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Mayor Keith A. James
Commission President Joseph A. Peduzzi (District 4)
Commissioner Kelly Shoaf (District 1)
Commissioner Shalonda 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, December 13, 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.

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. APPOINTMENTS

- 6.1. City Commission approval is requested for the Mayor's reappointment of Daniel T. Canavan to the Construction Board of Adjustment and Appeals

for a term of three years (3) to expire on November 1, 2024. Mr. Canavan has served over the maximum allowed number of terms (3) and it is required that the City Commission confirms his reappointment.

Originating Department:

Mayor's Office

Staff Recommended Motion:

Mr. Canavan reappointment is supported because of his experience as Chair of the Board and for his professional expertise

- 6.2. City Commission approval is requested for the Mayor's reappointment of Patricia J. Sned to the Parks and Recreation Advisory Committee for a term of two years (2) that expires on November 1, 2023. Ms. Sned has served over the maximum allowed number of terms (3), and it is required that the City Commission confirms her reappointment.

Originating Department:

Mayor's Office

Staff Recommended Motion:

Ms. Sned's reappointment is recommended because of her years of experience as Chair and for her strong representation her South End Neighborhood

- 6.3. City Commission approval is requested for the Mayor's reappointment of Steve Mayans to the Planning Board for a term of three years (3) to expire on November 25, 2024. Mr. Mayans has served over the maximum number of allowed terms (3), and it is required that the City Commission confirms his reappointment.

Originating Department:

Mayor's Office

Staff Recommended Motion:

Mr. Mayans reappointment recommendation is due to his experience as Chair and his professional expertise

7. 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.

- 7.1. Minutes of the Regular City Commission Meeting of November 15, 2021

Originating Department:

City Clerk's Office

- 7.2. Resolution No. 318-21 authorizing the assessment of city liens in the total amount of \$26,500.44 for unpaid water service, sewer service and stormwater charges for the month of September 2021.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 318-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING AN ASSESSMENT OF CITY LIENS FOR UNPAID WATER SERVICE, SEWER SERVICE, AND STORMWATER SERVICE FOR THE MONTH OF SEPTEMBER 2021; PROVIDING THAT SAID LIENS SHALL BE PRIOR IN DIGNITY TO ALL OTHER LIENS AGAINST THE ASSESSED PROPERTIES, SAVE AND EXCEPT A LIEN FOR TAXES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

In accordance with the Code of Ordinances of the City of West Palm Beach, Florida, 2003, Sections 90-4 and 90-5, the City imposes liens on private real property for delinquent payments due for utility services. The liens to be assessed by Resolution No. 318-21 are for unpaid water service, sewer service and stormwater service charges for the month of September 2021. The list of properties to be assessed and the associated charges totalling \$26,500.44 are attached to Resolution No. 318-21 as EXHIBIT A - Utility Lien List - September 2021.

Fiscal Note:

No Fiscal Impact

- 7.3. Resolution No. 319-21 approving an agreement between the City of West Palm Beach and Southeast Florida Library Information Network relating to programs and services to be offered at the Mandel Public Library of West Palm Beach.

Originating Department:

Library

Ordinance/Resolution:

RESOLUTION NO. 319-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AGREEMENT BETWEEN SOUTHEAST FLORIDA LIBRARY INFORMATION NETWORK AND THE CITY OF WEST PALM BEACH TO PROVIDE ON-SITE SERVICES FOR AT-RISK AND AT-NEED PERSONS THROUGH THE DIRECT PROVISION OF SOCIAL SERVICES, REFERRALS BY TRAINED SOCIAL-WORK PROFESSIONALS AND EDUCATION FOR LIBRARY STAFF; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Southeast Florida Library Information Network (SEFLIN) has been awarded a Library Services and Technology Act (LSTA) Grant for the project "Social Services in Libraries." This project seeks to improve services for at-risk and at-need persons in our libraries through the direct provision of social services, referrals by trained social work professionals, and education for library staff.

The annual SEFLIN plan will provide library staff the resources they need to feel more confident in the role on the front lines of public service, addressing communities in crises in real-time, through information services. Additionally, SEFLIN's annual plan will support the provision of social services in libraries to meet at-risk and at-need persons where they are and in the trusted, comfortable, and welcoming environment of the library.

Outcomes of this project include: successfully connecting at-risk and/or at need individuals with social services, positively contributing to the well-being of at-risk and/or at-need individuals, providing social services in a timely manner by meeting those in need where they are at (the library), and increasing library staff knowledge and skills regarding social services in libraries.

SEFLIN will provide:

- Evaluation of the program, with monthly reports of outputs and outcomes.
- Coordination of placement of masters and bachelors level student social work interns.
- Training and field instruction of placed interns.
- A social work field instructor to provide a minimum of one (1) hour per week of field supervision to social work interns.
- Through placed interns and the social work field instructor, social services directly or through referral to address acute and chronic social service issues such as homelessness, nutrition needs, veterans' services, seniors services, crises services, etc.
- Development of programs for library patrons on topics of social services relevance and patron interest.
- Staff training via through webinars, self-directed training, and face-to-face training.
- Administration of employee services for field instructors and student interns.
- HIPAA compliant database and/or software for tracking patron interactions for social services.
- A Level 2 background check for placed social services personnel.
- Parking fees for placed SEFLIN interns and staff, if applicable.

Fiscal Note:

No fiscal impact. Program is at no cost to the City.

- 7.4. Resolution No. 327-21 accepting a grant from the State of Florida, Department of State Division of Library and Information Services for a Florida American Rescue Plan Act grant in the amount of \$301,314 and authorizing execution of the Grant Agreement; and

Resolution No. 302-21(F) accepts funding in the amount of \$301,314 from the Florida Department of State Division of Library and Information Services for a Florida American Rescue Plan Act grant for providing services to support the West Palm Beach community in its continued COVID-19 relief and recovery efforts; and

Resolution 303-21(F) amends the FTE budget for the addition of two Library Assistants.

Originating Department:

Library

Ordinance/Resolution:

RESOLUTION NO. 327-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A GRANT FROM THE STATE OF FLORIDA, DEPARTMENT OF STATE DIVISION OF LIBRARY AND INFORMATION SERVICES FOR AN AMERICAN RESCUE PLAN ACT GRANT IN THE AMOUNT OF \$301,314; AUTHORIZING AND APPROVING THE GRANT AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 302-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FL, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2021/2022 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FL, FOR THE PURPOSE OF AMENDING THE GRANT PROGRAMS SPECIAL REVENUE FUND BUDGET TO ACCEPT CONTRIBUTIONS FROM THE FLORIDA DEPARTMENT OF STATE DIVISION OF LIBRARY AND INFORMATION SERVICES FOR A FLORIDA AMERICAN RESCUE PLAN ACT GRANT AND TO PROVIDE SERVICES TO SUPPORT THE WEST PALM BEACH COMMUNITY IN ITS COVID-19 RECOVERY FOR ONE YEAR; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO 303-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE FULL-TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE SPECIAL REVENUE FUND FY 2021/2022

ADOPTED BUDGET FOR THE LIBRARY DEPARTMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The American Rescue Plan Act has provided \$6,735,385 to the State of Florida to provide funding to be used by September 30, 2022 to help communities respond directly and immediately to the pandemic, as well as address related economic and community needs through equitable approaches.

Resolution No. 179-21 authorized submission of a grant application.

The Mandel Public Library of West Palm Beach was awarded \$301,314 to provide services to community members who are continuing to recover from the varied effects of COVID-19. The Library will provide services and programs to the community, such as storytime kits for childcare centers, programs and kits aimed at emotional healing, providing laptops for checkout by the public, putting a book vending machine in a West Palm Beach Community Center and adding to the library's circulation collection.

The grant will provide funds to hire two full-time Library Assistants and an on-call Library Page.

Fiscal Note:

Approval will recognize grant proceeds and provide appropriations for grant activities and add two (2) Library Assistant positions and an on-call Library Page position to the budget.

8. RESOLUTIONS

- 8.1. Resolution No. 304-21 granting "Face of the City" approval of an entrance monument sign in connection with the Belvedere Gateway Project on Belvedere Road between South Dixie Highway and South Olive Avenue and approving a neighborhood improvement license agreement between El Cid Neighborhood Association and the City for the partial funding of the monument for an amount not to exceed \$5,000.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 304-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING FACE OF THE CITY APPROVAL FOR AN ENTRANCE MONUMENT SIGN IN CONNECTION WITH THE BELVEDERE GATEWAY PROJECT ON BELVEDERE ROAD BETWEEN SOUTH DIXIE HIGHWAY AND SOUTH OLIVE AVENUE AND APPROVING A NEIGHBORHOOD IMPROVEMENT LICENSE AGREEMENT

BETWEEN EL CID HISTORIC NEIGHBORHOOD ASSOCIATION, INC. AND THE CITY OF WEST PALM BEACH FOR THE GRANT OF A LICENSE TO THE EL CID ASSOCIATION AND FOR PARTIAL FUNDING OF THE MONUMENT'S INSTALLATION COSTS FOR AN AMOUNT NOT TO EXCEED \$5,000; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution 304-21.

Background Information:

Resolution No. 204-19 was approved on June 17, 2019 for the above ground design features and traffic calming measures on Belvedere Road between South Dixie Highway and Olive Avenue. These features included landscape island configurations, a landscape planting plan, a Historic El Cid Neighborhood monument sign and spotlight for the sign.

El Cid Neighborhood Association, Inc. (Association) requested changes to the previously approved monument sign. Section 66-13 of the City Code requires City Commission approval of design features for above-ground changes involving streets, parks, buildings, or landscaping, referred to as the "Face of the City." As such, City Commission approval is required for the requested changes to the monument sign's previously approved design.

Additionally, the City and the Association will execute a Neighborhood Improvement License Agreement Regarding El Cid Entrance Monument (the "License Agreement") whereby the City will grant the Association a license to have the monument installed within its right-of-way median on Belvedere Road between South Dixie Highway and South Olive Avenue. The License Agreement will set forth terms and conditions such as the funding of installation costs and maintenance obligations. The cost of the desired monument sign exceeds the cost of the standard City neighborhood sign and the Association agrees to pay an amount not to exceed \$15,000 towards the total costs of the fabrication and installation of the sign and associated facilities. The City will be responsible for any costs of installation, not paid by the Association, for an amount not to exceed \$5,000.

The City has determined that the installation of the entrance monument is in the interest of both the City and the Association by providing information of direction, location, aesthetic benefits and the enhancement of the neighborhood streets.

Resolution No. 304-21 grants Face of the City approval of the Historic El Cid Neighborhood monument sign and approves a License Agreement between El Cid Neighborhood Association and the City. Staff will present design features of the Monument to the City Commission on December 13, 2021.

Fiscal Note:

No additional funding needed.

- 8.2. Resolution No. 331-21 authorizing submittal of a letter of support to the Florida Department of Transportation regarding the revised design of Broadway(SR- 5/US-1) from 25th Street to 45th Street.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 331-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF A LETTER OF SUPPORT TO THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING THE REVISED DESIGN OF BROADWAY(SR- 5/US-1), FROM 25TH STREET TO 45TH STREET; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 331-21.

Background Information:

EXISTING CONDITIONS: The Broadway Improvements being proposed are located between 25th Street and 45th Street. The surrounding land uses are residential, commercial and institutional and include connections to transit facilities, parks, and schools. The project corridor is approximately one mile long and is entirely in Florida Department of Transportation (FDOT) right-of-way (ROW). The ROW width varies between 70 and 80 feet. There are no existing on-street parking or bicycle facilities.

Broadway is currently a four-lane divided roadway with a raised median and center turn lane. Walkability on the corridor is deficient for several reasons. There is a limited amount of shade on the sidewalks as most of the trees are placed in the median. Many pedestrian ramps are missing ADA compliant truncated domes. Furthermore, there are no high emphasis crosswalks nor designated bicycle facilities along the corridor.

Engineering staff had proposed a lane elimination to eliminate vehicular travel lane(s) on Broadway from 25th Street to 45th Street back in early 2020 that was intended to provide pedestrian safety by improving pedestrian and bicyclist access with on-street protected bike lanes, upgrading the existing crosswalks, constructing ADA compliant ramps, providing shade trees and some on street parking as well as multiuse paths on both sides of the roadway.

The City Commission approved Resolution No. 111-20 on April 20, 2020, authorizing the City to submit this Lane Elimination Application to the

Florida Department of Transportation (FDOT). Subsequently, the Palm Beach Transportation Planning Agency (TPA) included the Broadway project on their list of prioritized projects and programmed funding for preliminary engineering starting in FY 2024 on the FDOT five-year Work Program.

In May 2021, FDOT responded to the City and scheduled a meeting with City Engineering staff. FDOT staff discussed their concerns with the lane elimination and indicated that they would not be able to approve it due the potential diminished vehicle capacity that would result. At that time, the City staff proposed the concept of keeping the roadway at four lanes, but reconfigured it to eliminate the median islands to make room for providing some type of multiuse pathway to satisfy the desire and requirements for bicycle and pedestrian facilities to be provided. Over the course of the next few weeks, FDOT and the City continued to meet to discuss the alternatives and potential for this moving forward. The City staff also requested that instead of FDOT rejecting the Lane Elimination Application, that they allow the City to withdraw the request to enable the City to further pursue this new alternative four lane design concept.

On July 20, 2021, the City issued a letter to FDOT withdrawing the Lane Elimination Application for Broadway.

On July 28, 2021, the City presented the new proposed typical cross section to the FDOT Typical Section committee with encouraging results. FDOT requested the City to provide a new traffic capacity and crash analysis to support the proposed new typical section. FDOT also requested that the City provide documented public support for the new typical section configuration before the end of December 2021.

This revised traffic analysis was provided to FDOT on September 17, 2021 and is still under review.

Staff representing Engineering, the Community Redevelopment Agency (CRA) and Housing and Community Development (HCD) developed a community engagement strategy for the proposed Broadway enhancements beginning with a preliminary discussion the Community Redevelopment Agency Advisory Board (CRAAB) in October.

Beginning in early November 2021, a major effort was undertaken utilizing S.A. Nelson & Associates to engage the community and get their feedback and support for the revised project which was called "Broadway Reimagined." The efforts involved canvassing neighborhoods, collecting signatures of residents in support of the project, and promoting access to the City's project website enabling the public to review the project and provide feedback and support, and culminated with holding a public meeting on November 18, 2021 involving residents and business owners from the Broadway Corridor.

S.A. Nelson & Associates provided a summary report of the community engagement efforts on November 23, 2021 and the results showed that 271 residents had given written documented support for the Project.

On December 3, 2021, the CRAAB passed a resolution showing their support for the new proposed revised design of the Broadway Project.

The documented public support for the revised project will be provided to FDOT. before the end of December, as staff committed to do. Commission approval of Resolution 331-21 will authorize a letter of Support from the City for the revised Broadway Project to be provided to FDOT. The public support combined with the Commission support will help to maintain the project prioritized funding currently in place in the Palm Beach TPA's TIP (Transportation Improvement Plan) for preliminary engineering and design costs.

In addition to the funding in the Palm Beach TPA's TIP, the Broadway Improvements capital improvement project was identified in the one-cent sales tax project list with \$5.4M programmed for the Broadway Corridor.

Resolution No. 331-21 authorizes submittal of a letter of support to the Florida Department of Transportation regarding the proposed revised design of Broadway from 25th Street to 45th Street.

Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

No fiscal impact. Providing Letter of Support for the revised proposed project design will help facilitate approval by FDOT to retain the prioritized funding currently in the TPA Transportation Improvement Plan. The sales tax funding is a \$5.4M commitment that has not been fully allocated to the current budget , but will be over the next three years.

- 8.3. Resolution No. 312-21 declaring the name of the new Housing and Community Development (HCD) Community Resource Center located at 1540 N. Australian Avenue as the Eva W. Mack Community Hub.

Originating Department:

Housing and Community Development

Ordinance/Resolution:

RESOLUTION NO. 312-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DECLARING THE NAME OF THE NEW HOUSING AND COMMUNITY DEVELOPMENT (HCD) COMMUNITY RESOURCE CENTER LOCATED AT 1540 N. AUSTRALIAN AVENUE AS THE EVA W. MACK COMMUNITY

HUB; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 312-21.

Background Information:

In October 2019, the City-owned building located at 1600 N. Australian Avenue, which housed the Sickie Cell of Palm Beach County, was demolished due to structural issues. The City began redevelopment of the site in June 2021 with the construction of a new HCD community resource center at the new address of 1540 N. Australian Avenue. The 5,422 sq. ft. building, which is currently under construction, is slated for completion in the summer of 2022. The new center will offer a range of complementary services and will consist of offices/co-workspaces, computer lab, meeting rooms for programming, and multipurpose rooms. The building will also be the new home for the Community Resources division of the Housing and Community Development Department which is currently located at the Vickers House.

The former building was named in honor of Eva Williams Mack. Mack was born in Alabama in 1915 and earned a nursing degree at Simmons College, Boston, Massachusetts. She trained in Atlanta and earned bachelor's and master's degrees from Columbia University. After completing her education, Mack moved to West Palm Beach in 1948 and worked as a public health nurse with Dr. Carl Brumback, Palm Beach County's first public health director. Mack was the first health specialist for the Palm Beach County School Board. She became one of the first African American city commissioners of West Palm Beach in 1978. She founded the Sickie Cell Foundation of Palm Beach County in 1979. Eva W. Mack was elected as mayor of West Palm Beach in 1982 and served two one-year terms.

The City Commission and community members have expressed the desire to retain the honor and recognition bestowed on Eva W. Mack by renaming the HCD community resource center to commemorate her contribution to the City.

The City Commission has the legal authority to determine the naming of a City building.

Resolution No. 312-21 declares the name of the new HCD community resource center to be the "Eva W. Mack Community Hub".

Fiscal Note:

No fiscal impact.

Resolution No. 317-21 approving and authorizing the Mayor to execute a Voluntary Compliance Agreement between the U.S. Department of Housing and Urban Development and the City of West Palm Beach.

Originating Department:

Housing and Community Development

Ordinance/Resolution:

RESOLUTION NO. 317-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A VOLUNTARY COMPLIANCE AGREEMENT BETWEEN THE CITY AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 317-21

Background Information:

In April 2021, the U.S. Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity (FHEO) initiated a Civil Rights Compliance Review of the federally funded Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) administered by the City. The purpose of the review was to determine whether the program activities conducted during program years 2018, 2019, and 2020 were being implemented in compliance with the requirements of Title VI of the Civil Rights Act of 1964 and Section 109 of Title I of the Housing and Community Development Act of 1974. FHEO's limited review revealed compliance deficiencies and the City negotiated a settlement with HUD to resolve the findings of the review. The settlement is set forth in the Voluntary Compliance Agreement (VCA) attached to Resolution 317-21 as Exhibit A. Execution of the Voluntary Compliance Agreement should not be construed as admission that the City intentionally engaged in any unlawful practices or illegally discriminated based on any protected classes. HUD agrees that the VCA is not an admission of liability by the City or any of its agents or employees.

The VCA outlines a process and timeframe for the City to come into compliance with the fair housing and civil rights law. HUD will monitor the implementation of the provisions throughout the 18-month term of the agreement. The VCA requires the City to:

- a. Undertake and complete a Limited English Proficiency (LEP) analysis and develop a Language Access Plan;
- b. Encourage the development or preservation of 100 affordable housing units outside areas of minority concentration to promote integration;

- c. Ensure that developers affirmatively market housing units to members of protected classes least likely to apply for the housing without affirmative outreach and marketing; and
- d. Promote increased participation by low- and moderate-income persons in areas where CDBG and HOME funds are proposed to be used.

The VCA does not require any substantial financial commitment to accomplish the actions and HUD recognizes that the City has already taken actions and has initiatives underway, including the 500 in 3 Initiative, that will further the provisions of the VCA.

Fiscal Note:

No fiscal impact

- 8.5. Resolution No. 328-21 approving a Memorandum of Understanding with Florida Agricultural Mechanical University to operate community farms or urban market gardens on City-owned properties.

Originating Department:

Housing and Community Development

Ordinance/Resolution:

RESOLUTION 328-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THAT MEMORANDUM OF UNDERSTANDING BETWEEN FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY AND THE CITY OF WEST PALM BEACH TO OPERATE COMMUNITY FARMS OR URBAN MARKET GARDENS ON CITY-OWNED PROPERTIES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 328-21

Background Information:

Florida Agricultural and Mechanical University (FAMU) is one of two Florida land-grant universities with a mission to focus on certain fields of studies, such as the teaching of practical agriculture and science, as set forth in the Morrill Acts of 1862.

The City desires to collaborate with FAMU's Cooperative Extension Program's specialists, agents, researchers, educators, program assistants, and support personnel to provide educational programs to residents in the following four areas: 4-H Youth Development, Agriculture and Natural Resources, Community Resource Development, and Family and Consumer Sciences.

Studies have shown that low-income communities are more likely to be affected by limited access to healthy foods. By supporting urban agriculture through the provision of City properties for gardening, residents will benefit from improved access to healthy food, lower rates of diet-related diseases, improved economic health, revitalized communities; and opportunities for volunteering and community gatherings.

FAMU will use three city-owned lots located at 2147 Spruce Avenue; Gloria Y. Williams Multi-Cultural Center, 1116 21st Street; Community Garden at Coleman Park, and 4715 South Dixie; Phipps Park, to provide sustainable gardening education, job training, and employment opportunities, while making affordable produce available for local consumption. FAMU will grow produce and horticultural plants for sale or donation at a market to be established on any of the three properties. Other allowed uses to enhance the programming not described in the Memorandum of Understanding will be approved in writing by the City.

Commission District 1: Commissioner Kelly Shoaf.
Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact

- 8.6. Resolution No. 80-21 approving interlocal agreements between the City, Palm Beach County and the West Palm Beach Downtown Development Authority for decorative wrapping of Palm Beach County's Traffic Signal Cabinets.

Originating Department:

Mayor's Office

Ordinance/Resolution:

Resolution No. 80-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING INTERLOCAL AGREEMENTS BETWEEN PALM BEACH COUNTY, THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH DOWNTOWN DEVELOPMENT AUTHORITY FOR DECORATIVE ART WRAPPING ON COUNTY-OWNED TRAFFIC SIGNAL CONTROL CABINETS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 80-21.

Background Information:

The West Palm Beach Downtown Development Authority (DDA) issued a Call to Artists entitled "Nature in the City" to wrap ten (10) of the Palm Beach County-owned Traffic Signal Cabinets ("Cabinets") with designs by local artists. The Cabinets are owned and maintained by Palm Beach

County (County). Since the Cabinets are located on City of West Palm Beach (City) right-of-ways, the County has requested the City's approval and consent.

Theme: Nature in the City is inspired by how the street names in the downtown area are named after plants. The idea was to add original artwork designs to ten (10) of the identified cabinets within the DDA's boundaries.

The DDA's Project goal is to beautify and enhance the public realm through art design and to provide local artists an opportunity to showcase their creativity.

The Project is fully funded by the DDA and the West Palm Beach Arts & Entertainment District. The County maintains and operates the cabinets including those within the City's municipal limits. As such, the County requested an interlocal agreement with the City, given the City's ownership of all right-of-ways where the cabinets are located. Upon execution of the interlocal agreement with the City, the County will consent to the City's assignment of the Project's pertinent rights and obligations to the DDA.

Resolution No. 80-21 approves an interlocal agreement between the County and the City of West Palm Beach to wrap ten (10) of the identified County-owned and maintained traffic signal cabinets in the City of West Palm Beach Downtown area.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

9. PUBLIC HEARING

- 9.1. Public Hearing and Second 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.

Staff Recommended Motion:

Approve Ordinance No. 4968-21 amending the Comprehensive Plan to adopt a Property Rights Element.

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.

The City Commission reviewed the proposed amendment during its October 4, 2021 Transmittal Public Hearing and recommended approval (4-0).

The proposed amendments were submitted to the Florida Department of Economic Opportunity (FDEO) on October 7, 2021. The Florida DEO

indicated on a letter dated November 5, 2021, that it had reviewed the proposed amendment and had a comment on the proposed amendment. As a result of this comment the language of Goal 1 of the proposed Element is being revised accordingly.

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. 4987-21 regarding rezoning from a Multifamily High Density (MF32) Residential designation to Residential Planned Development (RPD), including an acreage waiver, to create the approximately 3.4 acre Flagler Towers RPD located at 1315 South Flagler Drive; and

Discussion of Resolution No. 310-21 regarding the establishment of the development regulations, including the site development plans and waivers, for the Flagler Towers RPD, which will consist of 109 residential units and approximately 3,878 square feet of food service use in a building containing two 352-foot and 3-inches tall towers.

The request was submitted by Harvey E. Oyer, III, of Shutts & Bowen, LLP, on behalf of FH3, LLC.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 4987-21: 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 BY REZONING APPROXIMATELY 3.4 ACRES LOCATED GENERALLY AT 1315 SOUTH FLAGLER DRIVE FROM A MULTIFAMILY HIGH DENSITY RESIDENTIAL ZONING DESIGNATION TO A RESIDENTIAL PLANNED DEVELOPMENT ZONING DESIGNATION, WITH AN ACREAGE WAIVER, TO CREATE THE FLAGLER TOWERS RESIDENTIAL PLANNED DEVELOPMENT; PROVIDING FOR THE ESTABLISHMENT OF DEVELOPMENT REGULATIONS BY SEPARATE RESOLUTION; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 310-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

ESTABLISHING THE DEVELOPMENT REGULATIONS, INCLUDING THE SITE AND LANDSCAPE PLANS AND BUILDING ELEVATIONS, FOR THE FLAGLER TOWERS RESIDENTIAL PLANNED DEVELOPMENT LOCATED AT 1315 SOUTH FLAGLER DRIVE; GRANTING WAIVERS TO THE ZONING AND LAND DEVELOPMENT REGULATIONS; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 4987-21, a rezoning to change approximately 3.4 acres from a a Multifamily High Density Residential designation to Residential Planned Development, including an acreage waiver, to create the Flagler Towers Residential Planned Development. This motion is based upon the factual testimony presented, the application submitted, the staff report, the recommendation of the Planning Board, and the findings that the rezoning 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. The City Commission finds that particular circumstances justify the reduction of the planned development acreage to less than 10 acres and that the requirements for the planned development district zoning and the benefits to be derived from the planned development district zoning can be derived in such lesser area.

Discuss Resolution No. 310-21. The Planning Board recommended approval of the development regulations, including the height of the building and the resulting side setback waivers, contained in the Resolution. The Planning staff does not support a building in excess of 300 feet, and the resulting side setback waivers, for the property subject to this request, but has determined that the remainder of the request complies with the Zoning and Land Development Regulations.

Background Information:

The site subject to this application currently consists of two buildings that were originally built for multifamily residential occupancy. One of the buildings was incorporated into the Palm Beach Atlantic University Community Service Planned Development (CSPD) in 1996 and the second building in 2004. Both buildings were used as student housing. Upon completion of the new student dormitory building within the Palm Beach Atlantic University Campus, the two buildings were no longer needed for student housing and they were removed from the CSPD with the adoption of Resolution No. 277-20 by the City Commission. At the same time, the site was rezoned back to its original Multifamily High Density (MF32) Residential designation with the adoption of Ordinance No. 4913-20.

Palm Beach Atlantic University has contracted to sell the site for development of a luxury condominium project consisting of 109 residential units and approximately 3,878 square feet of food service use in a building containing two 352.25-foot tall towers. The original application was for two

356-foot tall towers; however, the applicant reduced the tower height based on comments received from the Federal Aviation Administration.

The site contains two residential buildings and the associated surface parking located at 1315 South Flagler Drive on an approximately 3.4-acre site. The majority of South Flagler Drive adjacent to the site is part of the parcel owned by Palm Beach Atlantic University. This area is subject to a roadway easement granted to the City for the construction of South Flagler Drive; however, since it is still part of the site, the acreage may be used for the calculation of residential units. The site is permitted to contain 109 residential dwelling units. Due to the site containing less than 10-acres, the requested RPD requires an acreage waiver.

The site is bounded on the east by South Flagler Drive, on the south by the City owned parcel known as the Pioneer Memorial Park, on the west by both South Olive Avenue and Currie Crescent and on the north by Currie Crescent and the 1309 South Flagler RPD (aka Forte). Residential towers established as RPDs are required to follow the development standards of the MF32 zoning district.

As previously stated, the eastern portion of the parcel is physically South Flagler Drive. Since this area is unable to be developed due to the roadway easement, the eastern setback for the site is measured from what is designated as the west right-of-way of South Flagler Drive. Normally, MF32 requires a 25-foot front setback; however, in order to comply with the greater setbacks required of recent developments along this section of South Flagler Drive, the applicant has provided setbacks that vary between 46 and 70 feet from South Flagler Drive. Within this setback area, the applicant is proposing a 10-foot wide public sidewalk flanked by trees and a publicly accessible open space as one of the features to offset the impact of the waivers that they are requesting.

The site is bounded on the south by the City owned parcel, known as Pioneer Memorial Park. The Pioneer Memorial Park parcel was deeded to the City in 1921 with the restriction that it be used solely as a public park. While the property contains the one-way couplet of Diana Place and Actaeon Place, the parcel is not officially right-of-way, so the south property line is a side property line for setback purposes. The side setback for MF32 is 15 feet, unless the building exceeds 40 feet in height, then the required side setback is determined by the height of the building with one foot of setback required for each two feet in building height. The proposed 352.25-foot tall building is 15 feet from the south, side property line, which does not comply with the required 176.125-foot side setback. The applicant has requested a side setback waiver based on the building height.

The parcel fronts both South Olive Avenue and Currie Crescent along its west boundary. Since these frontages are opposite the South Flagler Drive

frontage, the parcel has double frontage and requires a 25-foot setback from both South Olive Avenue and Currie Crescent. The project complies with the setbacks required for the western property line.

The north property line fronts both Currie Crescent and the Forte RPD. The portion along Currie Crescent is a corner side property line, which follows the same setbacks as a side property line, so for the proposed project, a 176.125-foot setback is required. The applicant has proposed a 25-foot setback from Currie Crescent. The setback along the Forte RPD also requires a 176.125-foot setback; however, the applicant is requesting a 15-foot setback. The applicant has requested a side setback waiver based on the building height.

Proposed Building

The applicant is proposing to build 109 residential units and approximately 3,878 square feet of food service use (café) in a new building containing two 352.25-foot tall towers. The building consists of two elements – the podium and the towers. The podium contains the basement parking level and four above grade levels which contain additional parking, the café, seven townhouse units, six guest units and resident amenities. The two towers are proposed to extend 23 stories above the podium (total 27-story building) and consist of 91 residential units and five guest units.

The Flagler Towers site slopes up from its eastern frontage along South Flagler Drive to its western frontage along South Olive Avenue. In order to establish a basis for a consistent measure of the building height, the mean grade of the lot is established at seven (7) feet and seven (7) inches NAVD. The mean grade of the lot is being used as a value that will not change, even though the grade will continue to fluctuate across the site based on the building needing to meet the required base flood elevations. After the construction of the building, the South Flagler Drive frontage will continue to be lower than the South Olive Avenue frontage.

The basement parking is being constructed below the mean grade and will contain parking for residential units as well as spaces for building staff. The ground floor has at grade entrances to the building, a café along South Olive Avenue, the loading and service area and parking access from Currie Crescent, the ground floor of the townhouse units, the entrance ramps to the lobby floor from Currie Crescent and South Flagler Drive and the public amenities along South Flagler Drive. The parking located on this level is exclusively for residents.

The second level contains the formal lobby entrance to the building located off an arrival court with valet services, the second level of the townhouses, resident amenities, and back of house and mechanical areas. The parking on this level is for the café customers, both self-park and valet. The third level contains the upper level of the townhouse units, back of house and

mechanical areas as well as a pool deck. The final level of parking, for residents and guests, is located on the third level. The fourth level contains the majority of the residential amenities, including additional pool decks, and six guest units.

As previously stated, the building contains 109 units, which meets the density allowance of 32.27 dwelling units per acre. The townhouse units range in size from 3,800 to 6,200 square feet in area. The residential units within the tower range in size from 3,400 to 12,000 square feet. The guest units range in size from 430 to 850 square feet. The resident amenities consist of three pools, fitness areas, lounges, bicycle storage, a kids' room, and entertaining areas.

Parking is located on four levels of the building in three distinct areas. The above grade parking is behind building walls on the east, south and west sides of the property. The elevations show that the mechanical venting of the garage will take place along the north property line and the parking will have grills over the wall openings. The resident, guest and staff parking areas have gated access, while the café guest parking can be accessed by the general public as well as the valet.

The building requires 268 parking spaces per the ZLDR requirements plus 12 additional parking spaced for employees. The applicant is providing 377 parking spaces, with the excess parking spaces primarily for residents. In accordance with the provisions of the Mobility Plan, which encompasses this portion of South Flagler Drive, and its application to mitigate the waivers for the Forte RPD, staff is recommending a one-time Transit Contribution Fee of \$849,720 (97 excess spaces x \$1,752 per space x 5 years) based on the excess parking space provided in the project.

The café is located on the ground floor of the building fronting South Olive Avenue. The café includes not only the interior space, but also an exterior seating area. The 3,878 square feet of commercial area for the café is less than five percent of the square footage of the entire project and is permitted by the Comprehensive Plan within the Multifamily Future Land Use category. Café patrons who park in the garage within the building will traverse the interior of the building to gain access to the café. The developer will be setting aside an area adjacent to the café for a micro mobility station. The public bicycle racks are conveniently located adjacent to the café seating and the building's western public entrance. The applicant will be widening the sidewalk along South Olive Avenue to eight feet in width.

Currie Crescent provides roadway frontage to the northwest portion of the site. Currie Crescent has historically been used similar to an alley for back of house purposes. The recently approved Forte project was designed, and received waivers, to continue this pattern of use for Currie Crescent. Flagler Towers has designed their project to have three vehicular access

points from Currie Crescent. The first is for their loading entrance, the second for a resident garage entrance and the third as the western access point for their lobby drive. Due to space constraints on the site, the applicant is requesting a waiver from the requirement that all vehicle maneuvering be performed on-site for the loading area. The ZLDR only permit one access point on Currie Crescent and even if multiple access points were permitted, they are required to be a minimum of 125 feet apart. The applicant is requesting waivers from both of these requirements along Currie Crescent as well as a waiver to the driveway separation along South Flagler Drive.

The south side of the project borders on the Pioneer Memorial Park. Due to deed restrictions placed on the Pioneer Memorial Park parcel, it will remain a park. In order to take advantage of this open space, the applicant is proposing to construct townhouse units fronting the south property line. The units will have ground level entries that are accessed from a new ten-foot wide sidewalk that the applicant is proposing to construct along the northern portion of the Pioneer Memorial Park. The deed restrictions for the park require that the Lake Worth Pioneer Association and the Norton Museum of Art do not object to any changes to the park. Both groups have provided letters of no objection to all of the changes contemplated by the RPD request.

The townhouse units have private courtyards that are separated from the Pioneer Memorial Park by a fence and hedge. Since this is a side property line, the ZLDR would permit fences up to six feet in height and hedges up to ten feet in height. In order to maintain the appearance of this frontage as a front façade to the site, staff has included the limitation that the fences have a maximum height of four feet and the hedges have a maximum of five feet. The gates may be five feet tall, with the hedge trained to grow into a ten-foot tall arch over the gate. The landscape plans reflect these limitations. There is also a public entrance to the building on the south façade of the building.

In addition to constructing the sidewalk within the Pioneer Memorial Park to provide access to the units, the applicant is proposing other changes to the Pioneer Memorial Park as part of the application. The applicant will be replacing all the existing Ficus trees, which are in bad condition, that line both sides of the park with Green Buttonwood trees. The replacement of the trees has been in the City's plans; however, there was no current funding to do so. The developer agreed to replace the trees with the condominium association providing the long-term maintenance as part of the public benefit to offset their waiver requests.

Pioneer Memorial Park currently has two one-way streets traversing the site from South Flagler Drive to South Olive Avenue, both having angled on-street parking spaces. The northern street, which provides westbound traffic flow, is named Diana Place. As part of the new sidewalk that the

applicant is installing to provide access to the townhouse units, the angled parking will be reconstructed as parallel parking. The five parking spaces removed from Currie Crescent will be added at this location for a total of 19 parking spaces along Diana Place.

The building is being designed with the lobby, and associated lobby drop off area, on the second floor with an elevation above the mean average grade of 11 feet five inches. The access to the lobby level is a drive aisle that parallels the north property line and slopes up from both South Flagler Drive and Currie Crescent. At its highest point, the drive aisle is physically located above the ground level parking garage. There will be landscape installed on either side of the drive aisle, with the landscape on the north side of the drive aisle serving as the required northern landscape buffer. The retaining wall for the raised drive aisle will be built along northern property line. The retaining wall and the additional 42-inch high fall protection wall exceed the permitted side wall height of six feet in residential zoning districts so the applicant has requested a wall height waiver. The waiver fluctuates along the property line, with the tallest section requiring an 8.33-foot waiver (14.25-foot wall height). The wall at the section of Currie Crescent that is a front property line includes a wall that is nine feet in height within the front setback where a four foot tall fence is permitted, which requires a waiver.

The proposed building consists of two elements, the podium and the towers. The MF32 provisions of the ZLDR do not differentiate between these elements for establishing setbacks, with the closest point of the building to the property line being the measure point. However, Planning staff has modeled the review of these elements for RPD tower projects on the method used in the Downtown Master Plan, where the podium and tower have differing setbacks. The entire building, including the podium and tower, complies with the 25-foot front setback requirement from South Flagler Drive, South Olive Avenue and the north/south portion of Currie Crescent. The proposed building does not comply with the side setback requirements.

The MF32 zoning district does not have a height limit; however, when the height of a building exceeds 40 feet, one foot of setback is required for each two feet in height from the north and south sides of the property. For the proposed 352.25-foot tall building, a 176.125-foot side setback is required. The ZLDR permits taller buildings so long as they provide greater setbacks to mitigate the impact of the building height on adjacent properties. The proposed building does not comply with the side setback requirements based on the height of the building and is thus seeking a waiver from the requirements. Planning staff does not support the building at this location in excess of 300 feet with the resulting setback waivers due to inconsistency with the development patterns of that area and prior guidance from the City Commission on height limits.”

Based on the architecture of the building, there are numerous setback encroachments including balconies, trellises, awnings and bay windows. These encroachments are located on both the podium and the tower and require the approval of waivers.

Landscape

The proposed landscape plan includes Live Oak trees along South Flagler Drive, Orange Geiger trees along the townhouse frontage, Sabal palms and Gumbo Limbo trees along South Olive Drive and Currie Crescent, and Sea Grape trees along the north property line. Due to the building occupying the majority of the site, the applicant was unable to install all of the trees required by the number of dwelling units on-site in a sustainable manner. The applicant has requested a waiver to install the deficient 26 trees off-site within the Pioneer Memorial Park. These trees will be installed as Royal Palms to augment the Green Buttonwood trees flanking the sides of the park.

The site currently contains Mahogany trees, Sabal Palms and a Live Oak tree of specimen size and quality. The applicant will reuse the Mahogany trees and the Sabal Palms in the final landscape plan. Based on the size of the Live Oak tree, it cannot be used on-site; however, the applicant has found a location a few blocks away at 1531 South Olive Avenue to relocate the tree so that it will remain a part of the neighborhood tree canopy.

List of Waivers

The 12 waivers required by the project are listed below:

Waiver # 1 - Section 94-207.c.2 Required RPD acreage - 10 acres required; 3.4 acres requested.

Waiver #2 - Section 94-485.j.1 Loading Space Ingress/Egress – Backing onto street not permitted, Requesting to use Currie Crescent for maneuvering.

Waiver #3 - Section 94-312.1.a Number of Access Points – One permitted, Three requested.

Waiver #4 -Section 94-443.d.1.a Landscape Buffer Strip Interruption (Currie Crescent) – 20 percent permitted, 27.2 percent requested.

Waiver #5 - Section 94-312.2.a Separation of Access Points – Minimum 125 feet required, Currie Crescent - Loading Zone to Parking Entrance: 56 feet 9 inches, Parking Entrance to Lobby Drive: 34 feet, Lobby Drive to Forte Drive: 23 feet 10 inches South Flagler Drive– Lobby Drive to Forte Drive: 77 feet 2 inches.

Waiver #6 - Section 94-302.b.1 Fence Height (side yard - north) – maximum 6-foot tall permitted, varies (maximum 14 feet 4 inches) requested – set at 23 feet 4 inches NAVD for an 8-foot 4-inch waiver request, remainder of wall heights in accordance with elevations provided on Sheet G-203.

Waiver #7 - Section 94-302.b.1 Fence Height (front yard – Currie Crescent) – maximum 4-foot-tall permitted, maximum 9-foot-tall requested.

Waiver #8 - Section 94-77.a.3 Height/setback (sides) – 176.125 feet required, Setback Waiver Tables in Resolution No. 310-21 list the specific waivers. Planning staff does not support the proposed building height above 300 feet or the setbacks waivers that a building above 300 feet require.

Waiver #9 -Section 94-305.b.2 Setback encroachments/Structural intrusions – 3 feet maximum, balconies 4 or 5 feet as shown for specific floors on table in Resolution No. 310-21; trellises 3.5 feet at amenity deck level.

Waiver #10 -Section 94-305.b.5 Setback encroachments/Awnings – 4 feet maximum, 10 feet at southern and western public entrances and 7 feet at the café requested.

Waiver #11 -Section 94-305.b.8 Setback encroachments/Bay Windows – Side setback 18 inches maximum, 3 feet requested.

Waiver #12 -Section 94-443.d.2.a Additional Multifamily Landscape Requirements – 109 on-site trees required, 83 on-site trees provided requested.

The full background for the waiver requests can be found in the attached Planning Board Staff Report.

STANDARDS: The Planning Board found that particular circumstances justify the reduction of the planned development acreage to less than ten (10) acres and that the requirements for the planned development district zoning and the benefits to be derived from the planned development district zoning can be derived in such lesser area. The Planning Division and the Planning Board determined that the rezoning to change approximately 3.4 acres from a Multifamily High Density Residential designation to an RPD, including an acreage waiver, to create the Flagler Towers meets all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations.

The Planning Board recommended approval of all 12 waiver requests and recommended approval of the development regulations as contained in the Resolution 310-21 based on compliance with all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations.

Planning staff does not find the requested building height in excess of 300 feet, including the required side setback waiver #8, meet all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations, specifically standards No. 4, *Inconsistency with Surrounding Land Uses* and No. 8, *Logical Development Pattern*. Staff has determined that a building 300 feet or less in height would meet the standards.

Staff's analysis of the above referenced standards is detailed in the attached Planning Board Staff Report.

PLANNING BOARD: The Planning Board recommended approval (5-0) of the request to the City Commission after a Public Hearing on October 19, 2021.

NOTICE: Individual notices were mailed to all property owners within 500 feet of the proposed Flagler Towers RPD. Signs for the Major Amendment were posted on the property on September 29, 2021.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 10.2. Public Hearing of Resolution No. 227-21 a request by Brian Seymour of Gunster Law on behalf of Cohen Brothers Realty Corporation of Florida LLC for the approval of a Level III Site plan for the construction of a new 23-story 430,374 sf class A office building with 16,630 sf of retail on the ground floor, a 480 sf roof top café, and a 10-story 1,195 space parking garage at 801 South Dixie Highway.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 227-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO A DEVELOPMENT OF REGIONAL IMPACT (DRI) KNOWN AS "CITYPLACE" (FORMERLY KNOWN AS "DOWNTOWN/UPTOWN") GOVERNED BY ORDINANCE NO. 4412-12, WHICH AMENDED AND RESTATED ORDINANCE NO. 3098-97, AS AMENDED BY ORDINANCE NOS. 3124-98 AND 4154-08, BEING THE

DEVELOPMENT ORDER OF THE CITY OF WEST PALM BEACH APPROVING THE CITYPLACE DRI; APPROVING A LEVEL III SITE PLAN PURSUANT TO ORDINANCE NO. 4412-12 TO ALLOW THE CONSTRUCTION OF A 23-STORY OFFICE BUILDING AT 801 SOUTH DIXIE HIGHWAY; DECLARING THE SITE PLAN TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY, THE CONDITIONS OF APPROVAL OF THE CITYPLACE DRI DEVELOPMENT ORDER, AND THE REQUIREMENTS OF SECTION 94-35 OF THE CITY'S ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Staff and developer are continuing to work to resolve the issues raised at the September 20th hearing. New factors may result in new or additional recommendations regarding conditions by staff. Staff will make their recommendation at the meeting.

Either:

Approved Resolution No. 227-21 granting the waivers and approving the site plan. This motion is based upon the application submitted, the factual testimony presented, the staff report, consideration of the Planning Board recommendation, and the standards listed in Sections 94-35, 94-108 and 94-109 of the Zoning and Land Development Regulations.

OR

Deny Resolution No. 227-21 based upon the findings that the proposed site plan does not comply with the following standards found in [Section 94-35, 94-108 or 94-109] of the City's Zoning and Land Development Regulations. [The specific standards not met must be identified].

OR

[move for further continuance to allow staff and the developer to continue to address the issues, if developer desires to submit revisions].

Background Information:

At the September 20, 2021 City Commission hearing, the Commission continued the item until the October 18, 2021. Staff is analyzing revisions submitted by the developer and will provide analysis and make staff's recommendation at the meeting. Revisions may require revised conditions requiring revisions to the proposed resolution.

Planning Staff fully supports the West Palm Point project. The proposed Site Plan would require 23 waivers from the Zoning and Land Development

Regulations. Staff support 17 of the requested waivers. Staff cannot support the additional six (6) waivers requested regarding a reduction on the minimum setback required above the 1st floor, and a reduction on the minimum required active uses for floors 2nd through 5th along Okeechobee Boulevard, Dixie Highway, and Lakeview Avenue, as they relate to the parking garage. Staff proposes that the developer make adjustments to the design to ensure compliance, or an alternative design to the architectural treatment that enhances the design of the parking garage.

BACKGROUND:

The CityPlace Commercial Planned Development is approved for a mix of residential, retail, restaurant, office, hotel, and entertainment uses, as well as the Palm Beach County Convention Center. The CPD is nearing build out with only three (3) parcels remaining undeveloped. One of the vacant parcels is the 2.36-acre property located between Okeechobee Boulevard, Lakeview Avenue, Quadrille Boulevard, and Dixie Highway, known as the Tent site, and the subject of this application.

On August 13, 2018, the City Commission approved Ordinances Nos. 4783-18 and 4784-18 amending the Downtown Master Plan Element of the Comprehensive Plan and the Zoning and Land Development Regulations to create the Okeechobee Business District. The OBD, which includes the properties located between Rosemary Avenue, Okeechobee Boulevard, Flagler Drive, and Lakeview Avenue, stated as its goal to incentivize the construction of class A office buildings along the Okeechobee Boulevard corridor. As a companion item to that amendment, the City Commission passed Ordinance No. 4782-18 and Resolution No. 150-18 amending the CityPlace CPD to include regulations for the two (2) blocks of the CityPlace CPD located within the boundaries of the OBD. Following the regulations of the OBD, the regulations implemented for the portion of the CPD within the OBD district through Resolution No. 150-18, included a limitation on the maximum development capacity allowed on those blocks, limitations on the number of parking spaces allowed, and the requirement for the implementation of several transportation demand management strategies. According to the approved regulations, the subject site is permitted a Floor area ratio (FAR) of 4.75 or a maximum development capacity of 490,024 sf. The proposed project complies with the maximum gross building area (GBA) allowed for the site. The project includes 447,484 sf of GBA (FAR 4.43) and 23-stories (308') in height, the proposed project is below the maximum 4.75 FAR and 25-stories allowed.

The proposed West Palm Point project contemplates a 23-story class A office building within the adopted development regulations of both the CityPlace Commercial Planned Development (CPD) and the Okeechobee Business District (OBD). The proposed project is planned for approximately 91% of the allowable development capacity, and the

Planning staff supports this site as both an ideal location for a class A office building, as well as a prominent landmark building in the City's downtown.

The proposed application exceeds the current capacity allowed for office uses within the DRI, therefore a use conversion in accordance with the square footage conversion process established in the DRI is necessary to accommodate the total square footage of office space proposed by the project. The applicant has submitted a conversion analysis converting 4,788 sf of indoor recreation use into office use. The proposed conversion satisfies the DRI requirements regarding development capacity and allows the construction of the office project without an increase in the traffic capacity permitted by the DRI.

A.PROJECT ANALYSIS

The West Palm Point project is proposed as a two (2) building design, with a 23-story office free-standing tower located towards the Quadrille Boulevard frontage and a lower ten-story parking garage located towards the Dixie Highway frontage. Between the two buildings, a pedestrian passageway is proposed. The proposed design successfully marks the entrance to the core of the downtown area with its elliptical shaped office tower clad in glass that tapers as the tower goes up. The proposed configuration with two (2) separate structures also provides for a new public open space or passageway between the two buildings. It is staff's professional opinion that the proposed configuration is a desirable configuration for the site and provides the opportunity for iconic architecture with quality public open space in the middle of an area typically associated with vehicles.

The proposed parking garage includes 1,195 parking spaces, which is in compliance with the maximum number of parking spaces permitted by Resolution No. 150-18. To achieve the hard-maximum number of parking spaces allowed on site, the applicant elected to make an annual contribution to the transit fund in an amount of \$862 per each additional parking space provided above the soft maximum parking (up to an additional .75/1,000sf) for a total amount of \$257,738 every year. The money received for the transit fund will be utilized in the operation of the trolley service or other transit related services and projects designated to enhance mobility in the City. The transit contribution allowed the project to add 299 parking spaces above the soft maximum allowed. In addition, the applicant is increasing the total number of parking space to a maximum of three (3) spaces per every 1,000 sf of office or retail through the implementation of specific transportation demand management strategies and the construction of one (1) parking level for future conversion into occupiable space.

In general, Staff supports the proposed project; however, staff has concerns regarding the treatment of the stand-alone parking garage

structure. The project is proposing a stand-alone 10-story parking garage structure that includes retail uses at the ground floor, but no other active uses in the upper floors to screen the parking uses. The architect is presenting the architectural design of the parking garage as a unique piece where the horizontal movement of the different concrete slabs and the changes on its profile create enough variety to highlight the structure in itself and overlook the cars parked inside. Staff applauds the architect's intent to create a unique garage structure; however, due to the prominent location of the structure, staff is concerned the proposed design is not dramatic enough and the structure would be perceived as a simple garage with no screening whatsoever.

According to the Resolution No. 150-18, Building requirement, QBD-25CP, that regulates the subject site, active uses are required along a minimum of 60% of the building frontage on primary streets such as Dixie Highway, Lakeview Avenue, and Okeechobee Boulevard from floors two to five (68'). The proposed design provides only 35% active use frontage above the first floor along Okeechobee Boulevard and Lakeview Avenue (all located on the office tower) and 0% active uses along the Dixie Highway frontage above the first floor. The parking garage is totally exposed from floors two to ten, and the only active use provided is at the ground level.

Staff understands large office projects may require having parking garages without liner uses. Specific language included in Resolution No. 150-18 addresses this situation by allowing office buildings not to provide active use liners above the ground floor. However, the language requires the provision of architectural treatments to extend the façade of the office tower in such a way that the tower is perceived as having one continuous uninterrupted facade from the ground floor to the top of the building for 100% of the tower building frontage. In the case of the subject project, the garage is not integrated with the office tower, making the simple extension of the office facade not an option. As an alternative, the applicant opted for providing a creative design for the parking garage by proposing different horizontal projections for the concrete slabs that conform the parking garage and a modified profile for the same slabs as they meet the garage facade.

Due to the prominent location of the proposed parking garage, staff is concerned the proposed treatment is not sufficient to screen the parking facility or create an iconic parking garage, and the parking structure will have a negative impact on the surrounding environment due to its high visibility and size. The proposed variation on the parking levels projection and profile is not enough to elevate the parking garage above its utilitarian role. The parking garage occupies 50% of the site, and it is ten-stories and 104'4" in height. The garage does not comply with the minimum required active uses for floors two through five and provides minimum architectural treatment.

B.WAIVERS REQUEST

Staff has spent a great deal of time with the applicant in an effort to reduce the 23 waivers being requested and still feel some improvements to the design of the parking garage are warranted given its significant location on such a prime and visible site within the City's financial district. The applicant is requesting 17 waivers from the CPD requirements for the OBD-25CP included in Resolution No. 150-18, and six (6) waivers from the Downtown Master Plan urban regulations. From the total 23 waivers requested, staff supports 17, providing a substantial amount of flexibility to the project in response to the complex site and particular characteristics of the project. Staff cannot support the six (6) waivers requested regarding a reduction on the minimum setback required above the 1st floor, and a reduction on the minimum required active uses for floors two through five along Okeechobee Boulevard, Dixie Highway, and Lakeview Avenue as they relate to the parking garage and recommends that adjustments be made to the design to ensure compliance or an alternative design to the architectural treatment that enhances the design of the parking garage.

ART LIFE: The ArtLife WPB Committee has not yet reviewed the proposed public artwork on the garage, as required by Section 78-125 of the Code of Ordinances. The committee was introduced to the artist work and his practice as an informative presentation by the art consultant as a non-action item. By code, the artist proposed artwork has a separate review process from planning and zoning requirements. Approval of the Site Plan does not approve the proposed public artwork.

PLANNING BOARD: The Planning Board recommended approval (7-0) of the requests described herein at their August 17, 2021 public meeting.

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the site. Resolution No. 227-21 was advertised in the Palm Beach Post on Friday, September 10, 2021.

COMMISSION DISTRICT: The subject property is located within Commission District No. 3: Commissioner Christy Fox.

11. 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.

12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

13. 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.