

**TOWN OF PALM SHORES - BREVARD COUNTY  
JOINT PLANNING AGREEMENT**

This Joint Planning Agreement is made and entered this 17 day of September, 2002, by and between the Town of Palm Shores, a Florida Municipal Corporation (hereinafter "Town") and Brevard County, Florida, a charter county and political subdivision of the State of Florida (hereinafter "County").

**PREAMBLE**

WHEREAS, the County and the Town recognize that proper intergovernmental coordination is essential for sound growth management; and

WHEREAS, the County and the Town seek to have compatible land uses adjacent to their common boundary; and

WHEREAS, the State Comprehensive Plan requires local governments to direct development to those areas which have in place the land and water resources, physical abilities and service capacity to accommodate growth in an environmentally acceptable manner and use incentives and disincentives to achieve a separation of urban and rural land uses; and

WHEREAS, the State Comprehensive Plan requires local governments to protect the substantial investment in public facilities which already exists and to plan for and finance new facilities in a timely, orderly and efficient manner; and

WHEREAS, the Town and County wish to identify a joint planning and review area and have determined that such an agreement will foster intergovernmental coordination and cooperation, economical provision of services, and adequate utilization of existing and proposed infrastructure; and

WHEREAS, the Town and the County are desirous of engaging in joint efforts to comprehensively plan certain areas within the Town limits of the Town of Palm Shores as well as certain areas located within the boundaries of the County of Brevard, which areas are collectively and individually referred to herein as the "Joint Planning and Review Area" of the "JPA"; and

WHEREAS, the Town and the County wish to agree on certain procedures for the timely review and processing of annexation and development proposals within the JPRA; and

WHEREAS, there is no intent for this Agreement to restrict the County's authority to amend its Comprehensive Plan, Official Zoning Map, or apply land development regulations

consistent with the provisions contained herein or otherwise to make land use decisions for unincorporated areas within the JPRA; and

WHEREAS, there is no intent for this Agreement to restrict the Town's authority to amend its Comprehensive Plan, Official Zoning Map, or apply land development regulations consistent with the provisions contained herein, or otherwise to make land use decisions for lands within the incorporated boundaries of the JPRA; and

WHEREAS, a Joint Planning and Review Interlocal Agreement will provide a basis for the evaluation of future development applications and annexation proposals as well as for the adequate provision of public services; and

WHEREAS, this Agreement provides the Town and the County with ample opportunities to renegotiate the Agreement in response to changed circumstances, including the ability to seek refinement or expansion of the Joint Planning and Review Area boundaries; and

WHEREAS, a public hearing with due public notice has been held by the Town and the County prior to approval of this Agreement and as set forth in Section 163.3171(3), Florida Statutes; and

WHEREAS, it is the intent of the Town and the County that this Agreement shall be immediately applicable to any issuance of a Development Order, as defined in Article II of this Agreement, for a parcel of land located in the JPRA and submitted to the County or Town after August 1, 2002; and

WHEREAS, it is desirable for the Town and the County to enter into such an agreement to better identify areas proposed for future Town jurisdiction and to reduce or eliminate future incompatible land uses between the two jurisdictions; and

WHEREAS, this agreement will facilitate the flow of information regarding land development issues between the Town and the County;

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Town and the County agree with each other to create and participate in the following Joint Planning and Review Area agreement (hereinafter referred to as the "Agreement" or "JPA") as follows:

#### **ARTICLE I - INCORPORATION OF PREAMBLE**

Incorporation of Preamble. The Preamble above is true and correct and is incorporated into this Agreement as if fully set forth below. This Agreement shall be considered an Interlocal Agreement pursuant to the authority within Sections 163.01, 163.3171, 163.3177(6)(h)1.a., as well as Chapter 171, Florida Statutes.

## ARTICLE II - DEFINITIONS

1. **Act.** Means and refers to the "Local Government Comprehensive Planning and Land Development Regulation Act" set forth in Section 163.3161 *et. seq.*, Florida Statutes, as the same may be amended or superseded from time to time.

2. **Agreement.** Means and refers to this Joint Planning and Review Interlocal Agreement, as the same may be amended or supplemented as provided for herein.

3. **Council.** Means the elected legislative governing board of the Town of Palm Shores and referred to as the "Palm Shores Town Council".

4. **County Commission.** Means the elected legislative governing board of Brevard County referred to as the "Board of County Commissioners of Brevard County".

5. **County Comprehensive Plan.** Means and refers, in the case of the County, to the County's Comprehensive Plan, adopted pursuant to the Act, as amended from time to time.

6. **County.** Means Brevard County, Florida, a political subdivision of the State of Florida.

7. **Development.** Shall be defined as set forth in Sections 163.3164(6) and 380.04, Florida Statutes (2001), as amended or superseded from time to time.

8. **Development Order.** Means any determination or decision requiring either legislative, quasi-judicial, or administrative review and approval by either governing body related to annexations, comprehensive plan amendments, site plans, excluding those resulting in less than a fifty percent (50%) expansion of an existing building, development of regional impact ("DRI") planned unit developments ("PUD"), subdivision and plat approvals, rezonings, conditional uses, infrastructure or utility improvements, binding development plans ("BDP"), making possible development of or construction upon any parcel of land.

9. **Enclave.** Means any unincorporated land which is enclosed within and bounded on all sides by: 1) the Town of Palm Shores; 2) the Town and other municipalities; or 3) the Town and natural features like oceans, rivers, lakes or railroad tracks.

10. **Future Land Use Element.** Means and refers to that section of either the Town's or County's Comprehensive Plan, which includes all of the requirements of Section 163.3177(6)(a), Florida Statutes, as the same may be amended or renumbered from time to time.

11. **Governing Body.** Means, in the case of the County, the Board of County Commissioners and, in the case of the Town, the Palm Shores Town Council.

**12. Infrastructure or Utility Improvements.** Means any proposed sewer, water, right-of-way or roadway improvement plans, parks, open space improvements, public building, public utilities, public drainage and retention conveyance structures owned and operated by a local government or private entity.

**13. Joint Planning and Review Area.** Means and refers to those unincorporated and incorporated parcels of lands, approximating the Town's geographic limits, which are encompassed by this Agreement and which are depicted in **Exhibit "A"**.

**14. JPRA.** Means and refers to the Joint Planning and Review Area depicted on **Exhibit "A"**.

**15. JPA.** Means and refers to this Interlocal Joint Planning and Review Agreement.

**16. JPA Map.** Means and refers to the map attached hereto and incorporated herein by reference as **Exhibit "A"**, which designates parcels of unincorporated and incorporated land, which are encompassed by this Agreement.

**17. Land Development Regulation.** Means ordinances enacted by the Town or the County for the regulation of any aspect of Development.

**18. Local Planning Agency.** Means the recommending agency appointed by the Board of County Commissioners or Town Council to review comprehensive plan and new Land Development Regulations and amendments thereto, and designated as the "Local Planning Agency" pursuant to Section 163.3174, Florida Statutes. The Town's Local Planning Agency is currently the Town Planning and Zoning Board. The County's Local Planning Agency is currently the County Planning and Zoning Board.

**19. Parcel of Land.** Means any quantity of land capable of being described with such precision or exactness that its location and boundaries may be established, which is designated by the Town, by the County, or by its owner or developer as land to be used, or developed as, a unit or which has been used or developed as a unit.

**20. Town.** Means the Town of Palm Shores, a Florida municipal corporation.

**21. Town Comprehensive Plan.** Means and refers, in the case of the Town, to the Town's Comprehensive Plan, adopted pursuant to the Act, as amended from time to time.

### **ARTICLE III**

#### **PROCEDURES FOR REVIEWING AND COMMENTING ON DEVELOPMENT ORDERS**

**1. Joint Planning and Review Area (JPRA) Created.** This area shall be such land as identified in **Exhibit "A"**. It is anticipated that, from time to time, portions of the unincorporated Joint Planning and Review Area shall be annexed into the Town. As real

property within the County's unincorporated portion of the Joint Planning and Review Area, as depicted in Exhibit "A", are annexed into the Town, it shall be unnecessary to amend this Agreement or Exhibit "A." Notwithstanding what Exhibit "A," or any other map attached to this Agreement shall depict, upon annexation by the Town, the annexed Parcel of Land shall be regarded as a portion of the Joint Planning and Review Area within the Town's jurisdiction. No amendment of this Agreement shall be necessary for the Town to annex a Parcel of Land.

**2. Town / County Review of Development Order Applications within the JPA.**

In addition to the evaluation and comments normally prepared by the Town or County agency initially accepting an application for a Development Order, any comments submitted by the agency of secondary jurisdiction in their review of a copy of said Development Order application shall be considered by the agency of primary jurisdiction in its review of said Development Order including examination of the relationship between the application, the Town and County's Comprehensive Plans, and this Agreement.

**3. Forwarding of Development Order application materials from the County to Town and from the Town to County.** The Town and the County, within five (5) calendar days of receipt of any applications or preliminary plans associated with a Development Order, including infrastructure or utility improvement plans within the JPRA, shall provide notification or a copy of such application materials to the designated zoning office of the other party as described in Section 6, Article IV herein. Such notification shall, at a minimum, include all of the following information when available: parcel-specific location, the proposed use of the subject parcel, proposed square footage of development, and proposed zoning and Future Land Use designations. The Town or County may request a meeting to discuss the effect of such development on the neighboring jurisdiction.

The County / Town staff shall provide to the Town / County its comments, if any, on copies of Development Order notifications or application materials generated within the JPA, within ten (10) calendar days of receipt of a notification or copy of said Development Order applications. No final decision on such Development Orders by the agency of primary jurisdiction shall be considered until receiving comments from the neighboring governmental jurisdiction, provided said comments are received consistent with this Agreement.

If a written letter of objection is submitted by the neighboring jurisdiction to the party of primary jurisdiction within said ten (10) calendar days after receipt of a copy of the particular Development Order notification or application, then the processing of said Development Order plans or applications by the agency of primary jurisdiction shall be delayed for a period not to exceed fifteen (15) calendar days to permit time to resolve the concerns noted. The noted time

frames may be extended by consent of both parties in order for the Town staff and the County staff to meet and/or to discuss and attempt to resolve the objecting party's concerns. The noted time frames may also be extended by consent of both parties in order for the elected body of secondary jurisdiction to consider such application for a Development Order during its next available public meeting. If at any time the secondary jurisdiction shall consider the Development order at a public meeting, applicants for the proposed Development Order shall be given written and / or telephonic notice of the time, date, and place of the public meeting of the elected body of secondary jurisdiction. The Applicant shall be given an opportunity to be heard at said meeting.

Such comments may include, but may not be limited to: the existing or proposed Future Land Use or zoning designation(s) or residential density on the subject property; development standards related to signage; landscaping; land clearing; provisions for and connections to open spaces; parking; traffic volumes or traffic distribution patterns potentially generated by the proposal; drainage conveyance from the proposed development; whether the development can or will be served by public sewer or private septic systems; whether the development can or will be served by private well or public water services; service inefficiencies created by unincorporated enclaves; post-annexation maintenance of adjacent rights-of-way and drainage systems.

**4. Development Orders within the Town's portion of the JPA.** The governing and / or administrative body of the Town shall consider the comments of the County in the Town's evaluation of Development Orders occurring within the Town's portion of the Joint Planning and Review Area shown on Exhibit "A".

**5. Development Orders within the County's portion of the JPA.** The governing and / or administrative body of the County shall consider the comments of the Town in the County's evaluation of an application for a Development Order occurring within the County's portion of the Joint Planning and Review Area shown on Exhibit "A".

#### **ARTICLE IV - GENERAL PROVISIONS**

**1. Disclaimer of Third Party Beneficiaries.** This agreement is solely for the benefit of the parties executing this Agreement and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formally named party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon or give any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereto; and all of the provisions,

representations, covenants and conditions herein contained shall inure to the sole benefit of all and shall be binding upon the parties hereto and their respective and express representatives, successors and assigns.

**2. Renegotiation.** The County or Town may call for renegotiation of this Agreement by written notice to the other party at any time. Upon such written notice, for a period of 90 days thereafter, the Town and the County shall attempt to renegotiate this Agreement in good faith. During that 90-day period, where either party, in its sole discretion and in good faith, determines that such renegotiations have reached an impasse, it may invoke the conflict resolution procedures set forth in Chapter 164, Florida Statutes as provided for by the East Central Florida Regional Planning Council. If no Agreement is negotiated during the 90-day period or during the conflict resolution process, the terms of this Agreement shall continue to govern and remain in full force and effect. Should the Town or the County seek judicial review of this Agreement, or to enforce this Agreement, the Town and the County recognize that venue will be properly located in Brevard County, Florida for any action regarding this Agreement. The failure of any party to this Agreement to enforce any provision contained herein shall in no event be deemed a waiver of its rights to thereafter enforce this Agreement. Utilization of one remedy to enforce this Agreement shall not be deemed the only method by which to enforce the provisions of this Agreement.

**3. Severability; Construction and Interpretation.** In the event that any section, subsection, sentence, clause, or word of this Agreement shall be held by a court of competent jurisdiction to be partially or wholly invalid or unenforceable for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other remaining Articles, sections, subsection, sentences, clauses or words of this Agreement, and this Agreement shall be read and/or applied as if the invalid, illegal, or unenforceable section, subsection, sentence, clause, or word did not exist. This Agreement was mutually negotiated by all parties who have executed the same. Consequently, it is the intent of the parties that no provision shall be more harshly construed against either party as the drafter hereof.

**4. Effective Date.** Prior to this Agreement, or any amendment hereto, becoming effective, it shall be approved and executed by both parties hereto, and pursuant to Section 163.01(11), Florida Statutes (2001), this Agreement shall become effective immediately after filing of this Agreement with the Clerk of the Circuit Court of Brevard County, Florida. This Agreement shall be recorded in the public Records of Brevard County, Florida, and the cost thereof, if any, shall be shared equally by both governing bodies.

**5. Termination and Amendment.**

**A. Termination.**

(1) This Interlocal Agreement shall terminate automatically after five (5) years from the date of final adoption unless it is renewed for an additional five (5) year period, in writing, more than 30 calendar days prior to the execution date mentioned herein.

(2) Either party may terminate this Agreement at any time by delivering written notice to the other party of its intent to terminate this Agreement at least sixty (60) days prior to the intended date of termination. Thereupon, a written notice of termination shall be executed by both parties to this Agreement, filed with the Clerk of the Circuit Court, and recorded in the Public Records of Brevard County, Florida.

**B. Amendment.** This Agreement may be amended at any time provided that at least a numerical majority of the total membership of both Town and County governing bodies authorize said amendment.

**C. Amendment or Termination of Agreement to be in Writing.** Except as provided for herein, no amendment or termination of this Agreement shall be binding on either party unless a written instrument terminating or amending this Agreement is executed by the County Commission Chairman and the Mayor of the Town of Palm Shores after being duly authorized to do so by their respective governing bodies, and such termination or amendment shall not be effective until after it has been filed with the Clerk of the Circuit Court of Brevard County, Florida. Except as set forth herein, all instruments amending or terminating this Agreement shall be recorded in the Public Records of Brevard County, Florida, and the cost of recordation, if any, shall be shared by both parties.

**6. Notice; Proper Form.** Any notice to be delivered hereunder to either the Town or the County by the other party shall be in writing and shall be deemed to be delivered when: (a) hand delivered to the official designate hereunder with receipt acknowledged in writing, or (b) upon receipt of such notice when deposited in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith. Copies need not, but are encouraged to be sent pursuant to the above referenced provisions. Mere delivery of copies shall not be determined to be a compliance with the requirements hereof:

COUNTY: If by mail or hand delivery:  
County Manager or Designee  
Brevard County Government Center  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

TOWN: If by mail or hand delivery:  
Town Manager or Designee  
Town of Palm shores  
5030 Paul Hurtt Lane  
Palm Shores, FL 32940

Either party to this Agreement may unilaterally amend this by revising the address or designee to whom notices are to be delivered by providing notice to the other party as provided herein.

**7. Rules of Construction.** As used in this Agreement, the plural includes the singular, and the singular includes the plural. Use of one gender includes all genders. Subtitles or catchlines for articles, sections, or subsections herein are used for ease in reading this Agreement, and the subtitles or catchlines do not form a substantive part of this Agreement for purposes of interpretation. This Agreement shall be liberally interpreted to achieve its goals and purposes.

**IN WITNESS WHEREOF**, the Chairman of the Board of County Commissioners of Brevard County, Florida and the Mayor of the Town of Palm shores, each being authorized by their respective Commission or Council, as the case may be, have set their hands and seals on the date set forth below.

DONE, ORDERED AND ADOPTED, in regular session this 17 day of September 2002.

Attest:

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**



Scott Ellis, Clerk



Truman G. Scarborough Jr., Chairman

As approved by the Board on September 17 2002.

**STATE OF FLORIDA  
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of September 2002, by Truman Scarborough who is personally known to me as Chairman of the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida.

**NOTARY PUBLIC**



*Bernadette S. Talbert*

State of Florida at Large

My Commission Expires:

ATTEST:

**TOWN OF PALM SHORES, FLORIDA**

**a Florida Municipal Corporation**

*Patty Waterman*

Patty Waterman, Town Clerk

*Cathy A. Swatek*

Cathy Swatek, Town Mayor

Date as approved by Town Council:

(SEAL)

**STATE OF FLORIDA  
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2002, by Cathy Swatek who is personally known to me, as Town Mayor of the TOWN OF PALM SHORES, FLORIDA, a Florida Municipal Corporation, on behalf of the municipal corporation.

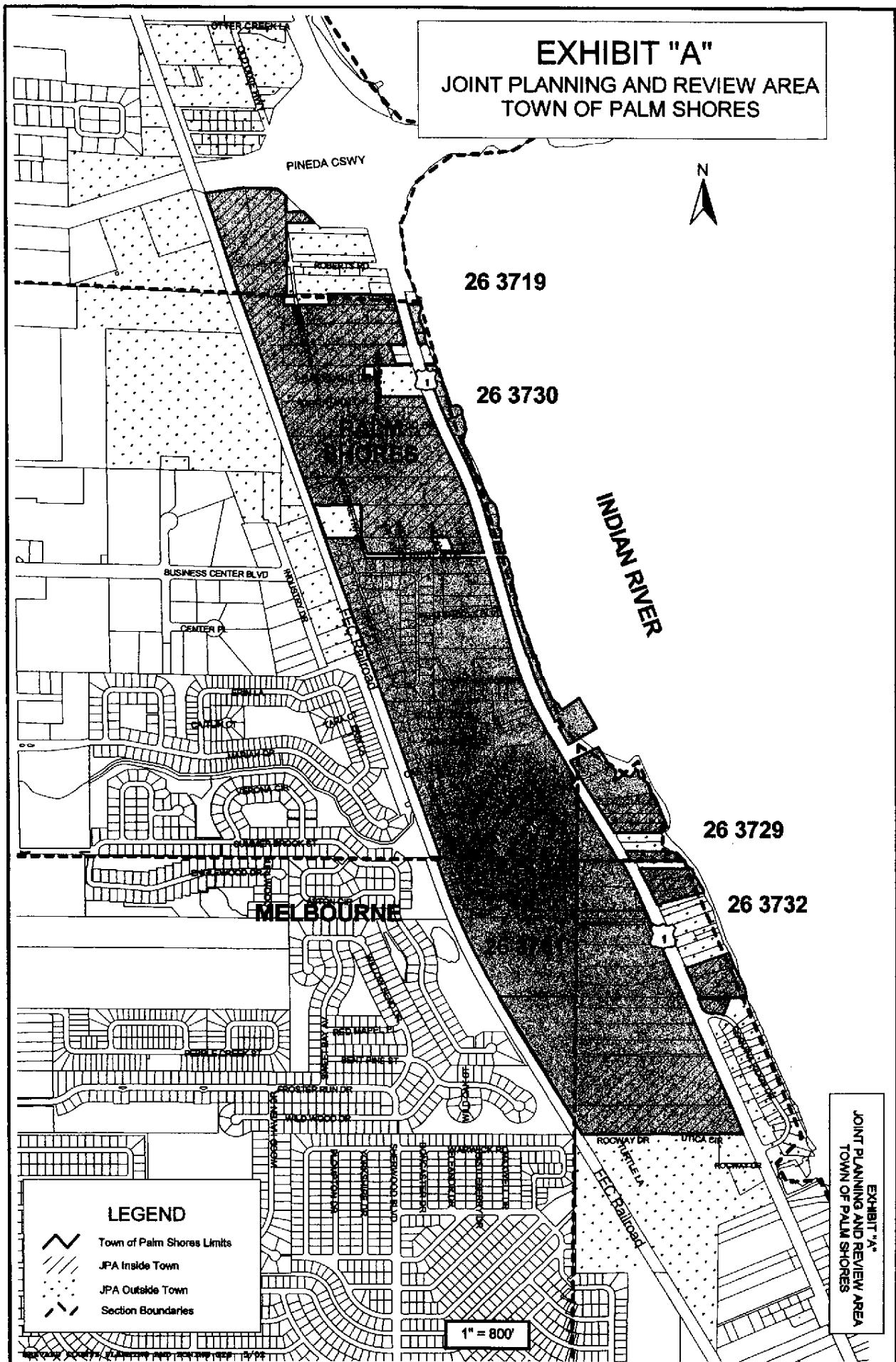
**NOTARY PUBLIC**

\_\_\_\_\_

State of Florida at Large

My Commission Expires:

**EXHIBIT "A"**  
**JOINT PLANNING AND REVIEW AREA**  
**TOWN OF PALM SHORES**



**LEGEND**

- Town of Palm Shores Limits
- JPA Inside Town
- JPA Outside Town
- Section Boundaries

1" = 800'

EXHIBIT "A"  
 JOINT PLANNING AND REVIEW AREA  
 TOWN OF PALM SHORES