



401 Clematis Street
West Palm Beach, Florida 33401
(561) 822-2222 (TTY) 800-955-8771
www.wpb.org

Mayor Keith A. James
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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
Agenda
Monday, January 10, 2022
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. 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.

- 6.1. Minutes of the Regular City Commission Meeting of November 29, 2021

Originating Department:

City Clerk's Office

- 6.2. Minutes of the Special City Commission Meeting of December 6, 2021

Originating Department:

City Clerk's Office

- 6.3. Minutes of the Special City Commission Meeting of December 6, 2021

Originating Department:

City Clerk's Office

- 6.4. Minutes of the Regular City Commission Meeting of December 13, 2021

Originating Department:

City Clerk's Office

- 6.5. Resolution No. 8-22 approving a Conditional Settlement Agreement totaling \$50,000 in the matter of Antonie Bernard v. City of West Palm Beach.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 8-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT FOR \$50,000.00 IN THE MATTER OF ANTOINE BERNARD v. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Antoine Bernard has brought a claim by way of a complaint in the Fifteenth Judicial Circuit in Antoine Bernard v. City of West Palm Beach for an accident that occurred on July 20, 2020. The City has reached a settlement agreement with Mr. Bernard and his attorney to resolve the matter for a total of \$50,000. Mr. Bernard agrees to sign a general release that releases the City from all claims arising from this incident, which ends all of the claims for damages, including all attorneys' fees and costs, against the City of West Palm Beach.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims over \$30,000 shall require the approval of the City Commission by formal resolution. Resolution No. 8-22 approves the conditional settlement agreement.

- 6.6. Resolution No. 326-21 authorizing and ratifying an agreement between the City of West Palm Beach and the Children's Services Council of Palm Beach County for Healthy, Safe and Strong Funds in the amount of \$2,500 which supported the Trunk or Treat Fall Festival in Gaines Park.

Resolution No. 332-21(F) provides appropriation of \$2,500 for the reimbursement of expenses for the Gaines Park Trunk or Treat Fall Festival.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 326-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RATIFYING EXECUTION OF A GRANT AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE CHILDREN'S SERVICES COUNCIL OF PALM BEACH COUNTY FOR HEALTHY, SAFE AND STRONG FUNDS IN THE AMOUNT OF \$2,500; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 332-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, 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, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND BUDGET TO PROVIDE APPROPRIATIONS FOR A CONTRIBUTION FROM THE CHILDREN SERVICES COUNCIL OF PALM BEACH COUNTY TO PROVIDE SUPPORT FOR THE GAINES PARK TRUNK OR TREAT FALL FESTIVAL THROUGH THE HEALTHY, SAFE AND STRONG COMMUNITY PROGRAMMING; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The Children's Services Council of Palm Beach County (CSC) funds Healthy, Safe and Strong Community programming and services. In August of 2021, Marvelous Washington, Gaines Park Recreation Campus Manager, met with the CSC Board of Directors to discuss the Trunk or Treat Fall Festival. On September 14, 2021, the City was notified that it had qualified for funding to support the Gaines Park Trunk or Treat Fall Festival in the amount of \$2,500.

The paperwork was received to execute the agreement from CSC on September 22, 2021. The deadline for returning the Funding Agreement was October 5, 2021.

Resolution No.326-21 and ratifies the City's application to and agreement with CSC and ratifies its receipt and use of the Healthy, Safe and Strong funds.

Resolution No.332-21(F) appropriates the \$2,500 reimbursement to the operational expenses account.

Gaines Park is located in Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

Approving this item will assist with expenses for a healthy, safe Trunk or Treat event.

7. PUBLIC HEARING

- 7.1. Public Hearing and First Reading of Ordinance No. 4985-21 amending the Downtown Master Plan Zoning Atlas to create the North Railroad Avenue (NoRA) District; and

Public Hearing and First Reading of Ordinance No. 4986-21 amending the Chapter 94 Article IV Downtown Master Plan regulations for the new NoRA District.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 4985-21:AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE DOWNTOWN "ZONING ATLAS" TO CREATE THE NORTH RAILROAD AVENUE (NORA) DISTRICT AND SUBDISTRICTS, GENERALLY LOCATED BETWEEN QUADRILLE BOULEVARD, NORTH DIXIE HIGHWAY, PALM BEACH LAKES BOULEVARD, AND THE FEC RAILROAD; REZONING CERTAIN PROPERTIES AS NORA-2 AND NORA-5; REZONING TWO PROPERTIES AS URBAN OPEN SPACE; AND SPECIFYING THE STREET CLASSIFICATIONS WITHIN THE NORA DISTRICT; DECLARING THESE PROPOSED ZONING MAP AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 4986-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE IV – DOWNTOWN MASTER PLAN URBAN REGULATIONS, TO PROVIDE

REGULATIONS FOR THE NORTH RAILROAD AVENUE DISTRICT AND THE BRELSFORD PARK DISTRICT; SPECIFICALLY AMENDING THE FOLLOWING SECTIONS, FIGURES, AND TABLES: SECTION 94-102 ORGANIZATION OF THE URBAN REGULATIONS, SECTION 94-105 USE REQUIREMENTS, TABLE IV-2 PERMITTED USE TABLE FOR DMP, TABLE IV-3 PERMITTED USE TABLE FOR DMP, SECTION 94-109 - DEFINITIONS AND MINIMUM REQUIREMENTS, TABLE IV-6: OPEN SPACE TYPES BY SUBDISTRICT, SECTION 94-111 - PARKING AND LOADING REQUIREMENTS, TABLE IV-9 PARKING REQUIREMENTS, TABLE IV-11 CURB CUTS AND PASSENGER LOADING AND DROP-OFF STANDARDS, SECTION 94-121 – SPECIAL DISTRICTS PLANNING AREA, SECTION 94-124 – NORTH RAILROAD AVENUE DISTRICT, TABLE IV-28 BUILDING REQUIREMENTS – NORA-5, TABLE IV-29 BUILDING REQUIREMENTS – NORA-2, SECTION 94-125 – LOFTIN DISTRICT (LD), SECTION 94-127 – BRELSFORD PARK DISTRICT (BPD), TABLE IV-34 – BUILDING REQUIREMENTS – BPD-5, TABLE IV-35 BUILDING REQUIREMENTS – BPD-R, SECTION 94-131 – INCENTIVE PROGRAMS – GENERAL, SECTION 94-132 – TRANSFER OF DEVELOPMENT RIGHTS PROGRAM, SECTION 94-133 - SPECIAL DISTRICT INCENTIVES, FIGURE IV-35 TDR SENDING AND RECEIVING SITES, SECTION 94-135 – OKEECHOBEE BUSINESS DISTRICT (OBD), SECTION 94-273 EXTRA REQUIREMENTS FOR SPECIAL USES OR PERMITTED USES, AND ANY OTHER SECTIONS WITHIN ARTICLE IV - DOWNTOWN MASTER PLAN URBAN REGULATIONS NECESSARY TO ESTABLISH THE NORTH RAILROAD AVENUE DISTRICT; 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. 4985-21 amending the DMP Zoning Atlas to create the NoRA district. This motion is based upon the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Sections 94-32 of the City's Zoning and Land Development Regulations.

Approve Ordinance No. 4986-21 amending the DMP Urban Regulations to include the necessary regulations for the new NoRA district. This motion is based upon the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Sections 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

Currently located within the northern portion of the Downtown Master Plan (DMP) area is the intersection of two uniquely distinct districts of the City. The areas are currently designated as the Residential Enclave of Brelsford Park (BPD-5 & BPD-R zoning) and the Special District known as Industrial

Chic (ICD-2 and ICD-5). These districts were established in 2009 and shared similar goals in promoting a vibrant and mixed-use neighborhood. The districts in question are generally bounded by the FEC railway corridor to the west, Palm Beach Lakes Boulevard to the north, North Quadrille Boulevard to the south, and North Dixie Avenue to the east, including some of the properties on the east side of Dixie Highway.

Despite the area's strategic location between the intensely urbanized Downtown to the south and the large employment hub of the Good Samaritan Hospital to the north, the area has seen limited investment and the intended development has not materialized. While the downtown core has seen unprecedented redevelopment in the last 15 years, the Brelsford Park and Industrial Chic districts have received very minimal investment, if any. A detailed account of the uses in the area reflect that 38.6% of the district land is vacant, and a large number of structures are boarded-up.

Recognizing that the adequate redevelopment of the existing vacant parcels at the edges of the neighborhood is fundamental for the overall revitalization and economic vibrancy of the area, the City initiated a request for an amendment to the Downtown Master Plan Element of the Comprehensive Plan, a text amendment to the Downtown Master Plan ZLDRs and a rezoning process to formally establish a new district, called North Railroad Avenue District - NoRA, and promote alternative, yet spatially compatible development opportunities. The new vision for the neighborhood will include increased development capacity (through the transfer of development rights), enhanced public spaces, and more opportunities for a mix of land uses.

Over the last two years, the City has been working with NDT Development, Place Project and Plusurbia, an urban design consulting firm, on the study of the redevelopment potential for the vacant and underutilized lands within the area. Detailed analysis of the development capacity under current and proposed regulations has been conducted to evaluate the impact of future development. The proposed changes are the result of such analysis and intend to promote the redevelopment of the area with an appropriate scale and mix of uses, which are compatible with the surrounding context of the downtown, hospital, residential core, and the North Dixie Highway corridor.

The goal of the proposed changes is to rezone a portion of the neighborhood bounded by the FEC railway corridor to the west, Palm Beach Lakes Boulevard to the north, North Quadrille Boulevard to the south, and North Dixie Highway to the east as the new NoRA district and establish the regulations for the new district. The proposed regulations will better guide the future development and ensure compatible and contextually sensitive revitalization of the area.

The proposed amendments are divided into three:

1. Comprehensive plan amendments: Ordinance No. 4984-21 approved on First Reading by the City Commission on November 29, 2021 and currently under review at the State level.
2. Changes to the DMP Zoning Atlas: Ordinance No.4985-21, subject of this agenda item, includes the designation of the new NoRA district and Subdistrict, and new street classification for the area. The City is also proposing the rezoning of two parcels as Urban Open Spaces to allow the future transfer of development rights from such parcels.
3. Changes to the Article IV-Downtown Master Plan Urban Regulations of the ZLDRs: Ordinance No. 4986-21, subject of this agenda item, includes the description of the new NoRA district and the designation of new TDR receiving sites within the NoRA district increasing the maximum development capacity and height within certain areas of the district. Proposed regulation also includes the creation of new TDR sending sites within the district.

Community Input:

1. September 16, 2020: Community meeting to discuss initial amendments
2. February 1, 2021: City Commission work session
3. September 30, 2021: Community meeting (The majority of current residents attended)
4. October 13, 2021: DAC Public hearing for Comprehensive plan changes
5. October 19, 2021: Planning Board Public Hearing for Comprehensive plan changes
6. November 10, 2021: DAC Public Hearing for Zoning Code amendments and rezoning
7. November 16, 2021: Planning Board Public Hearing for Zoning Code amendments and rezoning
8. November 22, 2021: Northwest Neighborhood meeting
9. November 29, 2021: City Commission Public Hearing for Comprehensive plan changes

Notifications of all Public Hearings was sent to all affected property owners and 500 feet around. Notification of the proposed amendments was sent to adjacent neighborhood associations.

The Downtown Action Committee recommended approval (7-0) of this request to the City Commission after a Public Hearing on November 10, 2021 and the Planning Board recommended approval (7-0) of this request after a Public Hearing on November 16, 2021.

COMMISSION DISTRICT: Proposed amendments are included within Commission District 3: Commissioner Christy Fox.

8. PUBLIC HEARING - QUASI-JUDICIAL

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

- 8.1. Public Hearing and Second 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

Public Hearing 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.

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.

- 8.2. Public Hearing and First Reading of Ordinance No. 4927-22: Regarding a rezoning of ±1.73 acres located at 4708-4714 North Flagler Drive from Multifamily High Density Residential to Residential Planned Development; and

Public Hearing of Resolution No. 2-22: Regarding the development regulations and conditions for The Alba Residences Residential Planned Development, and the granting of waivers of the Zoning and Land Development Regulations.

The above-referenced requests are being made by Jon Schmidt, of Schmidt Nichols, on behalf of Scuba Club WPB, LLC, to create The Alba

Residences RPD and provide for the construction of a 55-unit multifamily development.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 4927-22: 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 ±1.73 ACRES LOCATED AT 4708-4714 NORTH FLAGLER DRIVE FROM MULTIFAMILY HIGH DENSITY RESIDENTIAL TO RESIDENTIAL PLANNED DEVELOPMENT TO CREATE THE ALBA 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. 2-22: 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 ALBA RESIDENTIAL PLANNED DEVELOPMENT LOCATED AT 4708-4714 NORTH 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. 4927-22, changing the zoning designation of ±1.73 acres located at 4708-4714 North Flagler Drive from Multifamily High Density Residential to Residential Planned Development, and granting a waiver of the minimum area required. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Sections 94-32 and 94-207 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 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.

DISCUSS Resolution No. 2-22, which will approve the development regulations and conditions for The Alba Residences RPD, and grant

waivers of the Zoning and Land Development Regulations. This Resolution will be considered at the Second Reading of the Ordinance.

Background Information:

(THE INFORMATION PROVIDED BELOW IS A GENERAL SUMMARY. A FULL ANALYSIS IS INCLUDED IN THE STAFF REPORT)

Located on the east side of North Flagler Drive, just under 100 feet north of the eastern terminus of 46th Street, the subject property, 4708-4714 North Flagler Drive, consists of ±1.73 acres (±0.51 acres of the property consist of submerged land that was deeded from the State of Florida) and is the former location of The Scuba Club. All buildings associated with the previous Scuba Club have been demolished and the property has remained vacant for several years.

In 2015, the subject property was previously approved for the construction of a 28-unit, five (5) story multifamily development. This project never came to fruition, but the entitlements continue to be valid as a result of multiple development order extensions that were granted in accordance with Florida Statutes; the development order is valid until December 23, 2022.

With the property under new ownership, the new owners reevaluated the previous project and are proposing an entirely new project consisting of 55 dwelling units at 21 stories in height. In order to effectuate their plans and to allow the request of certain waivers from the City's Zoning and Land Development Regulations (ZLDRs), an application was submitted to rezone the subject property from its current Multifamily High Density (MF32) Residential zoning designation to a Residential Planned Development (RPD).

The applicant is requesting the following waivers (all of which are described and analyzed in the Staff Report:

- Section 94-207(c)(2) and Sec. 94-241, Table VIII-1 – Minimum Land Area
- Section 94-241, Table VIII-1 – Maximum Building Height
- Section 94-309(f)(3) – Submerged Land Density
- Section 94-312(2)(a) – Separation of Access Points

The proposed project will expand upon the existing redevelopment efforts that are happening in the City's north end and continue to help create a catalyst that would help generate the momentum necessary to redevelop areas such as Broadway Avenue, infuse activity into the Northwood area, and create demand for more desirable businesses around the neighborhood.

It is Staff's professional opinion that, with the finding 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 proposed RPD complies with the City's Comprehensive Plan, and that the proposed development, with the waivers granted, will comply with the standards required by the Zoning and Land Development Regulations. Planning Staff, therefore, is recommending approval, subject to the conditions contained in Resolution No. 2-22.

PLANNING BOARD: After a Public Hearing on November 16, 2021, the Planning Board recommended approval (6-1).

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Ordinance No. 4927-22 and Resolution No. 2-22 will be advertised in the Palm Beach Post prior to Second Reading.

COMMISSION DISTRICT 1: Commissioner Kelly Shoaf.

- 8.3. Public Hearing and First Reading of Ordinance No. 4988-21 to designate the former Hatch's Department store and related sites at 301 Clematis Street, 300 Banyan Boulevard and 161 North Olive Avenue on the West Palm Beach Register of Historic Places.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 4988-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING 301 CLEMATIS STREET, 300 BANYAN BLVD AND 161 NORTH OLIVE AVENUE AS A HISTORIC SITE ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Continue consideration of Ordinance No. 4988-21 to February 7, 2022.

Background Information:

This application is for the designation of the structure at 301-307 Clematis Street, West Palm Beach, Florida, (formerly known as Hatch's Department Store) which is a three-story, square plan, commercial building and its associated land. The building rests on a concrete foundation, has a poured concrete frame, stucco walls, and a flat, asphalt roof. The building achieved its current Art Moderne expression in 1936 and 1940, when two earlier buildings were remodeled into this unified structure.

Hatch's Department Store gained its current form and architectural significance when it was expanded in 1936, an act that took unprecedented courage and vision during the Great Depression years. Hatch intended to transform his business in anticipation of economic recovery from the depression. The progressive attitudes of the owner guided him in selecting his architect, John L. Volk, who responded to the difficult times with a dramatically new architectural style applied with subtle economy. Volk's design introduced the modern aesthetic to commercial West Palm Beach. The newly remodeled store was the largest local building project since the boom-time era. Contractor for the remodeling was C.J. Trevail. The building was owned by Bernard H. Kroger, of Palm Beach and Cincinnati, founder of the Kroger chain of supermarkets, and leased for a long period of years to Hatch's, Inc. This expansion, the fifth since 1912, gave the store 40 percent more floor space and the ability to display more merchandise. Kawneer show windows were installed on the ground floor, and Hope steel windows on the floors above. The remodeled store was considered to feature the latest advances in architecture and engineering. At the time it was the only department store in Florida, and the fourth in the entire southeast, to be completely equipped for year-round temperature and humidity control and air conditioning.

The structure has seen modifications over the years but not enough to lose its architectural integrity of the Art Moderne style. The structure was listed on the National Register of Historic Places in 1994.

The applicant is also seeking to redevelop this property and the parking to the north and is pursuing an Ad Valorem Tax Abatement via HPB Case 21-63.

On September 28, 2021 the Historic Preservation Board unanimously voted to recommend designation (7-0).

The subject site is located in Commission District 3: Commissioner Christy Fox.

- 8.4. Public Hearing of Resolution No. 1-22: A request for a Minor Subdivision to approve the plat entitled "Kozokoff Plat".

The above-referenced item is being requested by Jon Schmidt, of Schmidt Nichols, on behalf of Neil Kozokoff.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 1-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MINOR SUBDIVISION AND REPLAT OF REAL PROPERTY TO CREATE

THE PLAT ENTITLED "KOZOKOFF PLAT", CONSISTING OF ONE (1) LOT TOTALING APPROXIMATELY 1.29 ACRES LOCATED ON THE NORTHWEST CORNER OF BROWARD AVENUE AND PICCADILLY STREET; DEDICATING PUBLIC UTILITY EASEMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 1-22, creating the plat entitled "Kozokoff Plat". This motion is based upon the application submitted, the staff report, factual testimony, and the findings that the request complies with all applicable provisions of Chapter 177, Florida Statutes, the Comprehensive Plan and the standards in Section 94-342 of the City's Zoning and Land Development Regulations.

Background Information:

The subject property, located on the southwest corner of Broward Avenue and Piccadilly Street, consists of approximately 1.29 acres. On June 25, 2012, the City Commission adopted Resolution No. 145-12, approving the Broward Block Development of Significant Impact (DSI), providing for the construction of a 102-unit multifamily development. Section 3, Condition #6 of Resolution No. 145-12 provided that "prior to the issuance of a building permit, the property shall be replatted in accordance with the City's policies and procedures".

As the developer is proposing to move forward with the project at this time, an application was submitted to Planning Division to replat the property and satisfy the condition imposed by Resolution No. 145-12. The purpose of the replat is to consolidate all of the existing parcels and unify them into one developable tract; public utility easements are also being granted to accommodate the construction.

Conclusion: It is Staff's professional opinion that the proposed plat complies with the Florida Statutes, the standards required by the City's Comprehensive Plan, and the Subdivision General Design Standards required by Section 94-342 of the City's Zoning and Land Development Regulations.

Planning Board: As a Minor Subdivision, the subject plat was not required to be reviewed by the City's Planning Board.

Public Notice: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Resolution No. 1-22 was also advertised on December 31, 2021.

Commission District 1: Commissioner Kelly Shoaf.

- 8.5. 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 office building and a 10-story 1,195 space parking garage with a total of 459,317 sf including 443,296 sf class A office, 15,541 sf of retail on the ground floor, a 480 sf roof top café 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:

THIS ITEM TO BE CONTINUED TO THE JANUARY 24, 2022 CITY COMMISSION MEETING.

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.

Background Information:

At the September 20, 2021 City Commission hearing, the Commission continued the site plan approval for the Wet Palm Pont building and requested the applicant to modify the proposed design for the parking garage and minimize its impact on the urban context.

After the meeting, CRA and planning staff worked with the applicant on an alternative design for the parking garage. The revised proposal introduces a 2nd double height level of office uses along Dixie Highway and the paseo and modifies the garage screening to reduce its garage appearance through the provision of glass and perforated metal screens. The

alternative design architectural expression is also similar to the office tower.

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 459,317 sf of GBA (FAR 4.45) 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 94% 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 24,975 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 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 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 \$265,496 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 308 parking spaces above the soft maximum allowed (615 spaces). 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.

B. WAIVERS REQUEST

The applicant is requesting 13 waivers from the CPD requirements for the OBD-25CP included in Resolution No. 150-18, and five waivers from the Downtown Master Plan urban regulations. Staff supports the 18 waivers, providing a substantial amount of flexibility to the project in response to the complex site and particular characteristics of the project.

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 3: Commissioner Christy Fox.

9. 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.

10. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

11. 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.