




**Planning, Zoning & Economic Development
Memorandum**

DATE: June 29, 2016

TO: Mayor and Members of the City Council

FROM: Peter Dokuchitz, Principal Planner 

SUBJECT: Ordinance amending various provisions of Section 19-67 of the Code of Ordinances implementing the City's Comprehensive Plan amendment (Ordinance No. 2537).

Background:

On September 9, 2015, the City Council approved a Comprehensive Plan amendment allowing for the consolidation of Flexibility Zone 74 and 75 into one Flexibility Zone 75X (map attached). The ordinance also enabled the use of multiple flex rules to increase the number of flex units that may be developed, otherwise known as "stacking." The use of this mechanism is restricted to the Midtown District and in a specific area outside of the Midtown District, located north of Cleary Blvd., east of Pine Island Rd. and west of University Dr. and south of Sunrise Blvd.

The enabling Ordinance No. 2537 has been approved by the State Department of Economic Opportunity and the City's Comprehensive Plan has been recertified by the Broward County Planning Council.

The City Council also directed staff to prepare a zoning code amendment to Section 19-67 of the Code of Ordinances to allow the allocation of flex to these locations within Flexibility Zone 75X (draft ordinance attached).

On June 7, 2016, the Planning and Zoning Board recommended approval of the Ordinance to the City Council.

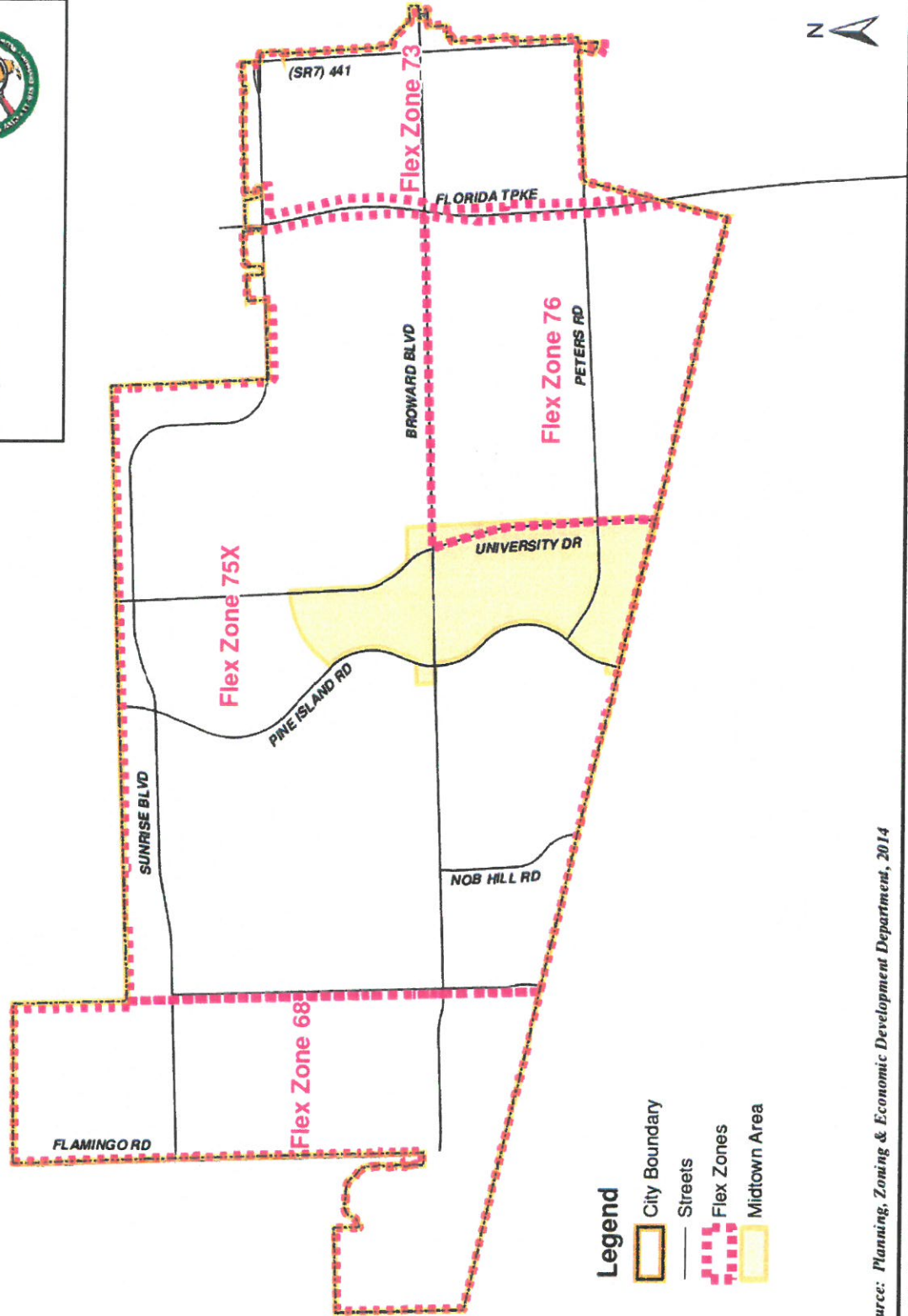
Request:

Staff requests City Council approve the Ordinance on First Reading.

Attachments:

- Flex Zone Map
- Draft Ordinance

City of Plantation
Figure 1.6



- Legend**
- City Boundary
 - Streets
 - Flex Zones
 - Midtown Area

Source: Planning, Zoning & Economic Development Department, 2014

ORDINANCE NO. _____

1
2
3 AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA
4 PERTAINING TO THE SUBJECT OF GROWTH MANAGEMENT;
5 AMENDING VARIOUS PROVISIONS OF SEC. 19-67 OF THE CODE
6 OF ORDINANCES CONCERNING THE CITY'S COMPREHENSIVE
7 PLANNING FLEXIBILITY LAND DEVELOPMENT REGULATIONS
8 SO AS TO IMPLEMENT COMPREHENSIVE PLAN AMENDMENTS
9 EVIDENCED BY UNCODIFIED ORDINANCE NUMBER 2537 AND
10 TO UPDATE MISCELLANEOUS CITATIONS; PROVIDING
11 RECITALS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING
12 AN EFFECTIVE DATE THEREFOR.
13

14
15 WHEREAS, the City its Comprehensive Plan, including amending the
16 Future Land Use Element and the Neighborhood Design Element, consolidating former
17 Flexibility Zone 74 and former Flexibility Zone 75 (and thereby creating new Flexibility
18 Zone 75X), and by amending Policy 1.1.8 of the Future Land Use Element concerning
19 Flexibility Units and Reserve Units; and,
20

21 WHEREAS, Plantation Midtown is wholly within and comprises a
22 subarea of Former Flex Zone 75, such that Former Flex Zone 75 contains all of Plantation
23 Midtown as well as other lands outside of Plantation Midtown; and,
24

25 WHEREAS, Policy 1.8.8 of the Future Land Use Element concerning
26 Flexibility Units and Reserve Units, requires that Flexibility and Reserve Units in Flex
27 Zone 75X which are sourced from Former Flex Zone 75 be entirely allocated for
28 potential assignment to lands within Plantation Midtown, but permits the assignment of
29 Flexibility and Reserve Units sourced from Former Flex Zone 74 anywhere within Flex
30 Zone 75X; and,
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32 WHEREAS, the foregoing Comprehensive Plan amendments are
33 evidenced by attachments to Ordinance No. 2537; and,
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35 WHEREAS, it is necessary and desirable to amend the City's land
36 development regulations concerning planning flexibility in Sec. 19-67 to implement the
37 recent Comprehensive Plan amendments described in the recitals above and update
38 certain citations, as appropriate; and,
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40 WHEREAS, the foregoing Growth Management public concerns are
41 legislative in nature which require the review and advice of the City's local planning
42 agency and the enactment of this Ordinance by the City's governing body; and,
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44 WHEREAS, the City's Planning and Zoning Board (the City's local
45 planning agency) conducted a hearing concerning the foregoing Growth Management
46 concerns as reflected in a draft of this Ordinance on June 7, 2016, and the result of the
47 local planning agency deliberations and recommendations were considered by the City's
48 governing body at the hearings of the City Council wherein this Ordinance was
49 considered; and,

WHEREAS, the City wishes to adopt and approve this Ordinance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA THAT:

SECTION 1: The paragraph definition of “flexibility zone” in Subsection 19-67 (a) of the Code of Ordinances of the City of Plantation is hereby amended, and additional paragraph definitions of “former flexibility zone 74”, “former flexibility zone 74,”and flexibility zone 75X,” are added to such subsection (a), all of such revised and amended paragraph definitions being inserted into their respective alphabetical order within such subsection, as follows:

“(a) Definitions:

“ . . .

Flexibility zone (or Flex zone) means the geographic area, as delineated on the flexibility zone boundary maps and the administrative flexibility rules documents with the Broward County Planning Council, within which residential densities and land uses may be redistributed through the plan certification process. The flexibility zones are also shown within the Plantation Comprehensive Plan Map and are designated in the Plantation Comprehensive Plan as enjoying numbers 68, 73, 74, 75, 75X or 76.

. . .

Flexibility zone 75X (or flex zone 75X) is the land area comprising former flex zone 74 and former flex zone 75.

. . .

Former flexibility zone 74 (or flex zone 74) is bounded on the south by Broward Boulevard, on the east by the west right of way line of Florida’s Turnpike from Broward Boulevard to the north city limit, on the north by the north city limit from Florida’s Turnpike to the OPWCD Canal No. 1A, on the west north of NW 5th Street by the OPWCD Canal No. 1A to University Drive, and on the west south of NW 5th Street by University Drive from NW 5th Street to Broward Boulevard.

. . .

93 Former flexibility zone 75 (or flex zone 75) is bounded by New Hiatus
94 Road on the west, the city limit on the south, University Drive on the
95 east south of NW 5th Street, the OPWCD Canal No. 1A on east north
96 of NW 5th Street, and on the north by the north city limit.
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98 . . .”
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100 SECTION 2: Paragraph (1) of subsection 19-67 (b) of the Code of Ordinances of the
101 City of Plantation is hereby amended to update a citation in subparagraph c., and so as to
102 read as follows:

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104 “(1) Residential-neighborhood commercial flex.
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106 a. The city would consider allowing flexibility under this provision for
107 low intensity neighborhood offices, neighborhood retail sales of merchandise, or
108 neighborhood retail sales of services that are limited in hours, ~~that~~ which are
109 compatible with residential uses, and ~~that~~ which do not tend to create
110 compatibility conflicts as a result of noise, odors, or high traffic generation. These
111 uses usually are designed to serve residents within five (5) minutes' driving time.
112 Examples of stores include food, drugs, clothing, and sundries. Examples of
113 services include barber shops and beauty parlors, dry cleaners, pack 'n ship,
114 printing, and jewelers. Examples of offices include real estate, accounting, and
115 business. The major characteristic of low intensity neighborhood uses are their
116 scale. These uses do not contain large stores or buildings designed to serve several
117 neighborhoods. Heavy commercial uses and other types of uses such as (but not
118 limited to) garages, gasoline stations, vehicle service stations, vehicle painting,
119 used or new vehicle sales or equipment lots; hardware stores, do-it-yourself
120 building materials or warehouse supply stores, contractor storage yards; marine
121 sales, service, or repair centers; freight, truck, bus or transportation terminals or
122 centers; manufacturing; warehouse or self-storage facilities; adult entertainment
123 uses; fertilizer, nursery or garden stores or centers; uses dealing with chemicals
124 such as pool supply uses and insect exterminating uses; wholesale/resale
125 membership store; government administrative offices; package stores; pawn
126 shops; employment agencies; hospitals; hotels; and sanatoriums will not be
127 permitted to use this flexibility.
128

129 b. No more than a total of five (5) percent of the area designated for
130 residential use within a flexibility zone may be used for these neighborhood
131 office, neighborhood retail sales of merchandise, or neighborhood retail sales of
132 services.
133

134 c. Residential-neighborhood commercial flex shall be considered only in
135 redevelopment areas as designated by city ordinance or adjacent to such
136 redevelopment areas where the property's land use designation adjoins the
137 redevelopment area on two (2) boundaries. This flexibility shall not be available
138 for use in the ~~Central~~ Plantation Midtown Development District.

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d. The space within significant residential buildings and areas designated medium high twenty-five (25) residential may be used for these neighborhood office, neighborhood retail sales of merchandise, or neighborhood retail sales of services on ground floors and so long as no more than fifteen (15) percent of the floor area is used for said purposes.

e. The utilization of this type of flexibility will require a legislative ordinance enactment.

f. The size and scale of buildings must be residential in nature, and be consistent in scale (building height, mass, elevations) with the dominant residential buildings in the neighborhood, and the proposed change shall not exceed the average density of adjacent development.”

SECTION 3: Paragraph (2) of subsection 19-67 (b) of the Code of Ordinances of the City of Plantation is hereby amended to read as follows:

“(2) Flexibility units.

a. The city will permit the assignment of flexibility units in commercial designated properties for:

1. Any quality housing facility which provides a life care environment for elderly individuals which shall include but not be limited to creation of a life estate in the facility itself and the provision of offsite or onsite medical care;

2. Any quality housing facility licensed by the State of Florida for more than eight (8) unrelated elderly individuals;

3. Any not-for-profit quality housing facility for unrelated elderly individuals; or

4. Any quality housing development meeting the affordable housing rules set forth in article 8 of the Broward County Administrative Rules Document and regardless whether a density bonus is desired; or

5. Any mixed residential/commercial development according to regulations set forth in section IV.B "permitted uses" of the county land use plan, and policy 1.8.8 of the future land use element of the city comprehensive plan.

b. The city may assign flexibility units upon approving a site plan, together with any other appropriate development orders or approvals prerequisite to applying for a building permit. The utilization of this type of flexibility will require a legislative ordinance enactment.

185 c. The use of flexibility units pursuant to subsection a. 1--3. above shall
186 be limited to property located within former flex zone 75 (excluding Plantation
187 Midtown [f/k/a central plantation as defined in the adopted city comprehensive
188 plan]) and former flex zone 74 only north or east of Sunrise Boulevard or within
189 1500 feet of a hospital. The use of flexibility units for a project qualifying under
190 subsection a. ~~(iv)~~4. above will only be for projects within flex zone 73 [and therein
191 only within the city community redevelopment area (defined as that area presently
192 within Plantation Gateway), or adjacent to such area on lots along Broward
193 Boulevard which enjoy as of January 1, 2008 a zoning classification of RS-1A or
194 RS-2B]. The use of flexibility units for a project qualifying under subsection
195 a. ~~(v)~~5. above will only be for projects within flex zone 73 [and therein only within
196 the city community redevelopment area (defined as that area presently within
197 Plantation Gateway), or adjacent to such area on lots along Broward Boulevard
198 which enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B],
199 ~~and or~~ within Plantation Midtown (f/k/a Central Plantation as defined in the
200 adopted city comprehensive plan), or within that portion of the City bounded on
201 the North by Sunrise Boulevard, on the South by Cleary Road, on the West by
202 Pine Island Road, and on the East by University Drive.

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204 d. The project should be consistent in scale, building height, mass, and
205 elevations with the predominant nearby residential buildings, and the utilization
206 of flexibility should not exceed the average density of the contiguous residential
207 property (contiguous meaning adjacent or only separated by streets, canals, or
208 easements). The commercial property for which flexibility units are proposed
209 shall not exceed the average residential density for the contiguous residential
210 property (contiguous meaning adjacent to or only separated by streets, canals, or
211 easements). This policy guideline may not always be appropriate when the
212 governing body of Plantation wishes to encourage multifamily structures near
213 residential structures consistent with redevelopment plans or vision-based studies
214 conducted for specific areas of the city, or wishes to encourage the elimination,
215 retardation, or prevention of urban blight.

216
217 e. Flexibility units may not be transferred between flexibility zones,
218 except when used as allowed in subsection a. ~~(iv)~~ 4. above. Flexibility units
219 sourced from former flex zone 75 have been allocated by the Comprehensive Plan
220 to Plantation Midtown for assignment pursuant to Policy 1.8.8, and may be so
221 assigned pursuant to the land development regulations of this Section;
222 additionally, flexibility units sourced from former flex zone 74 may be assigned
223 anywhere within flex zone 75X (and therefore to lands within flex zone 75X that
224 are outside of Plantation Midtown) pursuant to Policy 1.8.8, and may be so
225 assigned pursuant to the land development regulations of this Section.

226
227 f. In no instance shall a density greater than twenty-five (25) dwelling
228 units per gross acre be permitted, calculated where appropriate in a manner
229 consistent with Future Land Use Element Policy 1.1.8.”

233 SECTION 4: Paragraph (3) of subsection 19-67 (b) of the Code of Ordinances of the
234 City of Plantation is hereby amended to read as follows:

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236 “(3) Reserve units.

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238 a. The city will permit the assignment of reserve units for:

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240 1. Any quality housing facility which provides a life care environment
241 for elderly individuals which shall include but not be limited to creation of a life
242 estate in the facility itself and the provision of offsite or onsite medical care;

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244 2. Any quality housing facility licensed by the State of Florida for more
245 than eight (8) unrelated elderly individuals;

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247 3. Any not-for-profit quality housing facility for unrelated elderly
248 individuals;

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250 4. Any quality housing development meeting the affordable housing rules
251 set forth in article 8 of the Broward County Administrative Rules Document and
252 regardless whether a density bonus is desired; or (v)

253

254 5. Any residential or mixed residential/commercial development
255 according to regulations set forth in section IV.B "permitted uses" of the county
256 land use plan, and policy 1.8.8 of the future land use element of the city
257 comprehensive plan.

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259 b. Presently, the appendix to the city's comprehensive plan, volume II,
260 requires an amendment to the city's future land use map whenever reserve units
261 are assigned. A local land use plan map amendment will be necessary as long as
262 same is required by the city comprehensive plan. At such time as the
263 comprehensive plan is amended to no longer require a local land use plan map
264 amendment process to be used to assign reserve units, the city will continue to
265 require a legislative enactment of an ordinance to assign or utilize reserve units.

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267 c. The assignment of reserve units must be approved by the county
268 planning council administrator in accordance with the administrative rules
269 document prior to the city governing body approving same (until such time, if
270 ever, that the city comprehensive plan expressly incorporates the county
271 comprehensive plan special residential facility provisions).

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273 d. The use of reserve units pursuant to subsection a. 1., 2., or 3. (i), (ii), or
274 (iii) above shall be limited to properties located within former flex zone 74 (which
275 are north or east of Sunrise Boulevard, or within 1500 feet of a hospital) and
276 within flex zone 73 (and therein only within the Gateway 7 Development District,
277 or adjacent to such redevelopment area on lots along Broward Boulevard which
278 enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B). The use
279 of reserve units for a project qualifying under subsection a. ~~(iv)~~ 4. above will only

280 be for projects within flex zone 73 [and therein only within the city community
281 redevelopment area (defined as that area presently within the Plantation
282 Gateway), or adjacent to such area on lots along Broward Boulevard which enjoy
283 as of January 1, 2008 a zoning classification of RS-1A or RS-2B]. The use of
284 reserve units for a project qualifying under subsection a.(v) 5. above will only be
285 for projects located: (i) within flex zone 73 [and only within the city community
286 redevelopment area (defined as that area presently within Plantation Gateway), or
287 adjacent to such area on lots along Broward Boulevard which enjoy as of January
288 1, 2008 a zoning classification of RS-1A or RS-2B], and or (ii) within Plantation
289 Midtown (f/k/a Central Plantation as defined in the adopted city comprehensive
290 plan), or (iii) within that portion of the City bounded on the North by Sunrise
291 Boulevard, on the South by Cleary Road, on the West by Pine Island Road, and
292 on the East by University Drive.

293
294 e. In no instance shall a density greater than twenty-five (25) dwelling
295 units per gross acre be permitted, calculated where appropriate in a manner
296 consistent with Future Land Use Element Policy 1.1.8.

297
298 f. Reserve units may not be transferred between flexibility zones, except
299 when used as allowed in subsection a. 4. above. Reserve units sourced from
300 former flex zone 75 have been allocated by the Comprehensive Plan to Plantation
301 Midtown for assignment pursuant to Policy 1.8.8, and may be so assigned
302 pursuant to the land development regulations of this Section; additionally, reserve
303 units sourced from former flex zone 74 may be assigned anywhere within flex
304 zone 75X (and therefore to lands within flex zone 75X that are outside of
305 Plantation Midtown) pursuant to Policy 1.8.8, and may be so assigned pursuant to
306 the land development regulations of this Section.”

307
308 SECTION 5: Paragraph (4) of subsection 19-67 (b) of the Code of Ordinances of the
309 City of Plantation is hereby amended to update a reference to a revised definition, and so
310 as to read as follows:

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312 “(4) Industrial-limited commercial flex. Pursuant to chapter 27, article XV
313 of this Code, and specifically section 27-802(b), adult entertainment
314 establishments are prohibited anywhere in the city limits. Section 27-803 of the
315 City Code provides that if section 27-802 is declared by a court of competent
316 jurisdiction to be invalid, such ruling shall not affect the remaining divisions and
317 sections of article XV of chapter 27, City Code. There are sections of such article
318 XV which would apply only in the event section 27-802 is declared
319 unconstitutional and the regulations set forth in division IV of such article XV
320 would permit adult entertainment establishments in the city's I-LP zoning district.
321 The comprehensive plan future land use designation for these zoned districts is
322 industrial. The industrial future land use designation permits heavy commercial
323 uses in industrial areas. Adult entertainment establishments are (and additionally
324 are hereby defined as being) heavy commercial uses for purposes of applying the
325 city comprehensive plan. If a court were to declare section 27-802

326 unconstitutional and additionally not give effect or deference to the foregoing
 327 sentence and construe the city comprehensive plan industrial future land use
 328 designation in such a manner so as to not allow adult entertainment
 329 establishments as "heavy commercial uses" therein, then and in such event alone
 330 shall all of the industrial future land use designation flexibility be available for
 331 use in the city's I-LP zoned properties for adult entertainment establishments
 332 permitted pursuant to division IV of article XV of chapter 27. The city has two (2)
 333 industrial designated areas in ~~flex zone 74~~ flex zone 75X, one of which is zoned I-
 334 L2P. The city will be able to count twenty (20) percent of the industrial
 335 designated acreage zoned I-L2P for the flexibility it may need to utilize for adult
 336 entertainment establishments in the I-LP zoned industrial designated property. If
 337 this industrial-limited commercial flex is ever needed under the conditions set
 338 forth herein, it shall be deemed assigned after the conditional provision of such
 339 flexibility as set forth herein is approved as available by the Broward County
 340 Planning Council, and it shall be deemed effective upon the adult entertainment
 341 establishment obtaining either a site plan approval or an adult entertainment
 342 permit (such latter permit being obtained pursuant to division V of article XV,
 343 chapter 27 of the City Code).”
 344

345 SECTION 6: Paragraphs (2), (3) and (4) of subsection 19-67 (d) of the Code of
 346 Ordinances of the City of Plantation is hereby amended to update references, and so as to
 347 read as follows:
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349 “(d) Time limits/procedure.

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 351
 352 (2) Any decision to utilize flexibility (and any zoning decision [as defined
 353 in subsection 27-6(a) of this Code] granted in connection therewith) shall be
 354 initially valid for a period of time not to exceed twenty-four (24) months from the
 355 date the decision is made. If the rights granted by the flexibility decision (and any
 356 dependent zoning decisions) are not exercised in the aforesaid twenty-four-month
 357 period of time by an application for a building permit sufficient to meet the
 358 requirements of section ~~104.6~~ 105.3 et. seq. of the Florida Building Code
 359 (Broward County Administrative Provisions as same may be amended from time
 360 to time), the flexibility decision (and all dependent zoning decisions) shall
 361 become null and void. The city council may extend this time period for one (1)
 362 additional extension not to exceed six (6) additional months for good cause
 363 demonstrated prior to the expiration of the period of initial validity.
 364

365 (3) The flexibility decision shall also become null and void if, after an
 366 application for a building permit sufficient to meet the requirements of section
 367 ~~104.6~~ 105.3 et. seq. of the Florida Building Code (Broward County
 368 Administrative Provisions as same may be amended from time to time) is made, a
 369 building permit is not issued within six (6) months. The city council may extend
 370 this time period for one (1) additional extension not to exceed six (6) additional
 371 months for good cause demonstrated prior to the expiration of this time period.

372 (4) The flexibility decision shall become null and void after a building
373 permit is issued upon the earlier of:

374
375 a. If no work has commenced, when the initial permit expires by virtue
376 of the time limits set forth in section ~~104.9.3~~ 105.3.2 of the Florida Building Code
377 (Broward County Administrative Provisions as same may be amended from time
378 to time), ~~as amended~~; or

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380 b. If work has commenced when the permit expires by virtue of the time
381 limits set forth in section ~~104.9.3~~ 105.3.2 of the Florida Building Code (Broward
382 County Administrative Provisions as same may be amended from time to time);
383 ~~as amended~~; or

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385 c. When the building official requires that any work which has been
386 commenced or completed be removed from the building site; or

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388 d. When the building official determines not to issue a subsequent, new
389 permit to complete construction under section ~~104.9.3~~ 105.3.2 of the Florida
390 Building Code (Broward County Administrative Provisions, as same may be
391 amended from time to time).”

392
393 SECTION 7: Should any section, paragraph, sentence, clause, phrase or other part of
394 this Ordinance be declared by a court of competent jurisdiction to be invalid, such
395 decision shall not affect the validity of this Ordinance as a whole or any portion or part
396 thereof, other than the part so declared to be invalid.

397
398 SECTION 8: The provisions of Sections 1 – 6 of this Ordinance shall become and be
399 made a part of the Code of Ordinances of the City of Plantation, Florida, and may be
400 renumbered or re-lettered by the Code Editor to accomplish such.

401
402 SECTION 9: This Ordinance shall take effect immediately upon passage on second
403 reading by the City Council and signature by the Mayor.

404
405 PASSED ON FIRST READING by the City Council this ____ day of
406 _____, 2016.

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408 PASSED AND ADOPTED ON SECOND READING by the City Council this ____
409 day of _____, 2016.

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SIGNED by the Mayor this ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM ONLY: DATE

ATTY. _____

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed document was received by the Office of the City Clerk and entered into the Public Record this ____ day of _____, 2016.

Susan Slattery, City Clerk

[698]9002-11001, V4