



401 Clematis Street  
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Mayor Keith A. James  
Commission President Joseph A. Peduzzi (District 4)  
Commissioner Kelly Shoaf (District 1)  
Commissioner Sholanda Warren (District 2)  
Commissioner Christy Fox (District 3)  
Commissioner Christina Lambert (District 5)

City Administrator Faye W. Johnson  
City Attorney Kimberly Rothenburg  
City Clerk Hazeline Carson

**City of West Palm Beach  
City Commission  
DRAFT Agenda  
Monday, October 4, 2021  
5:00 PM**

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, FL 33401, (561) 822-1210 (TTY) 800-955-8771.

**1. CALL TO ORDER**

**2. MOMENT OF SILENCE**

**3. PLEDGE OF ALLEGIANCE**

**4. 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.

**5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA**

**6. PRESENTATION AND AWARDS OF MERIT**

- 6.1. Proclaiming October 2021 as National Arts and Humanities Month.

Proclamation to be accepted by Sybille Welter, Administrator of Public Art and Culture.

**Originating Department:**  
Mayor's Office

## 7. APPOINTMENTS

- 7.1. City Commission approval is requested for the Mayor's reappointment of Myles Schack to the Water Advisory Board for a term of two years (2) to expire August 7, 2023. Mr. Schack has served over the maximum allowed number of terms (3); the importance of his reappointment is due to his technical knowledge as an engineer. It is required that the City Commission confirms Mr. Myles' reappointment.

**Originating Department:**  
Mayor's Office

## 8. CONSENT CALENDAR

All items listed under the consent calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items.

- 8.1. Minutes of the Special City Commission Meeting of September 13, 2021

**Originating Department:**  
City Clerk's Office

- 8.2. Minutes of the Special City Commission Meeting of September 8, 2021

**Originating Department:**  
City Clerk's Office

- 8.3. Resolution No. 258-21 approving submittal of an application for the 2021 Urban and Community Forestry Grant in the amount of \$20,000 to perform a tree inventory on City property.

**Originating Department:**  
Public Utilities

**Ordinance/Resolution:**

RESOLUTION NO. 258-21: A RESOLUTION OF THE CITY COMMISSION OF CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FOR AN URBAN AND COMMUNITY FORESTRY PROGRAM GRANT ; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The purpose of Florida's Urban and Community Forestry (UCF) Grant Program is to provide financial assistance to local governments, Native American tribal governments, volunteer groups, nonprofit organizations, and educational institutions to initiate or enhance local urban and community forestry programs and improve the urban environment within the State of Florida. The primary purpose of this UCF grant program is to mitigate the effect to the urban forest component of community infrastructures throughout the State of Florida impacted by recent hurricane and other weather related events.

The Office of Sustainability wishes to apply to conduct inventories of trees in public areas and assess the condition of individual trees, and desires to apply for a grant in the amount of \$20,000. The maximum grant request for the tree inventory is \$20,000 with a \$20,000 required match.

The Office of Sustainability, working in conjunction with the Department of Parks and Recreation, purchased a tree inventory software and has conducted preliminary assessments in the downtown core, the Northwest neighborhood, City Parks and in several other locations within the City of West Palm Beach. These grant awards would be applied toward inventorying street trees. This inventory will compliment a tree canopy assessment, which was completed in January of 2019, and will provide a baseline for tree health and species diversity within the City of West Palm Beach. It will further encourage a monitoring program, which will strengthen care for the City of West Palm Beach's prized assets, trees.

Resolution No. 258-21 authorizes submittal of the grant application.

**Fiscal Note:**

The City's required \$20,000 match will be funded from the Water and Sewer Operating Fund 450 Sustainability Division 097225 budget.

- 8.4. Resolution No. 250-21 updating the Comprehensive Fee Schedule for the City of West Palm Beach.

**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 250-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING AND REPLACING THE COMPREHENSIVE FEE SCHEDULE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Finance Department in conjunction with Department Directors and Division Managers throughout the City developed a Comprehensive Fee Schedule in fiscal year 2013/14. The schedule was adopted by the City

Commission on December 9, 2013 under Resolution No. 290-13. The rationale behind creating a comprehensive fee schedule is to provide efficiency, transparency, consistency, and revenue assurance/enhancement. Resolution No. 290-13 provided for the annual review and updating of the City's Fee Schedule.

The fee schedule approved in fiscal year 20/21 remains unchanged except for the addition of the following fees:

- a. Maintenance of Traffic Plan Labor with an hourly rate of \$75/hour – Engineering Department
- b. Two new equipment items to be billed in special events each for \$20/hour – Fire Department and
- c. The inclusion of Grassy Waters, fee-based programs ranging from \$5.00 -\$10.00 per hour.

The newly added fees will generate less than \$20,000 in additional revenues in fiscal year 21/22.

Resolution No. 250-21 will approve the 2021/2022 Comprehensive Fee Schedule as aligned with the 2021/2022 budget.

- 8.5. Resolution No. 264-21 designating Valley National Bank as a depository for the City of West Palm Beach.

**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 264-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING VALLEY NATIONAL BANK AS A DEPOSITORY FOR THE CITY OF WEST PALM BEACH; AUTHORIZING CERTAIN CITY OFFICIALS TO PERFORM CERTAIN ACTS WITH RESPECT TO VALLEY AND THE CITY FUNDS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The City of West Palm Beach currently has various investments and program funds on deposit with Valley National Bank; and desires to re-designate Valley National Bank as a depository for City Funds.

This Resolution identifies those staff positions authorized to act with respect to such funds.

## 9. PUBLIC HEARING

- 9.1. Public Hearing and Second Reading of Ordinance No. 4933-21 proposed City-initiated amendments to the Future Land Use Element (FLUE) of the City's Comprehensive Plan regarding Mixed Use Districts (MUDs), the Currie Mixed Use District (CMUD), and the Broadway Mixed Use District (BMUD).

**Originating Department:**

Planning & Zoning

**Ordinance/Resolution:**

ORDINANCE NO. 4933-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MODIFYING THE COMPREHENSIVE PLAN TO AMEND THE FUTURE LAND USE ELEMENT AT POLICY 1.7.2.1A TO REMOVE THE REFERENCE TO THE STREET VISTAS REGULATING PLAN; POLICY 1.7.2.1B TO REMOVE THE REFERENCE TO THE LIMITED DURATION RESIDENTIAL INCENTIVE; POLICY 1.7.2.3 TO DELETE THE MAXIMUM HEIGHT CAP FOR THE CURRIE MIXED USE DISTRICT; AND POLICY 1.7.2.4 TO DELETE REFERENCES TO BUILDING TYPOLOGY FOR THE BROADWAY MIXED USE DISTRICT; DECLARING THE PROPOSED AMENDMENTS TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The proposed City-initiated amendments will modify existing policies 1.7.2.1a, 1.7.2.1b, 1.7.2.3, and 1.7.2.4. of the Future Land Use Element (FLUE) of the City's Comprehensive Plan regarding Mixed Use Districts (MUDs), the Currie Mixed Use District (CMUD), and the Broadway Mixed Use District (BMUD) to reflect future desires and outcomes, to remove outdated language and to remove from the Comprehensive Plan provisions dealing with building types and heights that are more appropriate for the Zoning and Land Development Regulations (ZLDRs).

The proposed amendments are centered on three (3) main items: (1) removing the general policies language from Mixed-Use Districts pertaining to the Street Vistas Regulating Plan and from the sunsetted limited duration residential incentive program; (2) removing from the Comprehensive Plan specific criteria for maximum building heights for the Currie Mixed Use District; and (3) deleting from the Broadway Mixed Use District language dealing with building typology and height. None of the proposed amendments will increase the amount of development that is permitted within each of the Mixed Use Districts.

The City will also amend the corresponding Zoning and Land Development Regulations (ZLDRs) for the Mixed-Use Districts, Currie Mixed Use District

and Broadway Mixed Use District. While the original intent was that both, the Comprehensive Plan amendments included in this report and the corresponding amendments to the ZLDRs would be adopted concurrently by the City Commission, the revisions to the ZLDRs are still being finalized and will be presented to the City Commission within the next couple of months.

Florida Statutes require that, for Comprehensive Plan amendments, the local government needs to hold its second (adoption) public hearing within 180 days after receipt of the comments from the Florida Department of Economic Opportunity (DEO) or the amendments shall be “deemed withdrawn”. The DEO issued their comment letter to the City of these proposed amendments on April 16, 2021. This means that, in order to comply with the Florida Statutes, the City needs to hold the adoption hearing for these amendments no later than October 13, 2021, or the City would have to restart the amendment process for these revisions to the Comprehensive Plan.

The proposed amendments were endorsed by the Community Redevelopment Agency Advisory Board (CRAAB) during its January 8, 2021 meeting. The Planning Board recommended approval (7-0) of this request to the City Commission after a Public Hearing on January 19, 2021.

The City Commission reviewed the proposed amendment during its March 8, 2021 Transmittal Public Hearing, and recommended approval (5-0).

The proposed amendment was then transmitted to the Florida Department of Economic Opportunity (DEO) and other review agencies. In a letter dated April 16, 2021 the Florida DEO indicated that, after reviewing the amendment, they “identified no comment related to adverse impacts to important state resources and facilities within the Department's authorized scope of review.” In the same letter the DEO did state that they were providing the following technical assistance comment consistent with the Florida Statutes:

*“The proposed amendment seeks to remove height limitations from policies guiding development in the Currie and Broadway Mixed Use Districts and to defer character and location guidelines to the Land Development Regulations. With this proposed change, Future Land Use policies would only establish maximum build-out caps on residential and non-residential development within each Mixed Use District but would provide no further guidance as to the distribution and location of the allowable uses. Given the size and character of the area this policy applies to, the City should consider whether maintaining only a cap on development within each Mixed Use District provides “meaningful and predictable standards for the use and development of land” and whether this will provide the City the guidance needed to achieve it's planned vision for the area. The City should consider revising the amendment to either retain the building height*

*limitations or to add other criteria to provide predictability as to the distribution and intensity of allowed development within each Mixed Use District.”*

**Fiscal Note:**

No fiscal impact

- 9.2. Public Hearing and First Reading of Ordinance No. 4968-21 regarding a City-initiated amendment to the City’s Comprehensive Plan adopting the Property Rights Element, as required by the Florida Statutes.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 4968-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MODIFYING THE COMPREHENSIVE PLAN TO ADOPT THE PROPERTY RIGHTS ELEMENT; DECLARING THE PROPOSED AMENDMENTS TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

During the 2021 Legislative Session, the Florida legislature passed House Bill 59, which was signed into law by Governor DeSantis and was incorporated into Florida’s Community Planning Act. House Bill 59 requires that every city and county in Florida shall “include in its comprehensive plan a property rights element.” The legislation states that all municipalities must adopt this new element “by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan.”

Florida State requirements dictate that local governments shall determine at least every seven (7) years, through the evaluation and appraisal process, whether the need exists to amend the comprehensive plan to reflect changes in state requirements, since the last time the comprehensive plan was updated. The City of West Palm Beach completed its last evaluation and appraisal of its Comprehensive Plan in 2016, so its next scheduled evaluation would have to be completed by 2023. Because the City is considering processing other amendments to the Comprehensive Plan within the next year, waiting until 2023 to adopt the Property Rights Element as part of the evaluation and appraisal process does not seem feasible. As such, the City has determined to proceed with the adoption of the Property Rights Element at the earliest

opportunity in order to allow for the processing of any other potential amendments to the Comprehensive Plan.

The proposed amendments will create a new Property Rights Element within the City's Comprehensive Plan. This element includes language consistent with the statement of rights included in House Bill 59 and complies with the new requirements of the Florida Statutes for the Community Planning Act.

The Planning Board recommended approval of this amendment (7-0) after a Public Hearing on August 17, 2021.

**Fiscal Note:**

No Fiscal Impact

## 10. PUBLIC HEARING - QUASI-JUDICIAL

Disclosure of ex-parte communications, if any\*  
Swearing-in of witnesses.

- 10.1. Public Hearing and First Reading of Ordinance No. 4967-21 regarding a rezoning to change the zoning designation of ±1.16 acres generally located on the north side of Dock Street, between Parker Avenue and Flamingo Drive, from Single-family High Density Residential to Residential Planned Development, requesting waivers from the Zoning and Land Development Regulations, and to provide for the construction of fourteen (14) townhouse units and associated site improvements.

**Originating Department:**

Planning & Zoning

**Ordinance/Resolution:**

ORDINANCE NO. 4967-21: 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 ±1.16 ACRES GENERALLY LOCATED ON THE NORTH SIDE OF DOCK STREET, BETWEEN PARKER AVENUE AND FLAMINGO DRIVE FROM SINGLE-FAMILY HIGH DENSITY RESIDENTIAL TO RESIDENTIAL PLANNED DEVELOPMENT, APPROVING THE DEVELOPMENT REGULATIONS AND CONDITIONS FOR THE PARK CENTRAL RESIDENTIAL PLANNED DEVELOPMENT; GRANTING WAIVERS OF THE ZONING AND LAND DEVELOPMENT REGULATIONS; 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.

**Background Information:**



(The information provided below is a general summary. A full analysis is included in the attached Staff Report)

The subject property is comprised of ±1.16 acres and is a small, irregular-shaped, infill parcel located on the north side of Dock Street, between Parker Avenue and Flamingo Drive. The property is comprised of three separate lots and is currently developed with a 5,740 square foot yoga studio, a residential duplex and a single-family residential dwelling unit. The area of the subject property is predominantly residential with single and multi-family units.

The applicant is seeking approval to rezone the subject property from Single-family High Density (SF14) Residential to Residential Planned Development (RPD) to provide for the construction of a fourteen (14) unit townhouse development. The location map, boundary and topographic survey, proposed site plan, landscape plan and architectural drawings are attached.

As part of the request for the RPD, the applicant is also requesting a total of eight (8) waivers from the Zoning and Land Development Regulations (ZLDRs) that are necessary to provide for the design of the RPD. The 8 waivers requested are as follows:

- Minimum Area Required for a Residential Planned Development
- Minimum Lot Size Requirement
- Minimum Lot Width Requirement
- Minimum Front Setback Requirement
- Minimum Corner Setback Requirement
- Minimum Interior Side Setback Requirement
- Minimum RPD Perimeter Setback Requirement
- Minimum Drive Aisle Width Requirement

**CONCLUSION:** Staff is recommending approval of the rezoning to RPD and the requested waivers from the Zoning and Land Development Regulations to provide for the proposed fourteen (14) unit townhouse development. The proposed RPD is an attractive development that is consistent with the residential development pattern of the immediate area, integrated with the existing street and sidewalk network, and will provide for additional housing stock in the area. The improvements to the site will enhance the aesthetics and character of the surrounding area.

**NEIGHBORHOOD OUTREACH:** Staff had requested that the applicant reach out to the adjacent Pineapple Park Neighborhood Association (PPNA) and the Flamingo Park Neighborhood Association (FPNA) for input and support on the proposed project. According to the letter and email provided in the Staff Report, the PPNA has offered their support for the

project, while the FPNA has stated that collectively, it was not in their best interest to endorse any development project.

**PLANNING BOARD:** After a Public Hearing on August 17, 2021, the Planning Board recommended approval (7-0) of the requests, subject to the conditions contained in Ordinance No. 4967-21.

**PUBLIC NOTICE:** Individual Notices were mailed to all property owners within 500 feet of the property, and signs have been posted on the subject property. In accordance with the advertising requirements of the ZLDRs, Ordinance No. 4967-21 will be advertised prior to Second Reading.

**COMMISSION DISTRICT:** The subject property is located within Commission District No. 5 – Commissioner Christina Lambert.

## 11. APPEALS

- 11.1. Appeal of the Historic Preservation Board's decision in Case # 20-56A, denying the request to modify a condition for the Ann Norton Sculpture Gardens primary historic structure located at 253 Barcelona Road.

**Originating Department:**

Development Services

**Background Information:**

The property at 253 Barcelona Road is in the National and Local Register Historic District of El Cid, consisting of multiple contributing structures including Ann Norton's home and studio and now functions as a non-profit known as the Ann Norton Sculpture Garden displaying many of her works outdoors. The main house was originally designed by Maurice Fatio, built by E. B. Walton in 1924, was modified in 1937 by Marion Sims Wyeth and is classified in the Monterey style.

On September 22, 2020, the applicant requested and received approval for the following from the Historic Preservation Board:

1. Complete window and door replacement with Kolbe aluminum clad Basil finish frames in impact to match existing styles.
2. Demolition of rear addition.
3. Balcony repairs.
4. General wood, stucco repairs and repainting.

With the following conditions:

1. All south facing windows except those in the enclosed second floor porch shall be retained and repaired.
2. All replacement windows shall feature clear glass, no low-e or tinting of any kind.

3. All balcony components that require replacement instead of repair shall be submitted to staff for review and approval of replacement component.

On July 27, 2021, the applicant returned to the Board asking for a reconsideration of condition number one. The Board continued the case requesting a window sample and further exploration of a new window product that would be a closer match to the existing windows.

HISTORIC PRESERVATION BOARD. This request came to be heard by the Historic Preservation Board on August 24, 2021. Planning Staff presented the application for a condition modification of a Certificate of Appropriateness for restoring six street facing openings with the recommendation of DENIAL based on not meeting compatibility standards. The Historic Preservation Board voted (3-3) on the request, resulting in a denial.

APPEAL. The Applicants' appeal of the Historic Preservation Board's decision was timely received on August 27, 2021. Pursuant to Sec. 94-50 of the Code of Ordinance, Historic Preservation Board decisions are appealed to the City Commission. The appeal hearing must be held within sixty (60) days of the appeal request. The City Commission's review is de novo and the decision shall be based on the testimony and evidence presented to the Commission at this hearing. A decision of the City Commission may be appealed to a court of competent jurisdiction within thirty (30) days.

#### RELEVANT CODE PROVISIONS:

94-49(c)(3): Secretary of the Interior's Standards for Rehabilitation. In reviewing an application, the Secretary of the Interior's Standards for Rehabilitation (as may be amended from time to time) shall be applied. The current version is as follows: B

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

## **12. COMMENTS FROM THE PUBLIC**

Public comments are limited to 3 (three) minutes. Anyone wishing to address the Commission should complete a "Comments by the Public" card and present it to the City Clerk prior to the Public Comments. When you are called to speak, please go to the podium and state your name and address for the record prior to addressing Commission. The Commission will not discuss the matter nor respond to the comment this evening. Comments made will become part of the record and may be addressed at a later date.

## **13. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS**

## **14. 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 2.) written communications shall be placed in the record; and 3) site visits, investigations, etc. shall be disclosed.

NOTICE: If any person decides to appeal any decision made by the City Commission at this meeting, that person will need a record of the proceedings, and that, for such purposes, may need to ensure that a verbatim records of the proceedings be made, which record includes the testimony and evidence upon which the appeal is based. The City of West Palm Beach does not prepare or provide such record.