

Meeting Date: June 28, 2011

Agenda Item 1

REQUESTED COMMISSION ACTION:

Consent Ordinance Resolution Consideration Workshop

SHORT TITLE OR MOTION: A RESOLUTION APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT FOR AMENDMENT OF NOTATION ON PLAT.

Summary of Purpose and Why:

The plat for Palm Aire park property has a note that restricts the development to 110 high rise units and does not mention a park. The revised note adds the park and will allow for the park to be built on the property.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Staff
- (2) Primary staff contact: Robert McCaughan/ Alessandra Delfico Ext 4097/ 4144
- (3) Expiration of contract, if applicable: n/a
- (4) Fiscal impact and source of funding: n/a

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE OR ATTACHED MEMO NUMBER
Parks and Recreation	<u>6-15-11</u>	APPROVE	<u>[Signature]</u>
Engineering	<u>6-10-11</u>	APPROVE	<u>[Signature]</u>
Public Works Dir.	<u>6/13/11</u>	APPROVE	<u>[Signature]</u>
City Attorney	<u>6/17/11</u>	APPROVE	<u>[Signature]</u>
FINANCE	<u>6/15/11</u>	Approve	<u>[Signature]</u>

Advisory Board
 Development Services Director
 City Manager

[Signature]

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1st Reading	1st Reading	Results:	Results:
_____	_____	_____	_____
_____	_____	_____	_____
2nd Reading	_____	_____	_____
_____	_____	_____	_____

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT FOR AMENDMENT OF NOTATION ON PLAT BETWEEN THE CITY OF POMPANO BEACH AND BROWARD COUNTY; PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That an Agreement between the City of Pompano Beach and Broward County, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Broward County.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2011.

LAMAR FISHER, MAYOR


ATTEST:

MARY L. CHAMBERS, CITY CLERK



City Attorney's Communication #2011-1210

June 8, 2011


TO: Alessandra Delfico, P.E., Civil Engineer
FROM: Jill R. Mesojedec, FRP, Paralegal
VIA: Gordon B. Linn, City Attorney 
RE: Resolution – Amendment for Alltech Parcel II Plat

Pursuant to your e-mail of June 7, 2011, I have prepared and attached the following form of Resolution:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT FOR AMENDMENT OF NOTATION ON PLAT BETWEEN THE CITY OF POMPANO BEACH AND BROWARD COUNTY; PROVIDING AN EFFECTIVE DATE.

The opinion of title has been ordered from Paramount Title with an expected delivery date of June 13, 2011. Once received, I will forward the opinion to you.

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



JILL R. MESOJEDEC

/jrm
l:cor/engr/2011-1210

Attachment

Return recorded copy to:

Development and Environmental Regulation Division
Environmental Protection and
Growth Management Department
Governmental Center West
1 North University Drive
Building A, Suite 102
Plantation, FL 33324

Document prepared by:

NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY.

**AGREEMENT FOR AMENDMENT
OF NOTATION ON PLAT**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

The City of Pompano Beach

_____, its successors and assigns, hereinafter referred to as "DEVELOPER."

WHEREAS, DEVELOPER is the owner of property shown on the Alltech Parcel II Plat, Plat No./Clerk's File No. 052- MP -04 /10548.9818, hereinafter referred to as "PLAT," which PLAT was approved by the Board of County Commissioners of Broward County on April 12, 2005; and

WHEREAS, a description of the platted area is attached hereto as Exhibit "A" and made a part hereof, and

WHEREAS, DEVELOPER has determined there exists a need for an amendment to the Notation on the face of said PLAT; and

WHEREAS, the COUNTY has no objection to amending the notation and the Board of County Commissioners approved such an amendment at its meeting of May 24th, 2011;

NOW, THEREFORE, in consideration of the mutual terms, conditions and promises hereinafter set forth, the COUNTY and DEVELOPER agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. COUNTY and DEVELOPER hereby agree that the notation shown on the face of the PLAT is hereby amended as set forth within Exhibit "B."
3. In the event that all the owners and/or mortgagees of property within the PLAT being amended are not parties to this Agreement, DEVELOPER hereby agrees to indemnify, defend, and hold BROWARD COUNTY harmless from any claims or causes of action brought by owners and/or mortgagees of property within the PLAT as a result of this Agreement for Amendment of Notation on the Plat. This indemnification obligation shall run with the land and bind DEVELOPER's successors and assigns.
4. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director, Broward County Development
and Environmental Regulation Division
115 South Andrews Avenue, Room A240
Fort Lauderdale, FL 33301

For the DEVELOPER:

The City of Pompano Beach

100 W Atlantic Blvd.

Pompano Beach, Florida 33060

5. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County, Florida, at the DEVELOPER's expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
6. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the state of Florida.

7. NOTATIONS. All other notations on the face of the above referenced PLAT not amended by this Agreement shall remain in full force and effect.
8. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.
9. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
10. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
11. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
12. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
13. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.
14. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY and DEVELOPER.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, and DEVELOPER, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator, as Ex-
Officio Clerk of the Board of
County Commissioners of
Broward County, Florida

By _____
Mayor

_____ day of _____, 20__

Approved as to form by
Office of County Attorney
Broward County, Florida
Government Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
Assistant County Attorney

_____ day of _____, 20__

"CITY":

Witnesses:

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
DENNIS W. BEACH, CITY MANAGER

Attest:

(SEAL)

MARY L. CHAMBERS
CITY CLERK

Approved As To Form:

GORDON B. LINN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instruments were acknowledged before me this _____ day of _____, 2011 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS**, City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL B, ALLTECH PARCEL II according to the Plat thereof Plat Book 175, page 59,
Public Records of Broward County.

FOLIO No. 9205-14-0020

EXHIBIT "B"

AMENDMENT TO NOTATION ON PLAT

The existing notation shown on the face of the PLAT clarifying and limiting the use of the platted property is amended from:

This plat is restricted to 110 high rise units

The notation shown on the face of the PLAT clarifying and limiting the use of the platted property is amended to:

This plat is restricted to the existing 110 high rise units on parcel A and 4.92 acres of active city park on Parcel B.

EXHIBIT "B" - CONTINUED

PLEASE CHECK THE APPROPRIATE BOX OR BOXES.

- Expiration of Finding of Adequacy for Plat or Parcel without an Expiration of a Finding of Adequacy notation or the Finding of Adequacy has expired.**

If a building permit for a principal building (excluding dry models, sales, and construction offices) and first inspection approval are not issued by _____, 20____, then the County's finding of adequacy shall expire and no additional building permits shall be issued for the amended uses until such time as Broward County makes a subsequent finding that the applicant satisfies the adequacy requirements set forth within the Broward County Land Development Code. The owner of the property shall be responsible for providing evidence to Broward County from the appropriate governmental entity, documenting compliance with this requirement within the above referenced time frame; **and/or**

If construction of project water lines, sewer lines, drainage, and the rock base for internal roads have not been substantially completed by _____, 20____, then the County's finding of adequacy shall expire and no additional building permits shall be issued until such time as Broward County shall make a subsequent finding that the applicant satisfies the adequacy requirements set forth within the Broward County Land Development Code. This requirement may be satisfied for a phase of the project, provided a phasing plan has been approved by Broward County. The owner of the property or the agent of the owner shall be responsible for providing evidence to Broward County from the appropriate governmental entity, documenting compliance with this requirement within the above referenced time frame.

- Air Navigation Hazards.**

Any structure within this Plat shall comply with Section IV D 1. f., Development Review Requirements of the Broward County Comprehensive Plan regarding hazards to air navigation.