Consent Agenda  Regular Agenda  Public Hearing

**Subject:**

Zoning and Land Use Case No. (Q) Z/LU-1-4-12 (Patriot Bank)

**Department:**

Planning Department

**Staff Member Responsible:**

Larry Arrington, Director

**Recommended Action:**

I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS (BOARD) CONTINUE TO THE JULY 24TH BOARD HEARING THE ZONING REQUEST AND THE REQUEST TO AMEND THE FUTURE LAND USE MAP WITH THE ASSOCIATED DEVELOPMENT AGREEMENT.

**Summary Explanation/Background:**

The application for a zoning and land use plan amendment was contingent upon the submittal of a development agreement, which limits the use of the property to specific uses and conditions. One of the main conditions of the agreement involves the preservation of five (5) mature oak trees on the subject area. The applicant notified staff on May 14, 2012, that their arborist has notified them that some or all of the five (5) mature oak trees specified in the proposed development agreement are either dying or diseased, which would have an impact on the applicant's ability to meet one of the conditions of the agreement. Therefore, staff would recommend the land use and rezoning application be continued to the July 24, 2012 Board hearing to offer staff the opportunity to review the arborist's report and to determine what effect this new information would have on the development agreement and staff's recommendation to the Board.

**Fiscal Impact/Cost/Revenue Summary:**

N/A

**Exhibits/Attachments Attached:**

Locater Map, Staff Report with LPA Recommendation, Development Agreement, Zoning Maps, Resolution, Ordinance & Correspondence
Z/LU-1-4-12
LPA 3-4-12

Zoning From: P-1, General Professional Office
To: C-1, Neighborhood Commercial

Land Use From: Residential/Office General
To: Residential/Office/Retail

And a Development Agreement

Pinellas County

Parcel I.D. 11/28/15/00000/110/0600
Prepared by: Pinellas County Planning Department February 2012
LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the BOARD OF COUNTY COMMISSIONERS

Regarding: Case No. Z/LU-1-4-12 (LPA Report No. 3-4-12)

LPA Recommendation: The LPA finds that the proposed amendments to the Future Land Use Map and Zoning Atlas, when considered with the associated Development Agreement, as recommended for modification below, are consistent with the Pinellas County Comprehensive, and recommends Approval of the request. (The vote was 6-0, in favor)

Discussion: at the public hearing, the LPA supported the proposed amendments as they should result in additional jobs and services in the community; however, they did recommend that additional protections be provided to the surrounding neighborhood. To address their concerns, they recommended the following additions to the Development Agreement: (1) hours of operation will be limited to 7:00 a.m. to 11:00 p.m., (2) limit any deliveries or dumpster pickups to the hours of 7:00 a.m. 7:00 p.m., and (3) to prohibit delivery truck access to and from the site via Virginia Avenue.

LPA Public Hearing: April 12, 2012

PLANNING STAFF RECOMMENDATION:

Staff recommends that the LPA find the proposed amendments to the Future Land Use Map and the Zoning Atlas, when considered with the Development Agreement, to be consistent with the Pinellas County Comprehensive Plan, based on the findings in this Report;

And further, staff recommends that the LPA recommend approval of the amendment, along with the associated Development Agreement, to the Pinellas County Board of County Commissioners.

CASE SUMMARY

APPLICANT'S NAME: Patriot Bank

DISCLOSURE: Patriot Bank Corporate Officers: David Key, President; Cathleen J. Fitzgerald, Secretary; Michael Baker, Chairman; Michael Cronin, Director; Allen Crumley, Director; Stephen Zahorian, Director; and Thomas Wokurka, Officer

REPRESENTED BY: Peter Pensia, AVID Group

<table>
<thead>
<tr>
<th>LAND USE CHANGE</th>
<th>ZONING CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM: Residential/Office General</td>
<td>P-1, General Professional Office</td>
</tr>
<tr>
<td>TO: Residential/Office/Retail</td>
<td>C-1, Neighborhood Commercial</td>
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And a Development Agreement to allow for the construction of a retail building not to exceed 8,500 sq. ft. and having an allowable height not to exceed 35 ft.
PROPERTY DESCRIPTION: The subject property is located at the southeast corner of Alternate U.S. 19 and Virginia Avenue (street address being 490 Alternate U.S. 19, Palm Harbor). The subject property is approximately 1.44 acres in size.

PARCEL ID(S): 11/28/15/00000/110/0600

PROPOSED BCC HEARING DATE: May 22, 2012

CORRESPONDENCE RECEIVED TO DATE:

FDOT Comment
Two letters received in opposition.

PERSONS APPEARING AT THE LOCAL PLANNING AGENCY HEARING:

Five persons appeared in opposition.

SURROUNDING ZONING AND LAND USE FACTS:

<table>
<thead>
<tr>
<th>Adjacent Properties</th>
<th>Land Use Category</th>
<th>Zoning Designation</th>
<th>Existing Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Residential Urban</td>
<td>R-3</td>
<td>Single-Family Home</td>
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<tr>
<td>East</td>
<td>Residential Low</td>
<td>RM-5</td>
<td>Single-Family and Multi-Family Dwelling Units</td>
</tr>
<tr>
<td>South</td>
<td>Residential/Office General and Preservation</td>
<td>P-1</td>
<td>Professional Office and County Drainage System</td>
</tr>
<tr>
<td>West</td>
<td>Institutional and Commercial General</td>
<td>M-1 and C-2</td>
<td>U.S. Post Office</td>
</tr>
</tbody>
</table>

STAFF DISCUSSION AND ANALYSIS

BACKGROUND

The applicant’s request is to amend 1.44 acres on the Pinellas County Future Land Use Map (FLUM) from Residential/Office General (R/OG) to Residential/Office/Retail (R/OR) and on the Zoning Atlas Map from P-1, General Professional Office to C-1, Neighborhood Commercial. In addition to the amendments, the applicant has proposed a Development Agreement that restricts the proposed building’s size to no greater than 8,500 square feet and a height not to exceed 35 feet, and includes additional development-related restrictions. The applicant intends to demolish the bank building and redevelop the site with a retail discount store (Family Dollar Store). Retail uses are not permitted under the R/OG “mixed use” land use category (or P-1 zoning), which therefore necessitates the request for an amendment to the R/OR “mixed use” category, with C-1 zoning.

The site, located on the southeast corner of Alt. U.S. Hwy. 19 and Virginia Avenue, is currently developed with a 2,130 square foot drive-through bank that has been vacant for some time. Notable site characteristics include five mature/specimen oak trees onsite, as well as a portion of the floodway for Smith Creek, a County drainage way.
COMPATIBILITY WITH SURROUNDING LAND USES

The subject site is located along an arterial roadway (Alt. U.S. Hwy. 19) at the juncture of an un­signalized intersection. The Alt. U.S. Hwy. 19 corridor in this portion of Palm Harbor includes mixed use, residential and commercial land use designations. To the north of the subject site (across Virginia Avenue), the area is designated Residential Urban on the FLUM and is developed with a single-family home. West of the subject site across (Alt. U.S. Hwy. 19), is a U.S. Post Office, designated on the FLUM as Commercial General and Institutional. Immediately south of the site, the area is designated Residential/Office General on the FLUM, and is developed with single-family homes and a multi-family townhome community.

The proposed R/O/R designation is generally suited to locations along arterial roadways/thoroughfares where the area is conducive to a mix of uses, with pedestrian and transit access, and the uses can serve as a transition between areas of greater and lesser intensity. The C-1, Neighborhood Commercial, zoning district is intended to support compact commercial development/shopping to largely serve the area in which the use is located, and this site is within walking distance of nearby residential areas. While the existing R/OG land use designation allows for a floor area ratio of 0.40, the proposed R/O/R designation only allows for a ratio of 0.20 (for commercial uses); therefore, the maximum development potential is reduced by the amendment. Overall, with the restrictions imposed by the Development Agreement (see discussion below), staff finds that the proposal is consistent with the purpose and locational characteristics of the R/O/R and C-1 categories and districts, and is compatible with the surrounding neighborhood and uses.

DEVELOPMENT AGREEMENT

The applicant has chosen to submit a Development Agreement with this request. The Agreement restricts both the maximum building size as well as the allowable uses. The purpose of these restrictions is to address County staff concerns relating to transportation impacts as well as the potential for noise and neighborhood compatibility issues. While the proposed R/O/R designation allows for a maximum floor area ratio (FAR) of 0.20 for commercial uses, by committing in the Agreement to a maximum building size of 8,500 square feet for the commercial building (which equates to an FAR of 0.14), the applicant is committing to a less intense development (i.e., a reduced FAR) than would normally be allowed by the R/O/R land use designation.

In addition to limiting the size of the retail/commercial use on the site, the Agreement would also specifically prohibit convenience stores, car washes, sale of gasoline, restaurants and other similar uses from being developed on the site. The effect of these restrictions is to eliminate the types of uses that could generate activities and noise incompatible with the adjoining residential areas, as well as the types of retail/commercial uses that have the potential to generate more substantial traffic.

The Agreement also requires an enhanced landscape buffer, with consideration of low impact development techniques along both road frontages, as well as the retention of the five specimen oak trees onsite (refer to Exhibit “B”). It also identifies two driveways/entrances to the site that will be eliminated (one off of Alt. U.S. Hwy. 19 and one off of Virginia Ave). Exhibit “C” of the Agreement identifies an architectural style/design intended to provide for compatibility with the surrounding area. The site will still be subject to full site plan review prior to commencement of development (including stormwater and floodway protection requirements, as a portion of Smith Creek abuts the edge of the property).

The Agreement does still allow, under Section 6.1.4.5., the option of developing an office building instead of a commercial building. In that case, the restrictions on FAR and building size would not apply; however, the requirements associate with Section 6.1.4.3 of the Agreement (e.g., retention of the five trees, enhanced landscaping and the bicycle rack) would still apply. Under the R/O/R land use
designation, with the P-1 zoning, an office use could be developed at an FAR of 0.30, with a building height up to 75 feet, as long as the structures are not within 50 feet of a residential property.

TRANSPORTATION IMPACTS

When analyzing the site’s traffic potential under the existing R/OG designation, staff used an FAR of 0.20 to calculate existing traffic impacts, even though 0.40 is actually permitted under the R/OG designation. This was done because the existing professional offices south of the subject site, which have the same R/OG designation, are actually developed at an FAR of 0.20, largely due to parcel size and site constraints. Therefore, when comparing the site’s existing development potential under the proposed R/OR designation (which is limited by the Development Agreement to an FAR of 0.14 for commercial uses), the proposed amendment is anticipated to generate approximately 68 additional vehicle trips per day on the adjacent segment of Alt. U.S. Hwy. 19. That segment of Alt. U.S. Hwy. 19 is currently operating at a level of service (LOS) F, and is identified as a constrained roadway in the 2011 Pinellas County Concurrency Test Statement. These additional daily trips are not expected to degrade the level of service conditions of the roadway.

Based on the small number of potential additional trips, the fact that two of the four existing entrances to the site will be eliminated, and because the Development Agreement will include facilities for bicycle parking, staff finds that transportation concurrency is not an issue, as long as the site develops in accordance with Section 6.1.4.1 of the Agreement. However, if the site develops as allowed under Section 6.1.4.5 of the Agreement, it will be subject to the application of concurrency at the time of site plan submittal and review.

OTHER INFRASTRUCTURE IMPACTS

The property is located within the Pinellas County Water Demand Planning Area and the North County (William E Dunn) Wastewater Treatment Facility Service Area. Amending the property from R/OG to R/OR would be expected to decrease both potable water and wastewater impacts, respectively, by approximately 1,042 gallons per day, and solid waste disposal impacts could decrease by approximately 8.4 tons per year.

OTHER CONSIDERATIONS AND INFORMATION

Regarding hurricane and storm vulnerability, the subject site is not located within the coastal storm area; however, approximately half of the site is located within the 100-year floodplain. Also, the subject site is located within the Smith Bayou watershed, verified as impaired by the Department of Environmental Protection (DEP) and the Environmental Protection Agency (EPA).

SUMMARY

In summary, staff finds the applicant’s request, coupled with the specific restrictions and limitations identified in the Development Agreement, is consistent with the purpose and intent of the R/OR land use designation and C-1 zoning district. The Development Agreement, with its design, landscaping, and tree protection requirements, and with its specific development restrictions and use prohibitions, should create little additional traffic impact, and has the potential to improve the development outcome on this site. For example, under the existing R/OG designation, none of the agreed-upon site enhancements, protections or restrictions associated with the Development Agreement would exist. The proposed amendment to R/OR is also considered to be consistent with the fact that there is a mix of land uses along this portion of the Alt. U.S. Hwy. 19 corridor. Based on these findings, staff recommends approval of the proposed amendments, with the Development Agreement.
Staff finds that the proposed amendments are consistent with the following adopted goals, objectives, policies of the Pinellas County Comprehensive Plan:

FUTURE LAND USE ELEMENT:

Goal 1: The pattern of land use in Pinellas County shall be orderly and reasonable in distribution and intensity, conserve natural resources, be in the overall public interest, and effectively serve the community and environmental needs of the population.

1.2.3. Policy: Plan designations on the Future Land Use Map shall be compatible with the natural environment, support facilities and services, and the land uses in the surrounding area.

1.12 Objective: Pinellas County shall promote the location of community or neighborhood commercial development within centers in order to achieve optimal land use relationships, avoid commercial intrusion and impacts into established neighborhoods, achieve compatibility with traffic movement objectives, minimize air pollution, and serve the immediate retail shopping needs of limited or defined geographic areas.

1.12.1. Policy: Pinellas County shall restrict the proliferation of strip commercial development in areas where it has not yet become established as the predominant commercial land use pattern.

1.12.2. Policy: Pinellas County shall permit commercial development in a manner that will maintain the economic vitality of recognized and established commercial areas.

NATURAL RESOURCE CONSERVATION AND MANAGEMENT ELEMENT:

7.3. Objective: Pinellas County will initiate a program to maximize retention and enhancement of the County's mature native shade tree canopy for the environmental value and for the contribution to this County's quality of life.

COUNTY DEVELOPMENT REGULATIONS

Approval of this request does not ensure that the site can meet County development regulations, including concurrency management regulations, which apply at the time of site plan review.
DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is dated April 18, 2012, effective as provided in Section 5 of this Agreement, and entered into between Patriot Bank ("Owner") and Pinellas County, Florida, a political subdivision of the State of Florida acting through its Board of County Commissioners, the governing body thereof ("County").

RECATALS:

A. Sections 163.3220 – 163.3243, Florida Statutes, which set forth the Florida Local Government Development Agreement Act ("Act"), authorize the County to enter into binding development agreements with persons having a legal or equitable interest in real property located within the unincorporated area of the County.

B. Under Section 163.3223 of the Act, the County has adopted Chapter 134, Article VII of Part III, the Pinellas County Land Development Code ("Code"), establishing procedures and requirements to consider and enter into development agreements.

C. Owner is the owner of approximately 1.44 acres n.i.o.l. of real property ("Property") located at 490 Alternate U.S. Highway 19 in the unincorporated area of the County, more particularly described on Exhibit “A” attached hereto.

D. Owner desires to develop and use the Property as a retail business (not to exceed an 8,500 square foot building).

E. The Property currently has a land use designation of Residential/Office General (R/OG) and is zoned Professional Office District (P-1).

F. Owner has requested that the County place a land use designation of Residential/Office/Retail (R/O/R) and a zoning designation of Neighborhood Commercial District (C-1) on the Property, and approve a restriction on the type and intensity of retail/commercial use(s) allowed on the Property.

G. The County cannot justify the requested action absent the restrictions contained in this Agreement and in the deed restriction required in Section 6.1.4, and the County supports the change in zoning and land use designation based upon the provisions of the Agreement.

H. The County and Owner have determined that it would be mutually beneficial to enter into a development agreement governing the matters set forth herein and have negotiated this Agreement in accordance with the Code and the Act.

I. The County has found that the terms of this Agreement are consistent with the Pinellas County Comprehensive Plan and the Code.
STATEMENT OF AGREEMENT

In consideration of and in reliance upon the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound and in accordance with the Act, agree as follows:

Section 1. Recitals. The above recitals are true and correct and are a part of this Agreement.

Section 2. Incorporation of the Act. This Agreement is entered into in compliance with and under the authority of the Code and the Act, the terms of which as of the date of this Agreement are incorporated herein by this reference and made a part of this Agreement. Words used in this Agreement without definition that are defined in the Act shall have the same meaning in this Agreement as in the Act.

Section 3. Property Subject to this Agreement. The Property is subject to this Agreement.

Section 4. Ownership. The Property is owned in fee simple by Owner.

Section 5. Effective Date/Duration of this Agreement.

5.1. This Agreement shall become effective as provided for by the Act and shall be contingent upon obtaining final approval, and effectiveness of the land use designation of Residential/Office/Retail (R/O/R) and a zoning designation of Neighborhood Commercial District (C-1), as requested on the Property.

5.2. This Agreement shall continue in effect until terminated as defined herein but for a period not to exceed five (5) years.

Section 6. Obligations under this Agreement.

6.1. Obligations of the Owner.

6.1.1. Binding Obligations. The obligations under this Agreement shall be binding on Owner, its successors or assigns.

6.1.2 Development Review Process. At the time of development of the Property consistent with 6.1.4.1 through 6.1.4.5, Owner will submit such applications and documentation as are required by law and shall comply with the County's Code applicable at the time of the effective date of this Agreement.

6.1.3 If the property is developed consistent with 6.1.4.6, Owner will submit such applications and documentation as are required by law and shall comply with the County’s Code, including concurrency provisions, applicable at the time of development.
6.1.4 Development Restrictions. The following restrictions shall apply to development of the Property.

6.1.4.1 The Property shall be used for any retail business/commercial use or personal service establishments use described as a permitted use in the C-1 zoning district, except for those uses which shall be specifically prohibited as listed below. Redevelopment of the Property shall be substantially similar to the conceptual site plan and building elevations attached hereto as Exhibits “B” & “C” respectively. The proposed building’s gross floor area shall not exceed 8,500 square feet and building height shall not exceed 35 feet.

6.1.4.2 The operating hours of any business established pursuant to subsection 6.1.4.1 are limited to 7:00 am – 11:00 pm, and the hours for deliveries and trash pick-up are limited to 7:00 am – 7 pm. Truck traffic resulting from any delivery to the Property is strictly prohibited from utilizing the Virginia Avenue access on the Property. Owner shall place on-site signage with verbiage prohibiting such truck deliveries at the Virginia Avenue access.

6.1.4.3 There shall be no convenience stores, car washes, sale of gasoline from pumps, restaurants, or any similar uses, allowed on the Property, except that the operation of a discount retail store such as a Family Dollar will not be prohibited.

6.1.4.4 Owner shall provide enhanced landscape buffer width with consideration of low impact development techniques where feasible along both road frontages and will retain the five specimen trees that are identified on the conceptual site plan during redevelopment of the Property. A bicycle rack will be provided onsite, at a location to be determined during the site plan review process.

6.1.4.5 Development Intensities. Owner shall comply with the building intensities and height required by the Property’s zoning and land use designations, unless otherwise modified by this Agreement.

6.1.4.6 Optionally, if desired by the Owner, the Property may continue to be used, expanded, or redeveloped for any use described as a permitted use in the P-1 zoning district at the building intensities and height required by the Property’s zoning and land use designations. as long as the provisions of 6.1.4.4 are adhered to.
6.1.4.7 Recording of Deed Restriction. Prior to the issuance of a development permit for the Property, Owner shall record a deed restriction encumbering the Property in the official records of Pinellas County, Florida and deliver a copy of such recorded deed restriction to the Director of the County Building and Development Review Services Department or his designee. The deed restriction shall be approved as to form by the County Attorney (which approval shall not be unreasonably withheld) and shall generally describe the development limitations of this Agreement. The deed restriction shall be perpetual and may be amended or terminated only with the consent of the County, which consent shall not be unreasonably withheld.

6.2. Obligations of the County.

6.2.1 Concurrent with the approval of this Agreement, the Board amends the land use and zoning designation for the Property as set forth in Recital F above.

6.2.2 County will process preliminary and final site plan applications for the Property that are consistent with the Plan and that meet the requirements of the Code at the time of the effective date of this Agreement.

6.2.3 The final effectiveness of the redesignation referenced in Section 6.2.1 is subject to:

6.2.3.1 The provisions of Chapter 125 and 163, Florida Statutes, as they may govern such amendments; and

6.2.3.2 The expiration of any appeal periods or, if an appeal is filed, at the conclusion of such appeal.

Section 7. Public Facilities to Service Development. The following public facilities are presently available to the Property from the sources indicated below:

7.1. Potable water from Pinellas County.

7.2. Sewer service from Pinellas County.

7.3. Fire protection from Palm Harbor Fire Rescue.

7.4. Drainage facilities for the parcel will be provided by Owner.

Section 8. Required Local Government Permits. The required local government development permits for development of the Property include, without limitation, the following:
8.1. Site plan approval(s) and associated utility licenses and right-of-way utilization permits;

8.2. Construction plan approval(s);

8.3. Building permit(s); and

8.4. Certificate(s) of occupancy.

Section 9. Consistency. The County finds that development of the Property consistent with the terms of this Agreement is consistent with the Pinellas County Comprehensive Plan.

Section 10. Termination.

10.1. In the event of termination pursuant to Section 10.2 or failure to commence the development of the subject property within the duration of the Agreement as defined in Section 5 above, the Property shall return to its current land use and zoning designations. Owner agrees to cooperate and not contest any administrative procedures necessary to implement restoration of the land use and zoning designations. This obligation survives the termination of the Agreement for the time necessary to accomplish the redesignations.

10.2. If Owner's obligations set forth in this Agreement are not followed in a timely manner, as determined by the County Administrator, after notice to Owner and an opportunity to cure, existing permits shall be administratively suspended and issuance of new permits suspended until Owner has fulfilled its obligations. Failure to timely fulfill its obligations may serve as a basis for termination of this Agreement by the County, at the discretion of the County and after notice to Owner and an opportunity for Owner to cure.

Section 11. Other Terms and Conditions. Except in the case of termination of this agreement, until five (5) years after the effective date of this Agreement, the Property shall not be subject to subsequently adopted laws and policies unless the County has held a public hearing and determined:

11.1. They are not in conflict with the laws and policies governing the Development Agreement and do not prevent development of the land uses, intensities, or densities in this Agreement;

11.2. They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;

11.3. They are specifically anticipated and provided for in this Agreement;

11.4. The County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement;
11.5. This Agreement is based on substantially inaccurate information provided by Owner.

Section 12. Compliance with Law. The failure of this Agreement to address any particular permit, condition, term or restriction shall not relieve Owner from the necessity of complying with the law governing such permitting requirements, conditions, terms or restrictions.

Section 13. Notices. Notices and communications required or desired to be given under this Agreement shall be given to the parties by hand delivery, by nationally recognized overnight courier service such as Federal Express, or by certified mail, return receipt requested, addressed as follows (copies as provided below shall be required for proper notice to be given):

If to Owner: Patriot Bank
1815 Little Road
Trinity, FL 34655

With copy to: Vantage Properties, Inc. (Contract Purchaser / Developer)
c/o Greg Nowak, Director
400 Carillon Parkway, Suite 230
St. Petersburg, FL 33716

If to County: Pinellas County Board of County Commissioners
c/o County Administrator
315 Court St.
Clearwater, FL 33756

With copy to: Pinellas County Attorney’s Office
c/o David S. Sadowsky, Esquire
Senior Assistant County Attorney
315 Court Street
Clearwater, Florida 33756

Properly addressed, postage prepaid, notices or communications shall be deemed delivered and received on the day of hand delivery, the next business day after deposit with an overnight courier service for next day delivery, or on the third (3rd) day following deposit in the United States mail, certified mail, return receipt requested. The parties may change the addresses set forth above (including the addition of a mortgagee to receive copies of all notices), by notice in accordance with this Section.

Section 14. Right to Cure. Owner will not be deemed to have failed to comply with the terms of this Agreement until Owner shall have received notice from the County of the alleged non-compliance and until the expiration of a reasonable period after receipt of such notice to cure such non-compliance. Whether the time period has been reasonable shall be based on the nature of the non-compliance and shall be determined in the sole judgment of the County Administrator, reasonably exercised.
Section 15. Minor Non-Compliance. Owner will not be deemed to have failed to comply with
the terms of this Agreement in the event such non-compliance, in the judgment of the County
Administrator, reasonably exercised, as a minor or inconsequential nature.

Section 16. Covenant of Cooperation. The parties shall cooperate with and deal with each
other in good faith and assist each other in the performance of the provisions of this Agreement
and in achieving the completion of development of the Property.

Section 17. Approvals. Whenever an approval or consent is required under or contemplated
by this Agreement, such approval or consent shall not be unreasonably withheld, delayed or
conditioned. All such approvals and consents shall be requested and granted in writing.

Section 18. Completion of Agreement. Upon the completion of performance of this
Agreement or its revocation or termination, the Owner or his successor in interest shall record a
statement in the official records of Pinellas County, Florida, signed by the parties hereto,
evidencing such completion, revocation or termination, and shall forthwith deliver a copy of this
document to the Director of the County Building and Development Review Services Department
or his designee.

Section 19. Entire Agreement. This Agreement (including any and all Exhibits attached
hereto, all of which are a part of this Agreement to the same extent as if such Exhibits were set
forth in full in the body of this Agreement), constitutes the entire agreement between the parties
hereto pertaining to the subject matter hereof.

Section 20. Construction. The titles, captions and section numbers in this Agreement are
inserted for convenient reference only and do not define or limit the scope or intent and should
not be used in the interpretation of any section, subsection or provision of this Agreement.
Whenever the context requires or permits, the singular shall include the plural, and plural shall
include the singular and any reference in this Agreement to Owner includes Owner’s successors
or assigns. This Agreement was the production of negotiations between representatives for the
County and Owner and the language of the Agreement should be given its plain and ordinary
meaning and should not be construed against any party hereto. If any term or provision of this
Agreement is susceptible to more than one interpretation, one or more of which render it valid
and enforceable, and one or more of which would render it invalid or unenforceable, such term
or provision shall be construed in a manner that would render it valid and enforceable.

Section 21. Partial Invalidity. If any term or provision of this Agreement or the
application thereof to any person or circumstance is declared invalid or unenforceable by a court
of competent jurisdiction ("Invalidity Determination"), the remainder of this Agreement,
including any valid portion of the invalid term or provision and the application of such invalid
term or provision to circumstances other than those as to which it is held invalid or
unenforceable, shall not be affected thereby and shall with the remainder of this Agreement
continue unmodified and in full force and effect. Notwithstanding the foregoing, but subject to
the provisions of Section 14 hereof concerning notice to Owner of non-compliance and the right
of Owner to cure, if an Invalidity Determination with respect to any term or provision of this

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Agreement (following the passage of all applicable appeal periods, with no appeal having been filed or a decision following an appeal validating the Invalidity Determination) shall, in the reasonable judgment of a party to this Agreement, so modify such party's rights and/or obligations under this Agreement that such party shall no longer have the material benefits intended to be conveyed upon such party by this Agreement, then such party shall have the right to terminate this Agreement upon thirty (30) days' written notice to the other party.

Section 22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to the conflict of laws principles of such state.

Section 23. Counterparts. This Agreement may be executed in counterparts, all of which together shall continue one and the same instrument.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement the date and year first above written.

End of Substantive Provisions, Signature Page to follow
WITNESSES:

Printed Name: 

OWNER: PATRIOT BANK

Printed Name: 

By: 

STATE OF FLORIDA
COUNTY OF 

The foregoing instrument was acknowledged before me this day of ______________, 2012, by __________________, who is personally known to me or who produced as identification. 

Notary Public

By: 

ATTEST:

KEN BURKE, CLERK

Deputy Clerk

Chairman
Board of County Commissioners

APPROVED AS TO FORM;

County Attorney
EXHIBIT “A”
LEGAL DESCRIPTION

PARCEL ID NO.: 11-28-15-00000-110-0600
PROPERTY ADDRESS: 490 ALTERNATE U.S. HIGHWAY 19
Palm Harbor, FL 34683-5342

LEGAL DESCRIPTION (PER BOUNDARY SURVEY PREPARED BY PHILIP C. STOCK, RLS, OF TARGET LAND SURVEYING, INC., DATED 2-7-00):

PROPOSED ELEVATIONS FOR
US Hwy. 19 (Alt) and Virgina Ave.
Ozona, FL
**FUTURE LAND USE**

**PINELLAS COUNTY, FLORIDA**

- **Residential**
  - Residential Low
  - Residential Urban
  - Residential Medium
- **Mixed Use**
  - Residential / Office Limited
  - Residential / Office General
  - Residential / Office / Retail
- **Commercial**
  - Commercial Neighborhood
  - Commercial General
  - Commercial Recreation
  - Commercial Limited
- **Industrial**
  - Industrial Limited
- **Public / Semi-Public**
  - Preservation
  - Recreation / Open-Space
  - Institutional
  - Transportation / Utility

**ZONING**

From: P-1, General Professional Office
To: C-1, Neighborhood Commercial

LAND USE

From: Residential/Office General
To: Residential/Office/Retail

And a Development Agreement

Parcel I.D. 11/28/15/00000/110/0600
Prepared by: Pinellas County Planning Department February 2012
Z/LU-1-4-12
LPA 3-4-12

Zoning: From: P-1, General Professional Office
To: C-1, Neighborhood Commercial

Land Use: From: Residential/Office General
To: Residential/Office/Retail
And a Development Agreement

Parcel I.D. 11/28/15/00000/110/0600
Prepared by: Pinellas County Planning Department February 2012
Z/LU-1-4-12
LPA 3-4-12
Zoning
From: P-1, General Professional Office
To: C-1, Neighborhood Commercial

Land Use
From: Residential/Office General
To: Residential/Office/Retail
And a Development Agreement

Parcel I.D. 11/28/15/00000/110/0600
Prepared by: Pinellas County Planning Department February 2012
RESOLUTION NO. __________

RESOLUTION CHANGING THE ZONING CLASSIFICATION OF APPROXIMATELY 1.44 ACRES LOCATED ON THE SOUTHEAST CORNER OF ALT. US 19 AND VIRGINIA AVENUE (STREET ADDRESS BEING 490 ALT. US 19 PALM HARBOR); PAGE 93 OF THE ZONING ATLAS, AS BEING IN SECTION 11, TOWNSHIP 28, RANGE 15; FROM P-1, GENERAL PROFESSIONAL OFFICES TO C-1, NEIGHBORHOOD COMMERCIAL AND A DEVELOPMENT AGREEMENT TO ALLOW FOR THE CONSTRUCTION OF A RETAIL BUILDING NOT TO EXCEED 8,500 SQ. FT. AND HAVING AN ALLOWABLE HEIGHT NOT TO EXCEED 35 FT.; UPON APPLICATION OF PATRIOT BANK THROUGH PETER PENSA, AICP, REPRESENTATIVE, Z/LU-1-4-12

WHEREAS, Patriot Bank, Owner of the property hereinafter described, has petitioned the Board of County Commissioners of Pinellas County to change the zone classification of the real property hereinafter described from P-1, General Professional Office to C-1, Neighborhood Commercial and a Development Agreement to allow for the construction of a retail building not to exceed 8,500 sq. ft. and having an allowable height not to exceed 35 ft.; and

WHEREAS, legal notice of public hearing on such proposed change of zone classification was duly published as required by law, as evidenced by publisher’s affidavit filed with the Clerk; and

WHEREAS, said public hearing has been held on the date and at the time specified in said published notice at which citizens and interested persons have been given opportunity to be heard, and all requirements of law and of rules promulgated by this Board have been complied with; and

WHEREAS, this Board has determined that the zone classification of said property should be changed.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pinellas County in regular session duly assembled this 22nd day of May 2012 that the zone classification of the following described real property in Pinellas County, Florida, to wit:

See Attached Exhibit “A”

be, and the same is hereby changed from P-1, General Professional Office to C-1, Neighborhood Commercial and a Development Agreement to allow for the construction of a retail building not to exceed 8,500 sq. ft. and having an allowable height not to exceed 35 ft., subject to an amendment to the Pinellas County Future Land Use Map from Residential/Office General to Residential/Office/Retail, Z/LU-1-4-12.

Commissioner ______________ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner ______________ upon the roll call the vote was:

Ayes:

Nays:
EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL ID NO.: 11-28-15-00000-110-0600
PROPERTY ADDRESS: 490 ALTERNATE U.S. HIGHWAY 19
Palm Harbor, FL 34683-5342

LEGAL DESCRIPTION (PER BOUNDARY SURVEY PREPARED BY PHILIP C. STOCK,
RLS, OF TARGET LAND SURVEYING, INC., DATED 2-7-00):

THE NORTH 297.71 FEET OF THE WEST 1/2 OF THE NORTHWEST 1/4
OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11,
TOWNSHIP 28 SOUTH, RANGE 15 EAST, PINELLAS COUNTY,
FLORIDA, LESS AND EXCEPT THAT PORTION OF HIGHWAY RIGHT-
OF-WAY FOR ALTERNATE U.S.19, BEING 100 FEET IN WIDTH, AND
LESS AND EXCEPT THAT CERTAIN TRIANGULAR TRACT LYING TO
THE WEST OF SAID HIGHWAY RIGHT-OF-WAY, AND LESS AND
EXCEPT THE NORTH 40 FEET DEEDED TO THE COUNTY OF PINELLAS
FOR RIGHT-OF-WAY.
ORDINANCE NO. __________

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF PINELLAS COUNTY, FLORIDA BY CHANGING THE LAND USE DESIGNATION OF APPROXIMATELY 1.44 ACRES LOCATED ON THE SOUTHEAST CORNER OF ALT. US 19 AND VIRGINIA AVENUE (STREET ADDRESS BEING 490 ALT. US 19 PALM HARBOR), LOCATED IN SECTION 11, TOWNSHIP 28, RANGE 15, FROM RESIDENTIAL/OFFICE GENERAL TO RESIDENTIAL/OFFICE/RETAIL, PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THIS ORDINANCE AT THE PUBLIC HEARING AND/OR WITH OTHER RESPONSIBLE PARTIES; AND PROVIDING AN EFFECTIVE DATE WHEREAS, the application for an amendment to the Future Land Use Map of Pinellas County, Florida, hereinafter listed, has been presented to the Board of County Commissioners of Pinellas County; and

WHEREAS, notice of public hearings and advertisements have been given as required by Florida Law; and

WHEREAS, the comments from the Local Planning Agency have been received and considered;

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida in regular meeting duly assembled this 22\textsuperscript{nd} day of May 2012 that;

Section 1. The Future Land Use Map of Pinellas County, Florida is amended by redesignating the property described as: Approximately 1.44 acres located on the southeast corner of Alt. US 19 and Virginia Avenue (Street Address being 490 Alt. US 19 Palm Harbor). Referenced as case Z/LU-1-4-12, and owned by Patriot Bank, from Residential/Office General to Residential/Office/Retail. See attached legal description.

Section 2. This Ordinance shall be published in accordance with the requirements of law.

Section 3. This Ordinance shall take effect upon:

a) Receipt of notice from the Secretary of State that the Ordinance has been filed is received; and

b) Approval by the Countywide Planning Authority of the requisite amendment of the Countywide Future Land Use Plan submitted herein pursuant to Chapter 88-464, Laws of Florida, as amended.

c) Pursuant to Section 163.32465(6)(g), Florida Statutes, an amendment adopted under the expedited provisions of this section shall not become effective until 31 days after adoption. If timely challenged, an amendment shall not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this Amendment may be issued or commence before the amendment has become effective.
EXHIBIT “A”
LEGAL DESCRIPTION

PARCEL ID NO.: 11-28-15-00000-110-0600
PROPERTY ADDRESS: 490 ALTERNATE U.S. HIGHWAY 19
PALM HARBOR, FL 34683-5342

LEGAL DESCRIPTION (PER BOUNDARY SURVEY PREPARED BY PHILIP C. STOCK, RLS, OF TARGET LAND SURVEYING, INC., DATED 2-7-00):

Dear Chairman

We have been informed that there is a proposal to change the plan designation and zoning on alternate US 19 at the intersection of Virginia Street on the southeast corner. The purpose of these changes is to allow the development of a Family Dollar store on the site. Pinellas County has requested our community organization comment on this proposal. I should point out that our organization OVIS is well informed on the proposal since the developer has reviewed the proposal with us more than once.

Based upon our reviews, our OVIS Board identified there would be an increase not only in traffic on alternate US 19 but also the traffic will have logistics issues at the specific location where Virginia Avenue also intersects from the west. Alternate 19 is a very heavily trafficked road and we do not support placing additional traffic demand on the road with more commercial than is already authorized on the plan. We also think that this additional traffic can further compound the traffic logistics concerning the traffic movements that already exist from the post office and commercial establishments from the west side which is very busy. We would also note that there is a significant drainage way on the backside of this project area that feeds into Otter Creek. It does appear that due to the size of the proposed structure there will be problematic impacts into this environmental and drainage area. For these planning reasons we do not support these proposed changes to the planning and zoning.

The developer proposes to include a development agreement that would limit traffic and other such concerns. We are not sure how practical it is to keep track of the traffic and limit that activity once the project has been built. The developer representatives have been very cordial and appeared to desire to make a good
project. However, we do not believe this is the appropriate location for more general commercial activity.

We wish to thank you for the opportunity to comment on this proposal.

Sincerely

Dennis Green
President
Ozona Village Improvement Society OVIS
Cc: clerk and board of county commissioners
Dear Mr. Cueva and Pinellas County Planning Council,

For the record:

We, Marc and Carol Smith, who reside at 551 11th St., Palm Harbor, FL 34683 are opposed to the planned rezoning from P-1 to Commercial of the property located at Alt. 19 and Virginia Avenue. Our reasons are as follows:

1. Traffic will increase on Virginia Avenue and 11th Street. These 2 roads are primarily neighborhoods and are not equipped to accommodate heavy traffic. In fact, when there are heavy rains, Virginia Ave. becomes a flood zone.

2. The intersection at Alt. 19 and Virginia Ave. is already an extremely dangerous intersection. The increase in traffic will only worsen the problem.

We strongly urge the Planning Department to consider the safety issues associated with the installation of a commercial facility at an already dangerous piece of road in Pinellas County. The almighty dollar should not be placed before the safety and the quality of life of the citizens of this County.

Respectfully Yours,

Marc and Carol Smith
Dear Property Owner:  

March 22, 2012  

THIS IS AN IMPORTANT NOTICE ABOUT UPCOMING PUBLIC HEARINGS REGARDING THE USE OF LAND. It is being provided to you since you are either the owner or representative of the owner of the subject property, or you own land in the vicinity of the subject property.  

PLEASE REVIEW THIS INFORMATION CAREFULLY!! If you have any questions regarding this important matter, please call our office at (727) 464-5047 or visit us at the address listed below. We will be happy to provide you with available information. Written correspondence may be directed to the Pinellas County Planning Department, Zoning Division located in the Development Review Services Department, 440 Court Street, Clearwater, FL 33756, or you may fax/email us at (727) 464-3981/zoning@pinellascounty.org.  

The property consists of approximately 1.44 acres located on the southeast corner of Alt. US 19 and Virginia Avenue (Street address being 490 Alt. Palm Harbor).  

The purpose of these hearings will be to consider a request for a zoning change from P-1, General Professional Office to C-1, Neighborhood Commercial and a land use change from Residential/Office General to Residential/Office/Retail and a Development Agreement for a commercial building not to exceed 8,500 sq. ft. in size and not to exceed 35 ft. in height.  

What this proposal means to you: If approved, this proposal would allow a Dollar Store, or professional office.  

A hearing will be held by the Local Planning Agency on April 12, 2012 at 9:00 A.M. in the County Commission Assembly Room, 315 Court Street, 5th Floor, Clearwater, FL.  

The Board of County Commissioners will then hold a public hearing on May 22, 2012 at 6:00 P.M. in the County Commission Assembly Room, 315 Court Street, 5th Floor, Clearwater, FL. You are invited to attend these hearings and to express your views on this matter.  

Persons are advised that if they decide to appeal any decision made at this meeting/hearing, they will need a record of the proceedings and for such purpose they may need to ensure that a verbatim record of the proceedings is made.  

Failure by the applicant or an authorized representative of the applicant to appear at the scheduled public hearings may result in an automatic denial of the request.  

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE WITHIN TWO (2) WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE, PLEASE CONTACT THE OFFICE OF HUMAN RIGHTS, 400 S. FT HARRISON AVE., SUITE 500, CLEARWATER, FL 33756 (727) 464-4062 (V/TDD).  

Sincerely,  

PINELLAS COUNTY PLANNING DEPARTMENT