and the Broward
6 County Comprehensive Plan, complies with the requirements of the Community
7 Planning Act; and is in the best interests of the health, safety, and welfare of the
8 residents of Broward County;

9 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
10 BROWARD COUNTY, FLORIDA:

11 Section 1. The 1989 Broward County Land Use Plan is hereby amended by
12 Amendment PC 13-3, which is an amendment to the 1989 Broward County
13 Comprehensive Plan located in the City of Fort Lauderdale, as set forth in Exhibit A,
14 attached hereto and incorporated herein.

15 Section 2. SEVERABILITY.

16 If any portion of this Ordinance is determined by any Court to be invalid, the
17 invalid portion shall be stricken, and such striking shall not affect the validity of the
18 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
19 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
20 or circumstance(s), such determination shall not affect the applicability hereof to any
21 other individual, group, entity, property, or circumstance.

22 Section 3. EFFECTIVE DATE.

23 1. The effective date of the plan amendment set forth in this Ordinance shall
24 be the latter of:

1 (a) Thirty-one (31) days after the Department of Economic Opportunity
2 notifies Broward County that the plan amendment package is complete;

3 (b) If the plan amendment is timely challenged, the date a final order is issued
4 by the Administration Commission or the Department of Economic Opportunity finding
5 the amendment to be in compliance; or

6 (c) If an Agreement imposing conditions on the plan amendment or Interlocal
7 Agreement is applicable, as per Exhibit B, the date the Agreement or Interlocal
8 Agreement is recorded in the Public Records of Broward County.

9 2. This Ordinance shall become effective as provided by law.

10 ENACTED January 28, 2014

11 FILED WITH THE DEPARTMENT OF STATE January 30, 2014

12 EFFECTIVE January 30, 2014

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PC 13-3 City of Fort Lauderdale Ordinance.doc

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EXHIBIT A

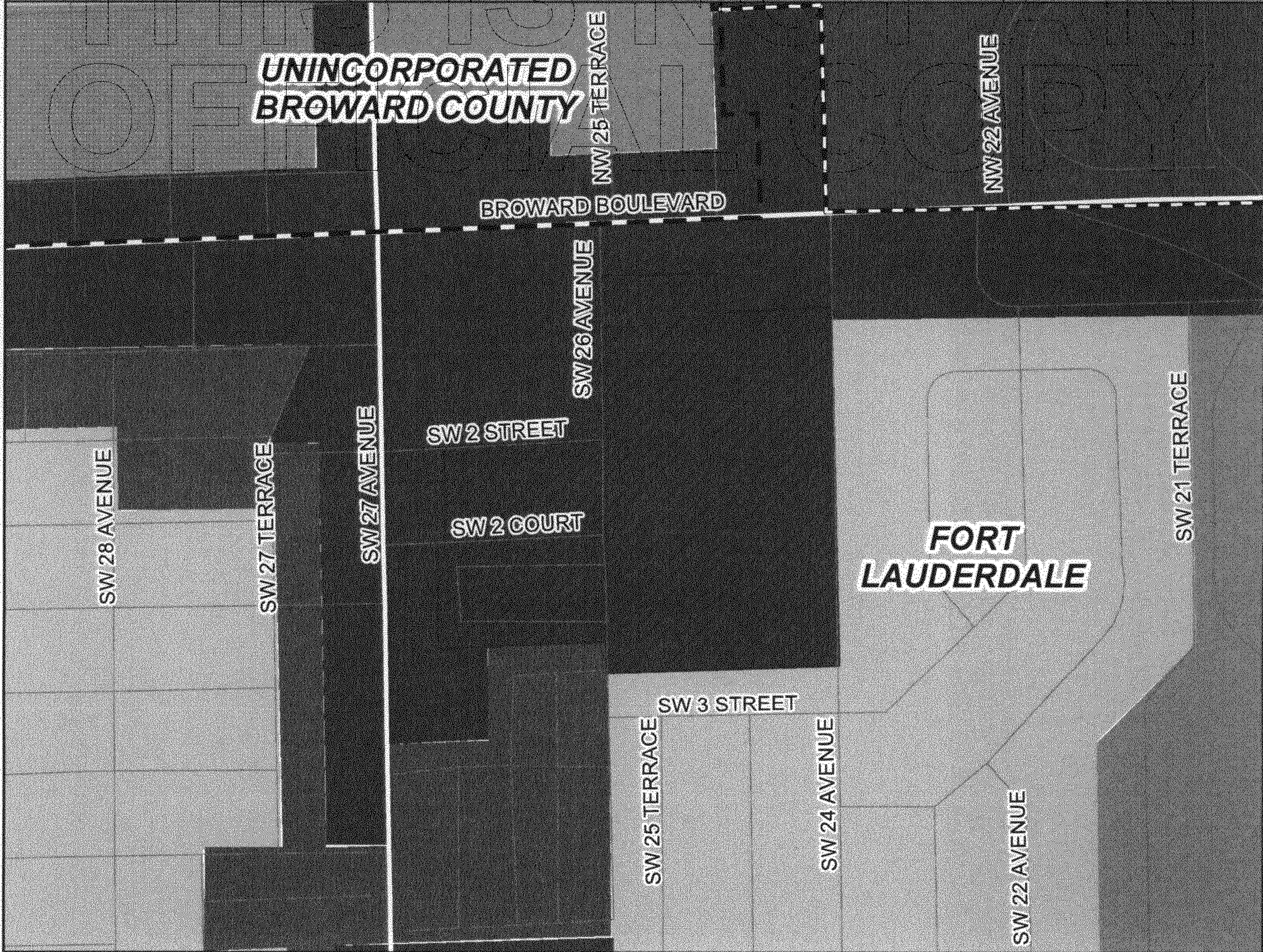
BROWARD COUNTY LAND USE PLAN
FUTURE LAND USE DESIGNATIONS
AMENDMENT PC 13-3

Current Land Use: MEDIUM-HIGH (25) RESIDENTIAL

Proposed Land Use: COMMERCIAL

Acreage: Approximately 24.6 Acres

UNINCORPORATED
BROWARD COUNTY



Low (5) Residential

Low-Medium (10) Residential

Medium-High (25) Residential

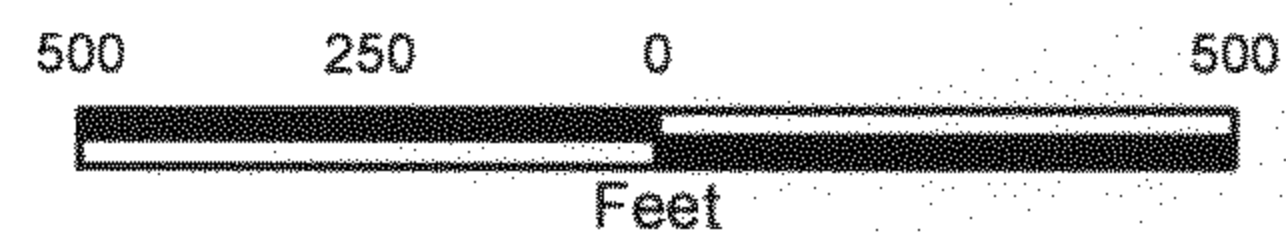
Commercial

Industrial

Regional Activity Center

City Boundary

Site



SECTION I
AMENDMENT REPORT
BROWARD COUNTY LAND USE PLAN
PROPOSED AMENDMENT PC 13-3
(FORT LAUDERDALE)

RECOMMENDATIONS/ACTIONS

DATE

I. Planning Council Staff Transmittal Recommendation

June 18, 2013

It is recommended that the proposed amendment to the Broward County Land Use Plan be approved as follows:

1. Recognizing the transportation improvements currently proposed by the applicant and subject to, ~~prior to the second Planning Council public hearing, finalization and acceptance of satisfactory mitigation to address adverse impacts to the regional transportation network resulting from the amendment. See Attachments 3 and 4.~~

Update: September 10, 2013: The applicant has submitted an updated traffic mitigation plan. See Attachment 15. The Broward County Planning and Redevelopment Division, in conjunction with the Broward County Highway Construction and Engineering Division and the Broward County Traffic Engineering Division, concur that the proposed improvements outlined in Attachment 15 will satisfactorily mitigate the impacts to the regional transportation network associated with the proposed amendment. See Attachment 16.

2. Any approval be conditioned on the execution, to the satisfaction of Broward County, of a legally enforceable mechanism regarding the voluntary commitments offered by the applicant.

Further, it is recommended that the applicant continue its coordination efforts with the Central County Community Advisory Board and Unincorporated Broward County. See Attachments 11 and 12.

II. Planning Council Transmittal Recommendation

June 27, 2013

Approval per Planning Council staff recommendation. (Vote of the board; Unanimous: 13-0; Bascombe, Blattner, Boccad, de Jesus, DuBose, Good, Hobby, Kaplan, Lazarow, Long, Mack, Steffens and Castro)

RECOMMENDATIONS/ACTIONS (continued)**DATE****III. County Commission Transmittal Recommendation****September 10, 2013**

Approval, recognizing the voluntary transportation improvements proposed by the applicant (See Attachments 15 and 16), and including a request that applicable State agencies review the impact of the proposed amendment on existing businesses in the surrounding areas, including the jobs within those existing businesses, and the mitigation required to ameliorate any negative impact, per Broward County Resolution No. 2013-727.

IV. Summary of State of Florida Review Agency Comments**October 14, 2013**

The Florida Department of Transportation (FDOT) has commented on the proposed amendment:

Comment: The Department reviewed the proposed amendment pursuant to Florida Statutes, and, as requested by the County Commission, for impacts on existing businesses in surrounding areas and the mitigation required to ameliorate any negative impact. The Department understands and supports the intentions of the proposed amendment to promote urban infill and economic development, however, the Department does not believe the traffic analysis provided by the County adequately addresses adverse impacts to the regional transportation network, including the Strategic Intermodal System (SIS), which encompasses I-95, Tri-Rail, bus terminals, and state roads which are in proximity to the proposed amendment site. Additional trips from the proposed amendment will degrade currently failing facilities, including the I-95 interchange at Broward Boulevard and the I-95 mainline in the area. Further, according to the Department's analyses, segments of Broward Boulevard, between Southwest 7 Avenue and Southwest 27 Avenue, do not meet level of service (LOS) "D" for current or future conditions.

The Department recommends that the traffic analysis be supplemented to address adverse impacts from the proposed amendment to the I-95 interchange at Broward Boulevard and the I-95 mainline, and that the traffic mitigation plan be supplemented to require the applicant to:

- Participate in ongoing efforts of the Department and its partners to evaluate modifications needed to the I-95 interchange at Broward Boulevard and the I-95 mainline by identifying and mitigating for adverse impacts to the interchange that will result from increased trips from the proposed amendment; and
- Incorporate the proposed improvements identified by the applicant to support alternative methods of transportation, as well as other multimodal improvements, as outlined in the Broward Boulevard Transit Corridor Study and the Broward Boulevard Gateway Implementation Plan.

RECOMMENDATIONS/ACTIONS (continued)**DATE****IV. Summary of State of Florida Review Agency Comments (continued) October 14, 2013**

The Department also suggests that the applicant address how the proposed amendment site could be connected to the nearby Tri-Rail station, other than by Broward Boulevard, as potential mitigation of adverse impacts to the SIS.

Given the need to ensure adequate mitigation of adverse impacts to the SIS from the proposed amendment, the Department requests to be consulted prior to amendment adoption and as the development proceeds through the County and City processes for plat/site plan approval.

Response: The applicant has submitted additional information to address impacts to the State Intermodal System (SIS), including an analysis that demonstrates that the proposed land use plan amendment does not significantly impact the I-95 mainline. Further, the applicant has committed to continue working with the City, the County and FDOT as the proposed amendment continues through the City and County development processes. See Attachment 18.

Planning Council staff notes that for the purpose of analyzing the transportation impacts created by a proposed land use plan amendment, the trips projected to be generated are distributed onto the regional roadway network by Broward MPO staff through the FDOT FSUTMS model. A significance threshold corresponding to additional p.m. peak hour trips in excess of three-percent (3%) of such capacity of a regional roadway link at the long-range planning horizon is utilized, per the following Broward County Land Use Plan policies:

Policy 12.01.02: Broward County and its local governments shall utilize the highway capacity methodology endorsed by the Broward County Metropolitan Planning Organization and approved by the Broward County Board of County Commissioners to determine the capacities and levels of service on the regional roadway network.

Policy 12.01.11: The impact analysis for proposed amendments to the Broward County Land Use Plan shall continue to consider as significant those regional roadway segments that are projected to experience, as a result of the net effect from the proposed amendment, an impact of three percent (3%) or greater than the p.m. peak hour level of service capacity for those regional roadway segments.

RECOMMENDATIONS/ACTIONS (continued)**DATE****IV. Summary of State of Florida Review Agency Comments (continued) October 14, 2013**

Planning Council staff notes that for proposed BCLUP amendment PC 13-3, none of the I-95 roadway segments were found to be significantly impacted by the additional trips generated as prescribed by Policy 12.01.11. The MPO Year 2035 Transportation Plan model analysis indicates an additional impact estimated at 0.3% of capacity for the link of Interstate 95 between Davie Boulevard and Broward Boulevard, and 0.2% for the link of Interstate 95 between Broward Boulevard and Sunrise Boulevard.

Planning Council staff further notes that the proposed amendment is consistent with the following Broward County Land Use Plan policy related to land use and transportation:

Policy 12.01.06:

To minimize impacts on local transportation facilities, development which generates high traffic volumes should be located adjacent to or have safe and adequate access to principal arterials, expressways or other regional transportation facilities.

V. Planning Council Staff Final Recommendation December 3, 2013

It is recommended that the proposed amendment to the Broward County Land Use Plan be approved, subject to the applicant's voluntary transportation improvements as accepted and conditioned by Broward County. See Attachments 15 and 16. It is also recommended that any approval be conditioned on the execution of a legally enforceable mechanism regarding the voluntary transportation improvements offered by the applicant.

VI. Planning Council Final Recommendation December 12, 2013

Approval per Planning Council staff final recommendation. (Vote of the board; Unanimous: 13-0; Bascombe, Boccard, de Jesus, DuBose, Furr, Graham, Hobby, Kaplan, Mack, Ryan, Steffens, Stermer and Castro)

VII. County Commission Final Action January 28, 2014

Approved per Planning Council final recommendation.

SECTION II
AMENDMENT REPORT
PROPOSED AMENDMENT PC 13-3

INTRODUCTION AND APPLICANT'S RATIONALE

I. **Municipality:** Fort Lauderdale

II. **County Commission District:** District 9

III. **Site Characteristics**

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A. **Size:** Approximately 24.6 acres

B. **Location:** In Section 8, Township 50 South, Range 42 East; generally located south of Broward Boulevard, between Southwest 24 Avenue and Southwest 27 Avenue.

C. **Existing Uses:** Single-family residential, multi-family residential, mobile homes and vacant

IV. **Broward County Land Use Plan (BCLUP) Designations**

A. **Current Designation:** Medium-High (25) Residential

B. **Proposed Designation:** Commercial

C. **Estimated Net Effect:** Addition of 24.6 acres of commercial use
Reduction of 615 dwelling units

V. **Existing Uses and BCLUP Designations Adjacent to the Amendment Site**

A. **Existing Uses:**
North: Vacant
East: Commercial and single-family residential
South: Single-family residential including mobile homes and commercial
West: Commercial and vacant

B. **Planned Uses:**
North: Commercial
East: Commercial and Low (5) Residential
South: Low (5) Residential, Medium-High (25) Residential and Commercial
West: Commercial

INTRODUCTION AND APPLICANT'S RATIONALE (continued)

VI. Applicant/Petitioner

A. **Applicant:** Gatlin Development Company, Inc.

B. **Agent:** Ernest-Jones Group, Inc.

C. **Property Owners:** There are numerous property owners in the subject area. The primary property owner is Riverbend South, LLC, owning approximately 95% of the amendment site. The remaining property owners have provided affidavits authorizing Gatlin Development and its agents to pursue the land use change.

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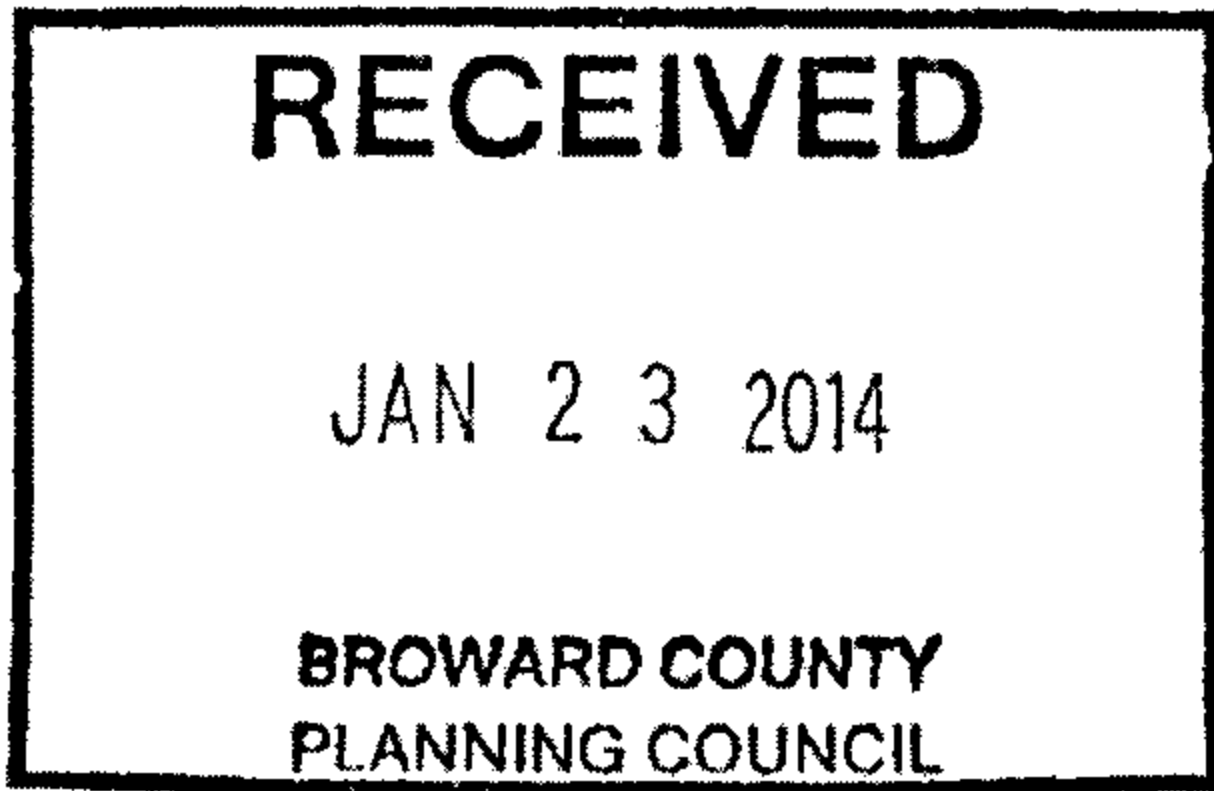
VII. Recommendation of Local Governing Body:

The City of Fort Lauderdale recommends approval of the proposed amendment. The City anticipates adoption of the corresponding local amendment in June of 2013.

EXHIBIT B

A draft Declaration of Restrictive Covenants has been filed and is required to be approved by the appropriate attorneys, and executed and recorded by the applicant.

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Prepared by and return to:

Name: Nectaria M. Chakas, Esq.
Lochrie & Chakas, P.A.
Address: 1401 E. Broward Boulevard
Suite 200
Ft. Lauderdale, FL 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIVE COVENANTS

This DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this ___ day of ___, 20__ by GDC BROWARD RB, LLC, a Delaware limited liability company ("Declarant") for the benefit of BROWARD COUNTY, FLORIDA, a political subdivision of the State of Florida ("County").

WITNESSETH:

WHEREAS, Declarant (and the other owners that have executed a joinder to this Declaration) are the fee simple owners of approximately 24.6 acres of land located in the City of Ft. Lauderdale ("City") more particularly described in Exhibit A attached hereto and made a part hereof ("Property"); and

WHEREAS, Declarant made an application to County to change the Property's land use designation under the County Land Use Plan (Application PC 13-3) from Medium High Residential (25) to Commercial ("Land Use Amendment"); and

WHEREAS, in an effort to mitigate the impacts of the proposed Land Use Amendment, Declarant has agreed to place certain restrictions on the development of the Property as set forth below.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in such property or any part thereof, their heirs, successors and assigns.

1. Recitals. The recitals set forth above are true and correct and are incorporated herein by reference.
2. Property Development. Development of the Property is hereby restricted to those uses permitted in the City and County "Commercial" Land Use Plan designation.
3. Traffic Mitigation. Declarant shall mitigate the impacts of the Land Use Amendment in the following manner:
 - a) Proportionate share contribution. During the County's environmental review of the construction plans for the first building permit for a structure within the Property, Declarant shall pay the proportionate share contribution of \$144,146.00 for improvements to the County's Signal Engineering Improvements on Broward Boulevard

between SW 31st Avenue and I-95. The proportionate share amount shall be adjusted every October 1 by the amount of change reflected for previous twelve (12) month period in the Implicit Price Deflator of the Gross National Product prepared by the United States Department of Commerce Bureau of Economic Analysis. This obligation may also be satisfied at any time prior to County environmental review approval by paying the total mitigation amount as adjusted annually.

b) Prior to the issuance of a certificate of occupancy for any use within the Property, Declarant shall design, obtain all necessary permits and construct an exclusive northbound right turn lane on Riverland Road between SW 13 Street and Davie Boulevard. This improvement must include installation of type F curb and gutter and a 6-foot wide sidewalk. The cost estimate for this improvement, approved by the Broward County Highway Construction and Engineering Division, is \$83,726.00. The final design is subject to the review and approval of the Highway Construction and Engineering Division prior to commencement of construction.

c) Access to the Property along SW 24th Avenue. Vehicular access to and from the Property along SW 24th Avenue shall be limited to right in and left out only.

d) Concurrency fees. The above mitigation improvements are in addition to the payment of any applicable transit/transportation concurrency fees in effect at the time Declarant submits its construction plans for approval by the County.

4. Amendments, Releases and Termination. This Declaration shall not be modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment, or release and approved in writing by County. The appropriate governmental authority of County shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of this covenant shall be recorded in the Public Records of Broward County, Florida.

5. Recordation and Effective Date. This Declaration shall not become effective and shall not be recorded in the Public Records of Broward County, Florida, until after all necessary approvals by County of the requested application and the expiration of all appeal periods or, if an appeal is filed, the conclusion of such appeal in a manner that does not affect County's approval of the application. Once recorded, this Declaration shall run with the land for the sole benefit of County and shall bind all successors-in-interest with respect to the Property.

6. Enforcement. This covenant shall not give rise to any other cause of action by any parties than County, and no parties other than County shall be entitled to enforce Sections 3a), 3b) and 3d) above of this Declaration. Section 3c) above may be enforced by the City of Ft. Lauderdale as a condition of any site plan approval. Any failure by County to enforce this Declaration shall not be deemed a waiver of the right to do so thereafter.

7. Severability. If any court of competent jurisdiction shall declare any section, paragraph or part of this Declarant invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph, or part hereof, and the same shall remain in full force and effect.

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

9. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Florida and venue for any litigation arising hereunder shall lie in the Seventeenth Judicial Circuit in and for Broward County, Florida.

10. Notice. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified mail, return receipt requested, postage prepaid to the address of the Property owner as reflected on the tax assessor's records for the affected Property.

IN WITNESS WHEREOF, Declarant has executed this Declaration on the day first above written.

WITNESSES:

Signature

Print Name

Signature

Print Name

DECLARANT:

GDC BROWARD RB, LLC, a Delaware limited liability company

By: Gatlin Partners 3, LLC, a Delaware limited liability company, its managing member

By: _____
Franklin C. Gatlin, III, its managing member

Address: 888 E. Las Olas Boulevard
Suite 600
Ft. Lauderdale, FL 33301

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this ___ day of _____, 2014, by Franklin C. Gatlin III as managing member of GATLIN PARTNERS 3, LLC, a Delaware limited liability company, as managing member of GDC BROWARD RB, LLC, a Delaware limited liability limited partnership, freely and voluntarily on behalf of said corporation. He is personally known to me or has produced _____ as identification or is known to me personally.

Notary Public

Typed, printed or stamped name of Notary Public
My Commission Expires: