



**City of West Palm Beach  
City Commission**

**DRAFT  
AGENDA**

**November 30, 2020  
5:00 P.M.**

**IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY CLERK'S OFFICE, 401 CLEMATIS STREET, WEST PALM BEACH, FLORIDA 33401, {(561) 822-1210}**

**MAYOR  
KEITH A. JAMES**

**CITY COMMISSION  
PRESIDENT KELLY SHOAF**

**COMMISSIONER CHRISTINA LAMBERT  
COMMISSIONER CHRISTY FOX**

**COMMISSIONER CORY NEERING  
COMMISSIONER JOSEPH A. PEDUZZI**

**ADMINISTRATION  
CITY ADMINISTRATOR, FAYE W. JOHNSON  
CITY ATTORNEY, KIMBERLY ROTHENBURG  
CITY CLERK, HAZELINE CARSON**

**CALL TO ORDER:**

**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**CIVILITY AND DECORUM:** The City of West Palm Beach is committed to civility and decorum by its officials, employees and members of the public who attend this meeting. The City Code, Secs. 2-31(8), 2-31(18) and 2-31(22), provides in pertinent part:

- Officials shall be recognized by the Chair and shall not interrupt a speaker.
- Public comment shall be addressed to the City Commission as a whole and not to any individual on the dais or in the audience.
- Displays of anger, rudeness, ridicule, impatience, lack of respect and personal attacks are strictly prohibited.
- Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted.
- Offenders may be removed from the meeting.

**ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:**

**CONSENT CALENDAR (1-5):**

1. **Minutes of the Regular City Commission Meeting of November 2, 2020.**  
*Agenda Cover Memorandum No.: 23116*

**Staff Recommended Motion:**

Approve the Minutes of the Regular City Commission Meeting of November 2, 2020.

2. **Resolution No. 329-20 approving a workers' compensation proposed settlement agreement dated October 14, 2020 in the amount of \$350,000 regarding Leonard Green v. City of West Palm Beach.**

**RESOLUTION NO. 329-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT DATED OCTOBER 14, 2020, FOR \$350,000 IN THE MATTER OF LEONARD GREEN v. CITY OF WEST PALM BEACH AND CORVEL CORP., PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23117*

**Staff Recommended Motion:**

Approve Resolution No. 329-20.

**Background:**

Mr. Green suffered a compensable accident and related injuries, while in the course and scope of employment on October 12, 2010, and while on the job. Mr. Green and the City have negotiated a settlement which compromises the full future amount of compensation and medical benefits for which he is eligible to receive in exchange for a proposed settlement amount of \$350,000, inclusive of statutory attorney's fees and costs, and also in exchange for a general release of all claims. This settlement is a significant savings over the full future value of the claim.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims in excess of \$30,000 shall require the approval of the City Commission by formal resolution. Resolution No. 329-20 provides the authority to settle this claim.

**Fiscal Note:**

The initial outlay is \$350,000. The insurance excess carrier then reimburses the City approximately \$317,000. The City's ultimate portion of the settlement will be approximately \$33,000. The excess carrier typically reimburses the City within less than one (1) week.

3. **Resolution No. 345-20 accepting the donation of one (1) AKC Bloodhound dog from the Jimmy Ryce Center for Victims of Predatory Abduction.**

**RESOLUTION NO. 345-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RATIFYING THE SUBMITTAL OF AN APPLICATION TO THE JIMMY RYCE CENTER FOR VICTIMS OF PREDATORY ABDUCTION FOR DONATION OF A BLOODHOUND CANINE; ACCEPTING A DONATION OF ONE (1) AKC BLOODHOUND CANINE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23124*

**Staff Recommended Motion:**

Approve Resolution No. 345-20.

**Background:**

The Jimmy Ryce Center for Victims of Predatory Abduction has established a Bloodhound Network to support efforts to recover victims of abduction. They provide free AKC Bloodhounds to law enforcement agencies that agree to comply with certain conditions.

The West Palm Beach Police Department applied for a free bloodhound dog and was awarded donation of an AKC bloodhound, provided the City agrees to participate in the Jimmy Ryce Bloodhound Network and comply with certain conditions. The City must agree to call in the bloodhound, regardless of whether the handler is on or off duty, whenever a child is reported missing. The City must further agree to allow the handler and bloodhound to attend a school taught by a certified trainer until the bloodhound can trail a particular human sent for a specified time period and distance. The City must also agree to keep the bloodhound's skills to standard with weekly training by a certified instructor.

The West Palm Beach Police Department has the staffing to support its participation in the Jimmy Ryce Bloodhound Network.

Resolution No. 345-20 ratifies the submittal of the application for the bloodhound and accepts of the dog in compliance with the conditions.

**Fiscal Note:**

Vehicle maintenance funds will be used to upfit either current vehicle, or subsequently purchased or donated vehicle. Future years' care should be budgeted in other existing canine care line items.

- 4. Resolution No. 335-20 approving a collaborative agreement between the City of West Palm Beach and Bridges relating to programs to be offered to the Northwood and West Palm Beach communities.**

**RESOLUTION NO. 335-20 : A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND BRIDGES TO WORK TOWARDS A COMMON AGENDA TO SUPPORT CHILDREN AND FAMILIES IN WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23123*

**Staff Recommended Motion:**

Approve Resolution No. 335-20.

**Background:**

The Mandel Public Library of West Palm Beach (the "Library") works to serve the diverse community of West Palm Beach residents. One of the Library's strategic goals is to help families and young people succeed. To this end, the Library has partnered with the Bridges program since the program's inception in 2011. In accordance with its mission, Bridges is gathering places that connect local families to community resources so more children are born healthy, remain free from abuse and neglect, are ready for kindergarten, and have increased access to quality afterschool and summer programs.

In the past, the Library and Bridges have worked together to host family visits to the Library, provide summer reading programs for children and families, host book club events, worked with committees to design kindergarten readiness campaigns, participated in programs to combat school tardiness and much more. This collaborative agreement solidifies the work that the City and Bridges have been doing together for years and will seek to expand our collaborative efforts.

**Fiscal Note:**

No fiscal impact.

5. **Resolution No. 349-20 approving a Settlement Agreement between the City and United Parking Systems, Inc. related to United Parking's sublease of the properties located at 321 and 325 Datura Street reducing the rent amount due to COVID-19 and providing for an 18-month payment term.**

**RESOLUTION NO. 349-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND UNITED PARKING SYSTEMS, INC. REGARDING UNPAID RENT RELATED TO UNITED PARKING'S SUBLEASE OF THE PROPERTIES LOCATED AT 321 AND 325 DATURA STREET; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23118*

**Staff Recommended Motion:**

Approve Resolution No. 349-20.

**Background:**

5816 Waring Partners, LLC owns the three vacant parcels of land located at 321, 325, and 333 Datura Street, West Palm Beach, FL. On January 11, 2019, the City issued parking Invoice No. 11519 in the amount of \$151,200 (the "Invoice"), due to the permanent removal of nine (9) metered parking spaces related to the One West Palm project located at 550 N. Quadrille Blvd. On October 21, 2019, the City Commission approved Resolution No. 329-19 authorizing the City's Lease of three (3) vacant parcels of land located at 321, 325, and 333 Datura Street, West Palm Beach, FL in exchange for the City's forgiveness of the Invoice at the conclusion of the lease term.

On April 6, 2020, the City Commission approved Resolution No. 82-20 authorizing the City to sublease the parcels located at 321 and 325 Datura Street to United Parking Systems, Inc. to continue the operation of a parking lot. United Parking Systems has operated a parking lot on these parcels for a number of years. The Sublease provided that rent for the one (1) year term was \$150,000, which would be paid in quarterly installments and deposited to the City's Parking Enterprise Fund.

The execution of the Sublease at the beginning of April 2020 coincided with shutdowns associated with COVID-19, and United Parking experienced a significant decrease in revenues which resulted in their non-payment of portions of the rent due to the City. United Parking continued to be impacted by COVID-19 and subsequently approached the City and requested that the City modify the rent amount and payment terms of the Sublease. As of today's date, United Parking has paid the City the sum of \$56,139.49 based on payment in full of \$37,500 for the period of December 2019 - February 2020 and payments of approximately 50% of United Parking's net revenues after taxes and credit card charges for the months of March - August 2020. The sublease expires on December 8, 2020, and United Parking has indicated that they are unable to satisfy the outstanding sublease balance prior to the end of the lease term.

United Parking and City staff have negotiated the following settlement terms:

1. A reduction in the total lease amount from \$150,000 to \$103,140. This represents a 31.25% reduction in the annual lease price to account for revenue declines attributable to COVID-19.
2. Payments for the period of September 1 - November 30, 2020 shall be made based on an amount of 75% of the net revenues United Parking receives from the leased parcels after taxes and credit card charges.
3. Any remaining balance of the reduced lease amount at the end of the lease term will be paid to the City in 18 monthly payments.

The Parking Division has reviewed their revenue losses during the same time period and determined that the rent reduction percentage is approximately the same or below the income loss percentage reported from the parking department during the same months.

Approval of Resolution No. 349-20 approves a Settlement Agreement, which reduces the annual rent for the property from \$150,000 to \$103,140 due to COVID-19 and approves a payment plan of 18-months for United Parking to pay the outstanding lease balance.

#### **RESOLUTIONS (6-8):**

6. **Resolution No. 330-20 authorizing the Mayor to execute a release of code enforcement liens encumbered at 1219 Georgia Avenue.**

**RESOLUTION NO. 330-20: A RESOLUTION OF THE CITY COMMISSION OF CITY OF WEST PALM BEACH, FLORIDA, CONDITIONALLY WAIVING CITY LIENS; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A RELEASE OF CODE ENFORCEMENT LIENS ENCUMBERING CERTAIN REAL PROPERTY LOCATED AT 1219 GEORGIA AVENUE, WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

*Agenda Cover Memorandum No.: 23119*

**Staff Recommended Motion:**

Approve Resolution No. 330-20.

**Background:**

The property located at 1219 Georgia Ave is a four (4) unit historic structure situated in the Grandview Heights Historic District. The property was purchased in 2011 by an investment company. The company rented the property and was cited over the years for violations including, but not limited to, lack of a rental license, overgrowth, trash and debris, deteriorated wood siding, painting required, roof repair, unsafe exterior stairway, repair exterior lighting, and failure to maintain landscape. When cited for these violations, the previous owner would comply the violations enough to pass inspection but would revert again to citation within a few months. In January of 2018, the case was heard by the Special Magistrate who ordered the violations to be repaired within sixty (60) days or daily fines would be assessed. Currently, the fines total \$89,000 and continue to accrue at \$100 per day. The property has since been purchased by Mr. and Mrs. Worster who live in the Grandview Heights Historic District, as well. The rehabilitation of this historic property would not only give back to their neighborhood but would eliminate an unpleasant property and significantly improve the surrounding area. Approval will conditionally release the \$89,000 fine/lien in exchange for rehabilitation of the property, payment of an \$8,000 administrative fee, payment of any outstanding debt owed the City, and payment of any outstanding taxes.

**Fiscal Note:**

Approval will conditionally release the \$89,000 fine/lien in exchange for, among other conditions, an \$8,000 administrative fee, payment of any outstanding debt owed the City, and payment of any outstanding taxes.

7. **Resolution No. 340-20 authorizing the Mayor to execute a release of code enforcement liens encumbered at 1000--36th Street.**

**RESOLUTION NO. 340-20: A RESOLUTION OF THE CITY COMMISSION OF CITY OF WEST PALM BEACH, FLORIDA, CONDITIONALLY WAIVING CITY LIENS; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A RELEASE OF CODE ENFORCEMENT LIENS ENCUMBERING CERTAIN REAL PROPERTY LOCATED AT 1000--36TH STREET, WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**  
*Agenda Cover Memorandum No.: 23120*

**Staff Recommended Motion:**

Approve Resolution No. 340-20.

**Background:**

The property located at 1000--36th Street, King's Food, has become the only supermarket in a large part of the City's north side since the closure of Winn Dixie in 2014. Unfortunately, the prior owner has failed to properly maintain the property allowing it to fall into disrepair. The property has been cited for multiple violations over the past ten (10) years, including, but not limited to, overgrowth, trash, debris, unsanitary conditions both interior and exterior, improper food storage, fire suppression violations, improper safety measures, work without permit or licensed contractor, and zoning violations.

Currently, the fines total \$650,200. The rehabilitation of this property would significantly improve the surrounding area and provide West Palm Beach's North End with a much-needed supermarket. Approval of this resolution would provide for a release of the \$650,200 fine/lien after certain conditions have been met, including the rehabilitation of the property, payment of an \$18,000 administrative fine, payment of any outstanding debt owed to the City, and payment of any outstanding taxes.

**Fiscal Note:**

Approval will conditionally release the \$650,200 fine/lien in exchange for, among other conditions, an \$18,000 administrative fee, payment of any outstanding debt owed to the City, and payment of any outstanding taxes.

8. **Resolution No. 348-20 approving an Interlocal Agreement with Palm Beach County to fund the installation and maintenance of new streetlights by Palm Beach County within the City limits on 45th Street (between Haverhill Road and Military Trail), as part of the County's 45th St Widening Project.**

**RESOLUTION NO. 348-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH FOR CITY FUNDING OF THE INSTALLATION AND MAINTENANCE OF NEW STREETLIGHTS BY PALM BEACH COUNTY WITHIN THE CITY LIMITS ON 45TH STREET, BETWEEN HAVERHILL ROAD AND MILITARY TRAIL, AS PART OF THE COUNTY'S 45TH STREET WIDENING PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23125*

**Staff Recommended Motion:**

Approve Resolution No. 348-20.



**Background:**

On April 13, 2020, Palm Beach County issued a letter to the City of West Palm Beach, describing their proposed widening project of 45th Street between Haverhill Rd. and Military Trail from five (5) to six (6) lanes, and the option for streetlights to be installed as part of that project. There are sections within that project's limits which are in the City limits of West Palm Beach, as well as sections that are within unincorporated Palm Beach County. The County maintains 45th Street although a significant section of it lies within West Palm Beach City limits. The letter from the County is requesting the City to sign and return the letter thus indicating the City's intent to fund and accept maintenance and operation responsibilities for the streetlights that would fall within the City's municipal limits. Otherwise the County will not design or install those streetlights. City staff have been in on going communication with county staff regarding this issue and they are willing to accept our response by December 2020.

After reviewing the information provided by the County, it has been determined that there could be approximately twenty-four (24) new streetlights installed within the City limits segments of the project. Then depending on whether these streetlights are installed directly by the County's contractor under their current lighting arrangements, the estimated upfront cost to the City would be \$38,304; or if they can be facilitated directly through FPL, where there would be no upfront costs.

The annual maintenance cost for the streetlights is estimated to be a \$346/month or \$4,152 annually for the electric service.

The County is willing to fund the design costs for these streetlights and will assume responsibility for the new streetlights that fall within unincorporated Palm Beach County.

Because there are no streetlights currently on the section of 45th Street, except at the signalized intersections, adding streetlights here would enhance the public safety on this roadway and would be worth the investment.

Commission District: 45th Street between Haverhill Road and Military Trail is located in Commission District 4 which is represented by Commissioner Joseph Peduzzi.

**Fiscal Note:**

Annual maintenance costs approximately \$4,152.

**PUBLIC HEARINGS (9-10):**

9. **Public Hearing and First Reading of Ordinance 4891-20 amending Chapter 54, ARTICLE X, of the City's Code of Ordinances providing for repeal of an ordinance that is no longer enforced due to current case law.**

**ORDINANCE 4891-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REPEALING IN ITS ENTIRETY ARTICLE X OF CHAPTER 54 (LOITERING WITH THE INTENT TO COMMIT PROSTITUTION) WHICH MAKES CERTAIN OFFENSES INVOLVING LOITERING WITH THE INTENT TO COMMIT PROSTITUTION UNLAWFUL; DECLARING ANY SPECIFIC PROVISION OF ANY CITY OF WEST PALM BEACH ORDINANCE, RESOLUTION, RULE OR POLICY IN CONFLICT WITH THE THIS ORDINANCE NULL, VOID, AND REPEALED TO THE EXTENT OF SUCH CONFLICT; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23121*

**Staff Recommended Motion:**

Motion to approve Ordinance No 4891-20 on first reading and to schedule second reading.

**Background:**

The City of West Palm Beach codified an ordinance in the 1979 Code of Ordinances at Section 20-175 et. seq. (renumbered 54-331, 54-332, and 54-333), which made it unlawful to loiter with the intent to commit prostitution. In March of 2011, a motion to dismiss a municipal ordinance violation citing defendant for violation of 54-332 of the City of West Palm Beach Code of Ordinance and issued a certificate to the Fourth District Court of Appeal stating that its order is one of great public importance. Following the dismissal, the City of West Palm Beach Police Department stopped enforcing this section of the City of West Palm Beach Code of Ordinances and the Fourth District Court of Appeal in City of West Palm Beach v. Chatman, 112 So. 3d 723 (Fla. 4th DCA 2013), declared Section 54-332 (Prohibited Acts) of Article X (Loitering with the Intent to Commit Prostitution), unconstitutional as overbroad and vague. The City desires to repeal its ordinance in its entirety to be consistent with its practice and current case law. Adoption of Ordinance No. 4891-20 after two readings will repeal Sections 54-331, 54-332 and 54-333.

**Fiscal Note:**

No fiscal impact.

- 10. Public Hearing and First Reading of Ordinance No. 4917-20 amending Chapter 94, Article IV, Downtown Master Plan, Section 94-104 prior development approvals to extend the length of time granted to replace a nonconforming structure destroyed by windstorm, flood, fire, or other natural disaster.**

**ORDINANCE NO. 4917-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ARTICLE IV, DOWNTOWN MASTER PLAN, SECTION 94-104, PRIOR DEVELOPMENT APPROVALS, TO MODIFY THE LANGUAGE REGARDING THE LENGTH OF TIME GRANTED TO REPLACE A NONCONFORMING STRUCTURE DESTROYED BY WINDSTORM, FLOOD, FIRE, OR OTHER NATURAL DISASTER.**

*Agenda Cover Memorandum No.: 23122*

**Staff Recommended Motion:**

Approved Ordinance No. 4917-20 amending Chapter 94, Article IV, Downtown Master Plan, Section 94-104 prior development approvals, to modify the language regarding the length of time granted to replace a nonconforming structure destroyed by windstorm, flood, fire, or other natural disaster.

**Background:**

As the City was working towards the redevelopment of the West Palm Beach Municipal Golf Course, it was discovered that a total of 45 lots within the boundaries of the golf course were titled in the name of Palm Beach County. Neither the City nor Palm Beach County were aware of this until title work was done as part of the due diligence for the course. For the City to clear title and to move forward with the redevelopment of the golf course, the title to these lots must be conveyed to the City.

After this discovery, the City and County engaged in a 164 conflict resolution process, which resulted in working on an Interlocal Agreement to address several issues between the two governing bodies. These included the Transfer of Development Rights for the future development of the County's Block D, and a proposed change to the Downtown Master Plan (DMP) to provide additional time to reconstruct Palm Beach County's Administrative Complex should it be destroyed by a natural disaster. The Interlocal Agreement between the City of West Palm Beach was approved by Palm Beach County on September 15, 2020 and by the City of West Palm Beach on September 21, 2020. The Agreement focuses on the disposition of the 45 golf course lots, the transfer of 110,000 square feet of TDR's to the County for the Lot D property and an amendment to the DMP to reflect the provision of an additional six (6) months to repair or rebuild a legal, nonconforming structure. Ordinance No. 4917-20 would satisfy the third item contained in the Agreement.

#### GOVERNMENTAL CENTER:

The Palm Beach Governmental Center was built in 1972 and is located immediately south of 3rd Street on North Olive Avenue. The building has 12 stories, stands at 176 feet tall, and has a zoning of Quadrille Garden District - 10 (QGD-10). Given the QGD-10's height of 10 stories and 128 feet, the structure is considered a legal, nonconforming, grandfathered structure as the height exceeds what is permitted by today's Zoning Code. The County has expressed concern that in the event of significant damage to the structure they would not be permitted to repair or rebuild the complex. The hurricane building codes have been significantly upgraded since that time and particularly post-Hurricane Andrew in 1992. While the likelihood of this building being razed as a result of a catastrophic event is probably slim, City staff understands the concern raised by Palm Beach County and supports its desire to maximize the time required to initiate a partial or full reconstruction if necessary. Section 94-104 a. of the Downtown Master Plan reads as follows:

Sec. 94-104. - Prior development approvals.

- a. Existing buildings and uses within the DMP area which were legally established but do not conform to provisions of the urban regulations as of the effective date of these regulations shall be considered nonconforming, may not be replaced, restored or modified, except in conformity with the urban regulations, and shall follow the regulations for nonconformities contained in ARTICLE XVI of this chapter. When a nonconforming structure is destroyed by windstorm, flood, or natural disaster, it may be replaced by a new structure of the same or lesser size, and reoccupied by the same use, if construction of such structure is commenced within eighteen (18) months of destruction.

While the City has assured the County it would certainly not interfere with their desire to rebuild its structure, the county has indicated that due to their strict procurement and contracting regulations that must be followed, eighteen (18) months will not be sufficient time to design and submit a building permit to conduct the repairs necessary to meet the requirements stated within the DMP. Therefore, City staff is suggesting a slight amendment to this section which would provide for an additional six (6) month administrative extension beyond the eighteen (18) months currently stated in the DMP and adds fire to the type of disasters that would qualify as an event triggering reconstruction.

**PROPOSED CHANGES AND ANALYSIS:**

The suggested language would read as follows:

- a. Existing building and uses within the DMP area, which were legally established but do not conform to provisions of the urban regulations as of the effective date of these regulations, shall be considered nonconforming, may not be replaced, restored or modified, except in conformity with the urban regulations, and shall follow the regulations for nonconformities contained in ARTICLE XVI of this chapter. When a nonconforming structure is destroyed by windstorm, flood, fire, or other natural disaster, it may be replaced by a new structure of the same or lesser size, and reoccupied by the same use, if construction of such structure is commenced within eighteen (18) months of destruction. The owner of a public facility destroyed by windstorm, flood, fire, or other natural disaster may apply for a building permit for reconstruction, so long as it is submitted to the Building Division within eighteen (18) months after the date of destruction, with the right to obtain a six (6) month administrative time extension from the Planning and Zoning Administrator.

**SUMMARY:**

The Code Revision Case No. 20-05 amendment meets all of the standards of Section 94-32 a. of the Zoning and Land Development Regulations and was approved by the Downtown Action Committee at their October 14, 2020 meeting by a 6-0 vote. The Planning Board approved the amendment at their November 17, 2020 meeting (7-0).

**PUBLIC HEARING – QUASI JUDICIAL (11-13):**

**DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY\*  
SWEARING IN OF WITNESSES**

11. **Public Hearing of Resolution No. 331-20 approving the plat entitled “Palm Beach Riverstone Residences.”**

**RESOLUTION NO. 331-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MINOR SUBDIVISION OF REAL PROPERTY TO CREATE THE PLAT ENTITLED “PALM BEACH RIVERSTONE RESIDENCES” CONSISTING OF TWO LOTS, AND CONTAINING A TOTAL OF APPROXIMATELY 9.19 ACRES, GENERALLY LOCATED 322 FEET SOUTH OF 45TH STREET JUST EAST OF INTERSTATE-95; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23126*

**Staff Recommended Motion:**

Approve Resolution No. 331-20 approving a subdivision of real property to create the plat entitled "Palm Beach Riverstone Residences". This motion is based upon the plat submitted, the staff report, factual testimony and the findings that the plat is consistent with the Comprehensive Plan, complies with the requirements set forth in Sections 94-44 and 94-342 of the Zoning and Land Development Regulations and complies with all applicable provisions of Chapter 177, Florida Statutes.

**Background:**

The subject property is located approximately 322 feet south of 45th Street and just east of Interstate-95 (I-95) and is comprised of 9.19 acres. The property is part of the proposed Palm Beach River Stone Commercial Planned Development (CPD) project which was recently approved by the City Commission on First Reading at September 8, 2020 commission meeting; Second Reading of the CPD project is scheduled for the November 30th meeting (Reference: Ordinance No. 4908-20; Ordinance No. 4909-20; Resolution No. 228-20).

This Minor Subdivision application seeks to replat Lot 2 of the "Corpway 45 Redevelopment Plat," as recorded in Plat Book 129, Pages 88 and 89, of the Public Records of Palm Beach County, Florida, into two (2) separate lots to provide stand-alone parcels for the individual uses within the planned development and to create the Palm Beach Riverstone Residences Plat.

**STANDARDS:** The proposed plat complies with all the subdivision general design standards of Sec. 94-342 of the City's Zoning and Land Development Regulations.

**PLANNING BOARD:** After a Public Hearing on July 21, 2020, the Planning Board recommended approval (7-0) of the Minor Subdivision.

**PUBLIC NOTICE:** Resolution No. 331-20 was advertised in the Palm Beach Post on November 20, 2020.

Resolution No. 331-20 approves the Palm Beach Riverstone Residences Plat.

**COMMISSION DISTRICT:** The subject property is located within Commission District No. 1: Commissioner Kelly Shoaf.

12. **Public Hearing and Second Reading of Ordinance No. 4908-20 regarding a Future Land Use Map Amendment to change the Future Land Use of ±11.62 acres located at the southeast corner of 45th Street and Interstate-95 from Commercial (C) to Commercial East (CE);**

**Public Hearing and Second Reading of Ordinance No. 4909-20 regarding a rezoning to change the zoning designation of ±11.62 acres located at the southeast corner of 45th Street and Interstate-95 from General Commercial (GC) to Commercial Planned Development (CPD); and**

**Public Hearing of Resolution No. 228-20 approving the development regulations and conditions for the Palm Beach River Stone Commercial Planned Development (CPD) and granting waivers of the Zoning and Land Development Regulations.**

The above-referenced requests are being made by Harvey E. Oyer, III, Esq., of Shutts & Bowen, LLP, on behalf of Paradise River Walk, LLC, to provide for a multiple-use development consisting of a gas station and convenience store, a 150-room hotel with accessory restaurant, and 374-residential dwelling units.

**ORDINANCE NO. 4908-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF ±11.62 ACRES LOCATED AT THE SOUTHEAST CORNER OF 45TH STREET AND INTERSTATE 95 FROM COMMERCIAL TO COMMERCIAL EAST; DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**ORDINANCE NO. 4909-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, FLORIDA, BY REZONING ±11.62 ACRES LOCATED AT THE SOUTHEAST CORNER OF 45TH STREET AND INTERSTATE-95 FROM GENERAL COMMERCIAL TO COMMERCIAL PLANNED DEVELOPMENT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 228-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE DEVELOPMENT REGULATIONS AND CONDITIONS FOR THE PALM BEACH RIVER STONE COMMERCIAL PLANNED DEVELOPMENT (CPD); GRANTING WAIVERS OF THE ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23127*

**Staff Recommended Motion:**

Approve Ordinance No. 4908-20 changing the Future Land Use designation of ±11.62 acres located at the southeast corner of 45th Street and Interstate-95 from Commercial to Commercial East. This motion is based on the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the provisions of Chapter 163, Florida Statutes and meets the "changed Assumptions" standard of the Future Land Use Policy 1.1.5 of the City's Comprehensive Plan.

Approve Ordinance No. 4909-20 changing the zoning designation of ±11.62 acres located at the southeast corner of 45th Street and Interstate-95 from General Commercial to Commercial Planned Development. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32, Section 97-207 and Section 94-342 of the City's Zoning and Land Development Regulations.

Approve Resolution No. 228-20 approving the development regulations and conditions for the Palm Beach River Stone Commercial Planned Development (Commercial Planned Development) and granting waivers of the Zoning and Land Development Regulations.

**Background:**

The 11.62-acre subject property is a long and narrow parcel comprised of two platted lots. The northern half of the parcel was previously developed with an IHOP restaurant and a 180-room Days Inn Hotel. These commercial structures have been demolished in recent months to accommodate an approved 6,119 square foot WaWa convenience store and gas station (approved in November 2019 under Informal Site Plan Review Case No. 19-02). The southern end is comprised of a wetland dedicated as a conservation easement (Reference O.R.B. 19496, Page 1080), and a freestanding multi-column billboard sign is located along the west property line, just north of the wetland conservation area.



The applicant is seeking approval to redevelop the property with a horizontally-integrated multiple use project comprised of the following uses:

- The approved WAWA gas station and convenience store.
- 150-room hotel with an accessory 1,160 square foot restaurant.
- 374 dwelling units.

The proposed Site Plan and Landscape Plan are provided. To provide for the proposed redevelopment plan, the applicant has submitted a request for a Future Land Use (FLU) Map Amendment to change the current FLU of the subject property from Commercial (C) to Commercial East (CE), and a rezoning of the subject property from General Commercial (GC) to Commercial Planned Development (CPD). The requests for the FLU map amendment and rezoning are summarized below.

Future Land Use Map Amendment to Commercial East (Ordinance No. 4908-20):

Approval of the FLU designation to CE would allow residential use to be developed on the subject property at a maximum density of 32.27 dwelling units to the acre and increase the maximum allowable floor area ratio (FAR) from 0.75 (under the existing C FLU designation) to a maximum FAR of 1.5 with the proposed CE FLU designation.

In accordance with Chapter 163 of the Florida Statutes, the existing public facilities servicing the subject property and the surrounding area has been evaluated to determine if the increase in development potential would cause any capacity issues with the existing public facilities. With exception to roadway level-of-service, the increase in demand will not cause any capacity issues with the existing public facilities. In order to maintain roadway level-of-service with the FLU change to CE, the applicant is proposing to restrict the cumulative non-residential intensity on the subject property to 0.6 FAR. Staff does not object to this request and the restriction on the maximum allowable non-residential intensity to 0.6 FAR has been added as a condition in Resolution No. 228-20.

Rezoning to Commercial Planned Development (Ordinance No. 4909-20):

The rezoning of the subject property to Commercial Planned Development (CPD) would allow the applicant to redevelop the property with waivers from the City's Zoning and Land Development Regulations (ZLDRs) to provide for a more desirable and attractive redevelopment project.

As part of the proposed CPD, the applicant is requesting four (4) waivers from the ZLDRs. They are:

1. Section 94-402(b.1)(10): Off Premise Signs
2. Section 94-145(2)(c): Required Front Building Setback (Pod 3)
3. Section 94-407(2)(d): Required Residential Identification Sign Setback (Pod 3)
4. Section 94-485(p): Number and Size of Loading Zones (Pod 2)

Pursuant to Section 94-145 of the City's ZLDRs, all projects located on parcels with a CE land use and a CPD zoning designation are required to demonstrate vertical (mixed-use building) or horizontal (multiple-use project containing both residential and non-residential uses) integration. The intent of this requirement is to provide a cohesive development featuring a mix of uses. It is in Staff's professional opinion that the proposed redevelopment project demonstrates horizontal integration to the greatest extent possible, given the physical constraints associated with the site. Features such as interconnected walkways lined with street furniture, the pedestrian plaza, wayfinding signs, and uniform, decorative landscaping throughout the project, help to create a unified and attractive development.

**CONCLUSION:** The proposed multiple-use redevelopment project would be a significant improvement to the area. The site design features attractive site elements which include a pedestrian plaza and walking paths throughout the project to unify the development. While the applicant is requesting minor waivers from the City's ZLDRs to accommodate the design of the proposed development, they are not requesting to exceed the allowable density or intensity afforded by the ZLDRs. It is in Staff's professional opinion that the development project complies with the Florida Statutes, the City's Comprehensive Plan and ZLDRs. Therefore, Staff is recommending approval subject to the conditions contained in Resolution No. 228-20.

**PLANNING BOARD:** After a Public Hearing on July 21, 2020, the Planning Board recommended approval (7-0) of the requests, subject to the conditions contained in Resolution No. 228-20.

**FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY (DEO):** The proposed Future Land Use Map Amendment was transmitted to the Florida DEO on September 23, 2020 for review in accordance with Section 163.3184(3), Florida Statutes. The Department had no comments on the proposed amendment.

**PUBLIC NOTICE:** Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. The ordinances and resolution had also been advertised in the Palm Beach Post in accordance with the requirements of the Florida Statutes.

**COMMISSION DISTRICT:** The subject property is located within Commission District No. 1: Commissioner Kelly Shoaf.

**13. Public Hearing and First Reading of Ordinance No. 4914-20 transferring the site plan approvals and development regulations for One Clearlake Centre Downtown Planned Development to a separate Resolution; and**

**Public Hearing of Resolution No. 286-20 approving a Major Amendment to the One Clearlake Centre Downtown Planned Development to create a Master Sign Program.**

**ORDINANCE NO. 4914-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING ORDINANCE 3753-04, RELATING TO ONE CLEARLAKE CENTRE DOWNTOWN PLANNED DEVELOPMENT (DPUD), AS AMENDED, LOCATED AT 205 SOUTH AUSTRALIAN AVENUE; TO TRANSFER THE SITE PLAN APPROVAL AND RELATED CONDITIONS TO A SEPARATE RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION 286-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE ONE CLEARLAKE CENTRE DOWNTOWN PLANNED DEVELOPMENT (DPUD), LOCATED AT 250 SOUTH AUSTRALIAN AVENUE, TO CREATE A MASTER SIGN PROGRAM; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23128*

**Staff Recommended Motion:**

Approve Ordinance No. 4914-20 transferring the site plan approvals and development regulations for One Clearlake Centre Downtown Planned Development to a separate Resolution. This motion is based upon the factual testimony presented, the application submitted, the recommendation of the Planning Board, and the findings that the request is consistent with the Comprehensive Plan and complies with the standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

Approve Resolution No. 286-20 approving a Major Amendment to the One Clearlake Centre Downtown Planned Development to create a Master Sign Program.

**Background:**

The One Clearlake Centre Downtown Planned Development (DPUD) was originally approved through Ordinance 1714-83 for two 18-story office buildings, a stand-alone restaurant, two (2) parking garages and one (1) surface parking lot consisting of a total of approximately 1,773 parking spaces, and a 21-story hotel. At that time, the DPUD was 7.53 acres. Only one (1) of the 18-story office towers was built with a 5-story parking deck consisting of approximately 650 parking spaces.

In 2004, through PB Case Number 658 G, H, and I, the DPUD was subdivided into two (2) parcels through Ordinance 3753-04. Parcel one (Lot 1 of Clear Lake Park Plat 2), containing the office building and parking garage remained under the DPUD zoning, and the second parcel, consisting of approximately 4.63 acres was rezoned from DPUD to the Downtown Master Plan (DMP) through Ordinance 3754-04 and Resolution 143-04 zoning with the intention of developing it as Building Type-IV under the old DMP (this site is now developed as the Edge Residential Building Phase I, with Phase II not yet completed).

The DPUD has never had an official sign program. In early 2020, an owner's representative approached the City with a request to permit a building tenant identification sign on the south façade, as well as a sign band on the 5th floor on the south façade that exceeded the maximum permitted height of sign bands within the DMP. As no Sign Program exists for the DPUD, the DMP regulations govern (per Section 94-103(e)). As the existing DMP regulations did not allow for the type and placement of all signage that the applicant wished to have on their building, the applicant submitted a Major PD Amendment to create a sign program for the DPUD.

## ANALYSIS

Staff analyzed the proposed Master Sign program for consistency with the Downtown Master Plan sign regulations as well as the signage on surrounding properties. Staff utilized the applicant's justification statement to understand the request for signage that differs from DMP regulations and for the proposal for two signs on the same facade.

The building identity, monument, instructional signs and window signage regulations as proposed within the Master Sign Program do not vary much from DMP regulations. Any modifications to the language for these signs were carefully considered to meet the exact specifications for existing signage on site, however, no modifications permit any additional height or total square footage above the maximum that is allowed within the City's ZLDRs for these types of signs. The tenant sign was analyzed in comparison to the "sign band" as permitted within the DMP. Although the height exceeds what DMP allows for sign bands, the applicant is overall limiting the total amount of signage on the building. Staff's professional opinion is that the limitation of maximum signage on the building facade justifies the additional height and additional flexibility for location. Staff is comfortable with both signs proposed on the same facade due to the unique architecture and orientation of the building facade. Full analysis can be found in the Planning Board staff report.

It is staff's professional opinion that the proposed Master Sign Program meets the applicant's needs while keeping compatibility with DMP regulations.

**STANDARDS:**

Staff has found the Major Amendment to be consistent with the City's Comprehensive Plan. Although new Planned Developments are not permitted within the DMP, the One Clearlake Centre is an existing PD and has the right to establish regulations that are different from DMP regulations, with staff being able to review and provide recommendation for consistency with DMP requirements. The City Commission is the final authority for new regulations within PDs in the DMP.

Staff has found that the Major Amendment complies with the amendment standards of Section 94-32 of the ZLDRs. Specifically, staff found that the Amendment complies with Policy 2.2.2 of Objective 2.2, Goal 2 of the DMP Element of the Comprehensive Plan, which references the proper design and display of signage to support businesses to promote the growth of the downtown employment base. There are no direct impacts to the natural environment, development capacity, or property value of surrounding areas from this Amendment. Compliance with the above referenced standards is detailed in the Planning Board Staff Report.

**ORDINANCE NO. 4914-20:** This Ordinance transfers the site plan approvals and development regulations (Ordinance No. 1714-83; Ordinance No. 3753-04) of the One Clearlake Centre DPUD to Resolution No. 286-20.

**RESOLUTION NO. 286-30:** This Resolution is for a Major Amendment to the One Clearlake Centre DPUD to create a Master Sign Program, to include existing signage and proposed signage types.

**PLANNING BOARD:** The proposed amendment was approved by the Planning Board during its October 20, 2020 meeting by a 7-0 vote.

**NOTICE:** Evidence of compliance with all publication and notice requirements are found in the Planning Division's files. A notification to all property owners within 500 feet of the subject property was sent October 6, 2020 and sign was posted on October 5, 2020.

The subject parcel is within Commission District No. 3: Commissioner Christy Fox.

**COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:**

**COMMENTS BY THE MAYOR AND CITY COMMISSIONERS:**

**ADJOURNMENT:**

**\*Pursuant to Resolution No. 179-95, adopted according to the provisions of Section 286.0115, Florida Statutes, members of the Commission shall disclose on the record: 1) ex-parte communications - verbal or written and written communications shall be placed in the record; and 2) site visits, investigations, etc.**

**NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.**