

**REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT FOR**  
**AN APPLICATION FOR A FIRST AMENDMENT TO THE DEVELOPMENT**

**AGREEMENT FOR ORDINANCE 2015-746**

**DECEMBER 1, 2015**

The Planning and Development Department hereby forwards to the Land Use and Zoning Committee and City Council its comments and recommendation regarding Application for a First Amendment to the Development Agreement for **Ordinance 2015-746**.

<i>Name of Development:</i>	Pattillo - Publix: 1st Amendment
<i>Concurrency Number:</i>	24048
<i>Location:</i>	Beaver Street between Blair Road and Wheeler Road.
<i>Real Estate Number(s):</i>	006829-9100
<i>Current Zoning District:</i>	Industrial Light (IL)
<i>Current Land Use Category:</i>	Light Industrial (LI)
<i>Planning District:</i>	Northwest, District 5
<i>City Council District:</i>	The Honorable Doyle Carter, District 12
<i>Project Description:</i>	Development of the remaining 603,683 enclosed square feet of warehouse use.
<i>Applicant/Agent:</i>	Terry A. Moore, Esquire Gray-Robinson, P.A. 50 North Laura Street, Suite 1100 Jacksonville, Florida 32202
<i>Owner:</i>	Publix Super Markets, Inc. P.O. Box 407 Lakeland, Florida 33802
<i>Staff Recommendation:</i>	<b>APPROVE</b>

### GENERAL INFORMATION

Application for a First Amendment to the Development Agreement for **Ordinance 2015-746** seeks to extend the duration of the Development Agreement for five (5) years until September 7, 2020. The remaining undeveloped property for Publix subject to this amendment consists of approximately 33.95± acres.

The Development Agreement was originally approved in 2001 with Pattillo Construction Company for 1,080,000 enclosed square feet of warehouse use on approximately 96.0 acres. In 2005, Pattillo assigned its entire interest in the Development Agreement to R.L.R. Investments ("RLR"). Beginning in 2010, RLR requested and received two automatic 2-year extensions associated with the Community Planning Act, 2010-147 (Senate Bill 1752 & House Bill 7207). In November 2012, RLR partially assigned its interest in the Development Agreement to Publix for approximately 603,683 enclosed square feet of development rights. RLR retained development rights to the remaining 342,528 square feet of enclosed area for their property. The Development Agreement was also bifurcated between the applicant and RLR for their respective interests and compliance obligations.

To date, two buildings have been constructed (by RLR) totaling approximately 133,788 enclosed square feet of warehouse use.

### CRITERIA FOR REVIEW

Pursuant to the provisions of Section 655.205(h)(1) of the Concurrency and Mobility Management System, a request to amend or cancel a development agreement must state the basis for the request and must include facts sufficient to indicate why there is justification for the amendment or cancellation.

- (i) *Conditions that require the owner or developer to mitigate the impacts of all existing and proposed development, including mitigation of any impacts resulting in changes in the original or amended development agreement due to the cancellation or amendment of same;*

According to the application, there are no additional impacts due to the proposed amendment to extend the Duration of Agreement.

- (ii) *Conditions that require the owner or developer to request and receive a rescission of or amendment to all development permits or other approvals which authorize devel-*

*opment beyond that which is authorized under an amended or cancelled development agreement;*

According to the application, no development permits or other approvals have been issued which authorize development beyond that which is authorized under the Development Agreement, as amended herein.

- (iii) *Conditions that require the owner or developer to satisfy all applicable conditions of the existing development agreement with regard to existing and proposed development.*

The Development Agreement and reporting and compliance requirements were bifurcated between the applicant and RLR as to their respective ownership interests.

Permits issued to date are included in attached Exhibit B. Also, according to attached Exhibit D, the applicant initially contemplated constructing a dairy products manufacturing and packaging facility at the site next to the adjoining warehouse facilities to the east. However, do to a declining consumer demand for dairy products, they are considering alternative uses including constructing a facility for the production of ready-to-serve salad products.

The development agreement is subject to a performance schedule and an annual renewal fee (calculated at \$18,664 for 2015) each year that the agreement is in effect for the remaining undeveloped enclosed area for the purpose of reserving traffic circulation capacity. Since 2013, Publix has paid approximately \$55,992 in annual fees.

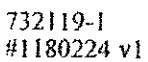
#### **SUPPLEMENTAL INFORMATION**

Although the development rights held under the Development Agreement are not subject to a mobility fee, staff completed a mobility fee calculation for the same amount of remaining development rights held under the development agreement. The mobility fee was calculated to be \$453,736. A copy of the mobility fee calculation summary sheet is attached.

#### **RECOMMENDATION**

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for a First Amendment to Development Agreement **2015-746** be **APPROVED**.

**MAP IDENTIFYING  
APPLICANT'S UNDEVELOPED PROPERTY**



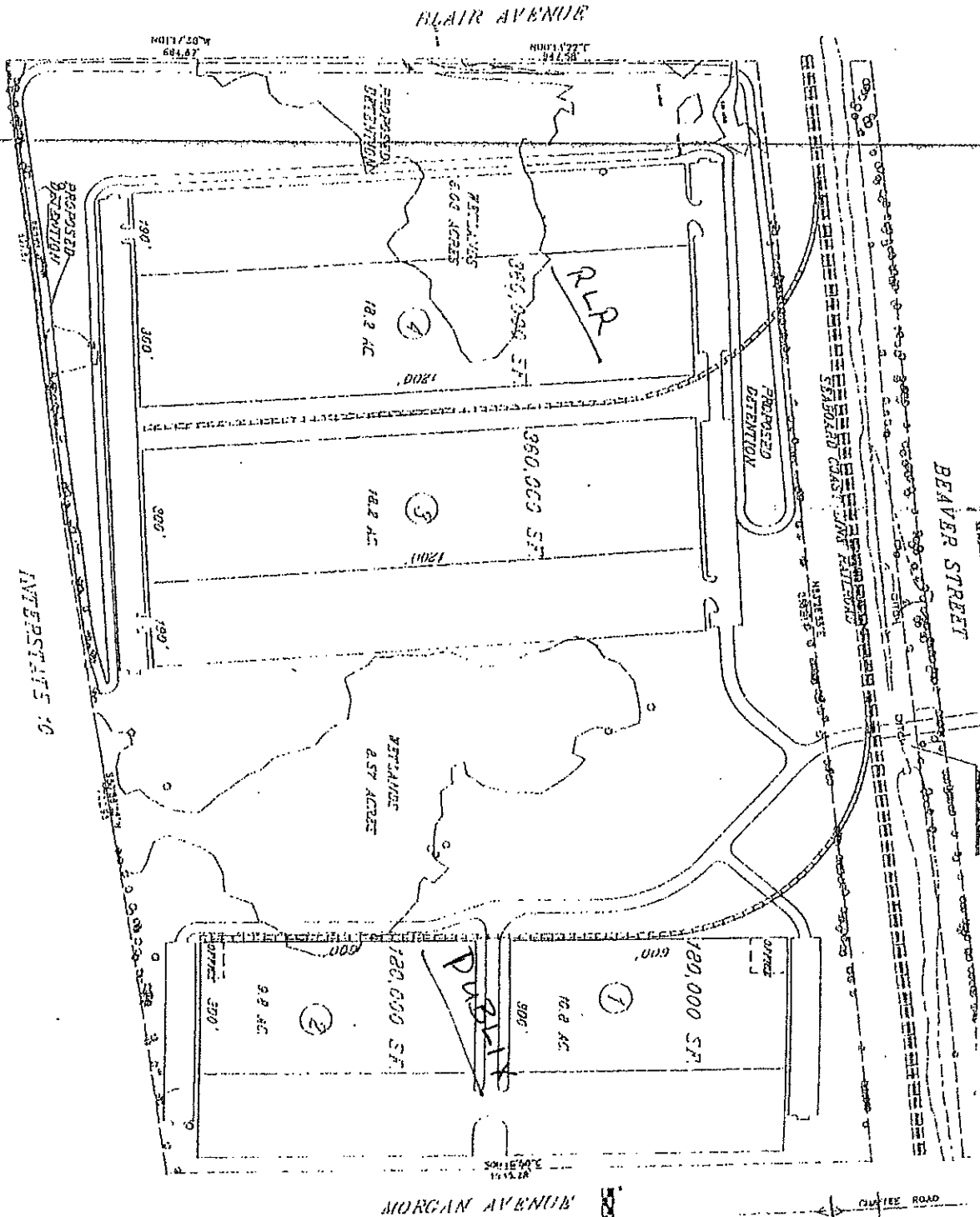
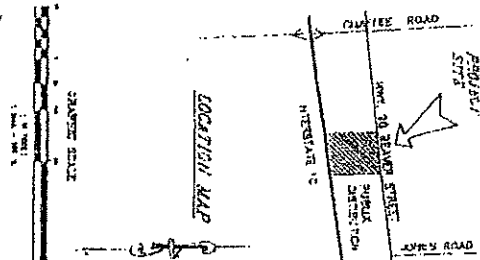


EXHIBIT "B"  
(Site Plan)  
PATILLO INDUSTRIAL SITE  
BEAVER STREET



<p>Sheet No. C-1</p>	<p>BEAVER STREET PROPERTY INTERSTATE 10 JACKSONVILLE, FLORIDA</p>	<p>Sheet Title SITE PLAN</p>	<p><b>PATILLO</b> CONSULTING &amp; DESIGN ENGINEERS</p>	<p>HOUSTON ENGINEERING, INC. CONSULTING &amp; DESIGN ENGINEERS</p>
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## APPLICATION FOR AMENDMENT TO THE DEVELOPMENT AGREEMENT

THIS APPLICATION FOR AMENDMENT TO THE DEVELOPMENT AGREEMENT (the "Request for Amendment") is submitted by Publix Super Markets, Inc., a Florida corporation (the "Applicant").

1. The original owner/developer of the property subject to Development Agreement #24048 (the "Development Agreement"), Pattillo Construction Company ("Pattillo") entered into Development Agreement #24048 with the City of Jacksonville effective September 28, 2001 (the "Effective Date"), as recorded in Official Records Book 10096, beginning at page 1259, public records of Duval County, Florida (the "Development Agreement"), for a 96 ± acre industrial site (the "Site") known as the "Beaver Street Industrial Park". The Development Agreement reserved public facilities and traffic circulation capacity for 1,080,000 square feet of warehouse and storage space (the "Reserved Priority Capacity") for a ten 10-year term ending September 7, 2011 (the "Expiration Date").

On January 17, 2005, Pattillo conveyed all of its ownership interest in the Site to R.L.R. Investments ("RLR"), an Ohio limited liability company, by Quit Claim Deed recorded February 10, 2005 in Official Records Book 12282, beginning at page 1414 of the Public Records of Duval County, Florida (the "Public Records"). As part of such conveyance, Pattillo assigned and RLR assumed all the development benefits and burdens under the Development Agreement, including all Reserved Priority Capacity granted and available under the Development Agreement for the construction and operation of up to 1,080,000 square feet of enclosed warehouse and storage space, by Assignment recorded January 19, 2005, in Official Records Book 12248, beginning at page 1657 of the Public Records (the "Assignment").

Pursuant to the legislative authority of Senate Bill 1752 ("SB1752") and House Bill 7207 ("HB7207"), the Expiration Date of the Development Agreement was extended to September 7, 2015 (the "Extended Expiration Date") by the City's Concurrency Mobility & Management System Office ("CMMSO") letter dated August 24, 2011.

On November 19, 2012, Applicant acquired approximately 33.95 ± acres of vacant land located within the 96 ± acre Industrial Site (hereinafter referred to as the "Sale Property") from RLR by Special Warranty Deed recorded in Official Records Book 16151, beginning at page 2360, of the Public Records (the "Sale Property"). As part of such transaction, RLR retained development rights for its remaining undeveloped and retained (the "Retained Property"). Simultaneously therewith, RLR and Applicant entered into that certain Partial Assignment and Assumption of Development Agreement, recorded November 19, 2012 in Official Records Book 1151, beginning at page 2349 of the Public Records (the "Partial Assignment"), wherein RLR transferred and assigned to Applicant the right to construct and develop up to 603,683.25 square feet of enclosed industrial space and appurtenant infrastructure on Applicant's Sale Property, while RLR reserved for itself the development rights appurtenant to the Retained Property.

Pursuant to the foregoing, the Development Agreement and the reporting and compliance obligations described in the Development Agreement were bifurcated between Applicant and RLR as to their respective ownership interests, as more particularly described in the Partial Assignment and that certain Bifurcation Approval

Letter executed by the CMMSO on January 3, 2012 (the "Bifurcation Approval Letter"), wherein the City agreed to bifurcate and apply the updated performance schedules between Applicant and RLR from and after November 19, 2012, as requested in a Bifurcation Request Letter to the CMMSO dated December 14, 2011 (the "Bifurcation Request Letter").

The Development Agreement, as extended by the CMMSO Extension Letter dated August 24, 2012, the Partial Assignment, and the Bifurcation Approval Letter, are attached to the Development Agreement as **Composite Exhibit "APP-1"**

2. This Request for Amendment to the Development Agreement is submitted in accordance with the requirement of Section 655.205(g), Ordinance Code.
3. Any terms not specifically defined herein shall have the meanings as set forth in the Development Agreement.
4. No specific conditions are imposed as referenced in subsection 655.205 (g)(1), except as specifically set forth in the proposed Amendment to Development Agreement attached hereto as **Composite Exhibit "APP-2"**.
5. This Request for Amendment is submitted in accordance with the requirements of Section 655.205, City of Jacksonville Ordinance Code.
6. Pursuant to Section 655.205(g) and (h), this Request for Amendment includes the following information:

Attachment for the consent to amend the Development Agreement by the authorized party. The Request for Amendment does not affect the Retained Property.

(see Certificate of Concurrence attached hereto as **Exhibit "APP-3"**)

Additionally, Section 655.205(h)(1) (requirements appear in *italics*; responses appear in bold type):

- (i) *Conditions that require the owner to mitigate the impacts of all existing and proposed development, including mitigation of any impacts resulting in changes in the original or amended development agreement due to the amendment of same;*

**There are no additional impacts due to the proposed amendment to extend the duration of Development Agreement.**

- (ii) *Conditions that require the owner or developer to request and receive a rescission of or amendment to all development permits or other approvals which authorize development beyond that which is authorized under an amended development agreement;*

**No development permits or other approvals have been issued which authorize development beyond that which is authorized under the Development Agreement, as amended herein.**

- (iii) *Conditions that require the owner or developer to satisfy all applicable conditions of the existing development agreement with regard to existing and proposed development.*

**The Development Agreement was bifurcated by the CMMSO between Applicant and RLR (the "Bifurcated Development Agreement"). Applicant shall continue to satisfy all applicable conditions of the Bifurcated Development Agreement related to the Sale Property owned by Applicant.**

Section 655.205(h)(2) (requirements appear in *italics*; responses appear in normal type);

- (i) *A description of the actual amount of development completed, the size and scope of the resulting plan of development (after amendment), and a description of the extent to which existing permits or approvals authorize development which would exceed that allowed under the resulting plan of development (after amendment).*

**Approximately 33.95 ± acres of industrial use property has been approved for development subject to the terms of the Bifurcated Development Agreement. Stormwater and utility infrastructure have been completed but no vertical development has been permitted or commenced. No request is being made to expand the size and scope of the contemplated development.**

**There are no additional impacts due to the proposed amendment to extend the duration of the Development Agreement to date.**

- (ii) *A description of the actual amount of existing development, as defined under Section 655.105(k), Ordinance Code, which has occurred on site, including the amount of existing vertical development by land use in gross square feet or other applicable units of measure; the amount of infrastructure completed at the site; etc. A copy of the approved site development plan, if applicable, shall be attached to This Request.*

**In accordance with the Partial Assignment entered into by Applicant and RLR and the CMMSO's Bifurcation Approval Letter, Applicant has been assigned up to 603,683.25 enclosed square feet of enclosed industrial space on Applicant's Sale Property. At the present time, no development has occurred on Applicant's Sale Property.**

- (iii) *An identification of the amount of development that is planned (after amendment), including the amount of vertical development by land use in gross square feet, dwelling units, or other applicable units of measure; the amount of infrastructure to be completed at the site; etc.*

**Approximately 603,683.25 square feet of enclosed industrial space remains available for development by Applicant for the Sale Property.**

- (iv) *An identification of all state and federal permits applied for or obtained to date. Specify the agency, type of permit and function of each permit. A copy of each*



*permit or permit application (if no permit has been issued) shall be attached to this Request for Amendment.*

**Permits applied for or obtained for the Property to date, if any, are listed in Exhibit "APP-4" attached to this Request for Amendment.**

- (v) *An identification of all undeveloped tracts of land sold to separate entities or developers. Specify the size and buyer of each tract or parcel. A map identifying the undeveloped tracts shall be attached to this Request for Amendment.*

**Applicant owns approximately 33.95 acres of vacant land subject to the Development Agreement. A map of Applicant's Sale Property site is attached hereto as Exhibit "APP-5".**

**RLR and Applicant entered into a Partial Assignment and Assumption of development rights as to their respective interests for which the CMMSO approved the bifurcation of the compliance and reporting requirements under the Development Agreement pursuant to that certain Bifurcation Approval Letter executed by the City's CMMSO on January 3, 2012.**

- (vi) *A certification of concurrence with amendment from all parties to the development agreement or their successors in interest, if any, shall be attached to this Request for Amendment.*

**Attached as Exhibit "APP-3" is a Certificate of Concurrence with Amendment signed by all parties to the Development Agreement or their successors in interest.**

- (vii) *An explanation of the reasons for seeking amendment of the Development Agreement shall be attached to this Request for Amendment.*

**An explanation of the reasons for seeking an amendment to the Development Agreement is attached hereto as Exhibit "APP-6".**

- (viii) *A discussion of any material adverse impacts of the development subject to the development agreement, and/or its amendments, on any existing resources, or existing planned facilities, and the mitigation for these impacts shall be attached to this Request for Amendment.*

**There are no material adverse impacts of the Project subject to the Development Agreement or existing resources or existing planned facilities and there is no mitigation required for such impacts, if any.**

- (ix) *A list of each of the conditions in the development agreement, and/or amendment thereto, included to protect or mitigate the development's impact to resources or facilities, including an explanation and documentation that each condition to existing development was satisfied by the developer, or will be satisfied as to the level of proposed development after amendment, shall be attached to this Request for Amendment.*

There are no conditions in the Development Agreement which are included, to protect or mitigate the Projects impacts to resources or facilities.

IN WITNESS WHEREOF, the undersigned have executed this Request for Amendment as of the 24th day of August, 2015.

Signed, Sealed and delivered  
in the presence of:

Cyndi Shaffer  
Print name: Cyndi Shaffer

PUBLIX SUPER MARKETS, INC.,  
a Florida limited liability company

Michelle Thomason  
Print name: Michelle Thomason

By: [Signature]  
Jeffrey Chamberlain,  
Vice President - Real Estate

## Exhibit "B"

### Permits Applied for or Obtained to Date

1. **Permit #4-031-67327-4 – ERP Standard General (40C) Permit Modification, Beavers Street Project**
  - Modification to sequence 2 for previously permitted mitigation and associated conservation easement area due to existence of 60' sanitary sewer easement along the southern property line.

**Date Issued: 10/10/2012**  
**Expiration Date: 10/10/2014**  
**Status: Completed**
2. **Permit #4-031-67327-2 – ERP Standard General (40C) Permit Modification, Beavers Street Project**
  - The proposed activity involves the change of mitigation from on-site creation to a regionally significant mitigation bank to allow for more contiguous development area and to provide a more ecologically significant overall mitigation option.

**Date Issued: 04/21/2005**  
**Expiration Date: 04/21/2010**  
**Status: Completed**
3. **Permit #4-031-67327-1 – ERP Individual (40C) Permit for Beavers Street Industrial Park at I-10**
  - This permit was issued for the construction of a commercial development with associated parking and stormwater treatment facilities.

**Date Issued: 03/13/2001**  
**Expiration Date: 03/13/2006**  
**Status: Completed**
4. **Permit# SAJ-2000-3632 (IP-MMS) —Department of the Army Permit**
  - This permit was issued for the authorization to fill 4.04 acres of Corps jurisdictional wetlands for the construction of an industrial park.

**Date Issued: 05/23/2001**  
**Expiration Date: 05/08/2006**  
**Status: Completed**

**Exhibit "D"**

**Reason for Amendment**

Applicant purchased the Sale Property contemplating it would proceed to construct a dairy products manufacturing and packaging facility at the Site to be functionally proximate to Applicant's existing adjoining warehouse facilities to the east. However, declining consumer demand and preferences for milk related products has obviated the perceived need for the contemplated dairy facility. Accordingly, based on its own internal analysis and review and current market conditions, Applicant is currently considering alternative uses for the Sale Property, including, without limitation, constructing a facility for the production of ready-to-serve salads, such as mixed green salads, potato salads, coleslaw, fruit salads, etc.

Should Applicant's reserved rights granted under the Development Agreement expire on September 7, 2015, without extension, then the resulting uncertainty and cost of holding the Sale Property for future use, and the burden of uncertain mobility fees would serve as a detriment to Publix's use of the site in the foreseeable future.

Accordingly, Therefore, Applicant is seeking approval from the City to extend the duration of the Development Agreement for an additional five (5) years in order to continue its good faith efforts to develop the remaining capacity held under the Development Agreement appurtenant to the Sale Property.



CITY OF JACKSONVILLE  
URBEMIS MOBILITY FEE CALCULATION

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PROJECT NAME:	PATILLO - PUBLIX
CMMSO #:	ORD 2015-746
DATE:	November 12, 2015
PLANNING DISTRICT:	5
COUNCIL DISTRICT:	10
MOBILITY ZONE:	5
DEVELOPMENT AREA:	URBAN

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MOBILITY FEE CALCULATION:  $A \times B \times (C - \text{Trip Reduction Adjustments} - \text{Existing Use Trips})$ :

A = COST PER VMT (COUNTYWIDE):	\$24.31
B = AVERAGE VMT PER DEVELOPMENT AREA:	9.46
C = DEVELOPMENT DAILY VEHICLE TRIPS (NET NEW TRIPS):	1,973
URBEMIS TRIPS REDUCTION (%):	8.20%
EXISTING USE TRIPS REDUCTION:	0
MOBILITY FEE:	<u>\$453,736</u>

