

**MEETING MINUTES**

**September 14, 2022**

Commission Chambers

401 Clematis Street | West Palm Beach, FL 33401

*These minutes are a summary of the meeting events and may not reflect all discussion that occurred. Copies of the agenda, backup material and presentations may be obtained from the City of West Palm Beach Planning Division. Recordings of the meeting are available for review at [www.youtube.com/WestPalmTV](http://www.youtube.com/WestPalmTV).*

**I. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE**

Vice Chairperson Nick Mihelich called the meeting to order at 9:07am.

Ms. Alicia Coke-Maloney, Board Secretary, called the roll and **it was determined that a quorum was present**, as depicted in the table below.

<b>Board Members:</b>	<b>Present</b>	<b>Absent</b>
Roger Janssen   Chairperson	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nick Mihelich   Vice Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brian Cheguis   Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael Cuevas   Member	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Gregory Gabriel   Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Graham   Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brad McPherson   Member	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kim Do   1 <sup>st</sup> Alternate	<input checked="" type="checkbox"/>	<input type="checkbox"/>

*Note: With the absence of Mr. Roger Janssen, Mr. Michael Cuevas, and Mr. Brad McPherson, Ms. Kim Do was a voting member for the duration of the meeting.*

<b>Staff Members Present:</b>
Richard Greene, AICP   Director of Development Services
Chris Kimmerly, AICP   Urban Design Planner
Denise Haire   Assistant City Attorney II (Board Attorney)
Alicia Coke-Maloney   Sr. Administrative Assistant (Board Secretary)

**II. APPROVAL OF MINUTES**

**A. AUGUST 10, 2022**

Mr. Brian Cheguis made a motion to **APPROVE** the minutes from August 10, 2022.

Mr. Stephen Graham seconded the motion; the motion **PASSED 5-0**, as depicted in the table below.

<b>Board Members:</b>	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Recused</b>	<b>Non-Voting</b>
Roger Janssen   Chairperson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nick Mihelich   Vice Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Cheguis   Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Cuevas   Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gregory Gabriel   Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Graham   Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brad McPherson   Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kim Do   1 <sup>st</sup> Alternate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**III. REPORT FROM THE CITY URBAN DESIGNER**

Mr. Richard Greene, Development Services Director, stated that they have filled the position of the City Urban Designer and that the new hire will begin on October 17, 2022.

**IV. REMARKS BY THE CHAIRPERSON**

Vice Chairperson Mihelich expressed that there were no remarks to be made at this time.

**V. DECLARATION OF EX-PARTE COMMUNICATION**

<b>Board Members:</b>	<b>Ex-Parte Communication</b>
Roger Janssen   Chairperson	Absent.
Nick Mihelich   Vice Chairperson	FSPR Case No. 22-05 – Had a meeting with the applicant.
Brian Cheguis   Member	FSPR Case No. 22-05 – Had communications with the applicant’s representatives.
Michael Cuevas   Member	Absent.
Gregory Gabriel   Member	FSPR Case No. 22-05 – Had a Zoom meeting with the applicant.
Stephen Graham   Member	FSPR Case No. 22-05 – Had a virtual meeting with Neil Schiller, the attorney, and the applicant.
Brad McPherson   Member	Absent.
Kim Do   1 <sup>st</sup> Alternate	FSPR Case No. 22-05 – Had communications with the applicant and related parties.

**VI. PUBLIC HEARING**

**A. SWEARING IN OF THE SPEAKERS**

Ms. Coke-Maloney swore in everyone who wished to speak on the cases on the agenda.

**B. CONTINUED CASES**

**C. NEW CASES**

**1. Formal Site Plan Review Case No. 22-05:**

*Mr. McPherson was not in attendance, however, he recused himself from FSPR Case No. 22-05-as Transit Village is a client of Gunster, which is the law firm at which he is a shareholder. Form 8B: Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, is attached.*

Mr. Chris Kimmerly, Urban Design Planner, indicated that this item was being brought forth as a workshop discussion as there are still outstanding issues to be resolved.

The members of the Committee determined that they wanted the applicant to provide an overview of the project first.

Mr. Neil Schiller, Esq., spoke on behalf of the applicant and introduced Mr. Michael Masanoff, who then introduced himself and the development team and gave a brief presentation.

Ms. Christy Fox, City Commissioner, spoke in support of the project.

Ms. Loraine Cargill, Director of Strategic Planning for the South Florida Regional Transportation Authority (SFRTA), spoke in support of the project.

Mr. Schiller continued a presentation on behalf of the applicant along with Mr. Bernardo Fort-Brescia, Principal at Arquitectonica, and Mr. Jon Paul Perez, President at Related Group.

Mr. Kimmerly gave a presentation on behalf of the Planning Division.

Ms. Denise Haire, Board Attorney, discussed with Staff and the applicant the provisions of Sec. 94-54(d)(4)(e) of the City's Zoning and Land Development Regulations, specifically relating to variances for the building footprint.

Vice Chairperson Mihelich opened the floor to public comment.

Ms. Coke-Maloney indicated that letters/emails had been submitted from the following, with copied provided to the Committee:

- Palm Beach County Vice Mayor and Commissioner District 2
- Northwest Community Consortium, Inc.
- Fern Realty, LLC
- Evernia Station Limited Partnership
- University of Florida

The members of the Committee discussed the following, including discussion with Staff, the Board Attorney, and the applicant:

- Legal procedures for a variance on the building footprint;
- Coordination with Palm Tran;
- The traffic study;
- Outstanding Plans and Plats Review Committee (PPRC) comments contained in the Staff report;
- Architectural elements (planar breaks, etc.);
- Height of the building at the corner; and
- Streetscapes and Banyan Boulevard.

Mr. Cheguis made a motion to **APPROVE** the application, including the following three (3) variances requests:

1. A variance request from Section 94-312 regarding the maximum number of permitted driveway curb cuts or access points to a property.
2. A variance request from Section 94-111 regarding the maximum width permitted for curb cuts.

3. A variance request from Section 94-120 regarding Table IV-21 and the maximum permitted building footprint length.

The motion was made **subject to the following condition:**

1. The applicant should work out the PPRC comment issues with the Staff prior to site plan approval.

Mr. Gregory Gabriel seconded the motion. The motion **PASSED 4-1**, as depicted in the table below.

<b>Board Members:</b>	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Recused</b>	<b>Non-Voting</b>
Roger Janssen I Chairperson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nick Mihelich I Vice Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Cheguis I Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Cuevas I Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gregory Gabriel I Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Graham I Member	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brad McPherson I Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kim Do I 1 <sup>st</sup> Alternate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**D. CODE REVISION CASES**

**E. ADMINISTRATIVE APPEALS**

**VI. UNFINISHED BUSINESS**

**VIII. NEW BUSINESS**

**IX. OTHER BUSINESS**

**X. ADJOURNMENT**

The meeting adjourned at 10:52am.

Please be advised the minutes are not verbatim. A recording of the meeting may be requested through the City of West Palm Beach City Clerk's office at 822-1210. There is a fee.

\* \* \* \* \*

This signature is to attest that the undersigned is the Chairperson, or designee, of the **Downtown Action Committee** and that the information provided herein is the true and correct minutes for the **September 14, 2022**, meeting of the **Downtown Action Committee**, dated this 12<sup>TH</sup> day of OCTOBER, 2022.

  
 \_\_\_\_\_  
 Chairperson (or designee)

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>McPherson Brad Scott</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Downtown Action Committee</i>
MAILING ADDRESS <i>224 Tacona Ln Palm Beach</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <i>Palm Beach Shores, FL</i>	NAME OF POLITICAL SUBDIVISION: <i>West Palm Beach</i>
DATE ON WHICH VOTE OCCURRED <i>Sept 14, 2022</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)



**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, BRAD MCPHERSON, hereby disclose that on Sept. 14, 20 22:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of Transit Village, who is a client of Gunster, which is the, by whom I am retained; or law firm at which I am a shareholder.
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Formal Site Plan Review 22-05

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Sept 13, 2022  
Date Filed

[Signature]  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.