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Mayor Keith A. James
Commission President Christy Fox (District 3)
Commissioner Cathleen Ward (District 1)
Commissioner Shalonda Warren (District 2)
Commissioner Joseph A. Peduzzi (District 4)
Commissioner Christina Lambert (District 5)

City Administrator Faye W. Johnson
City Attorney Kimberly Rothenburg
City Clerk (Interim) Jacqueline Mobley

**City of West Palm Beach
City Commission
DRAFT Agenda
Monday, January 9, 2023
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. RECEIVED / FILED

- 6.1. Submittal of the following four (4) reports from the Internal Auditor's Office: (1) Post Audit Report of Fleet Management, PAR22-01; (2) Post Audit Report of Warehouse and Inventory, PAR22-05; (3) Post Audit Report of the Police Property Room and Impound Lots, PAR22-06; and (4) Post Audit Report of the Parking Department's Driver and Vehicle Information Database (DAVID), PAR23-01.

Originating Department:

Internal Audit

Background Information:

The four (4) reports were presented to the Audit Committee on December 21, 2022, where they were approved by the Audit Committee Members. Copies of the reports have been provided to the Mayor and the City Commissioners.

Fiscal Note:

No fiscal impact.

7. APPOINTMENTS

- 7.1. Commission approval is requested for the Mayor's reappointment of Kathy Willoughby to the Water Advisory Board for a term of two (2) years that expires on December 5, 2024. Ms. Willoughby 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. Willoughby's reappointment recommendation is due to her years of experience and knowledge working with the Board.

8. CONSENT CALENDAR

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

- 8.1. Minutes of the Regular City Commission Meeting of December 12, 2022.

Originating Department:

Mayor's Office

- 8.2. Cancellation of the Regular City Commission Meeting of December 27, 2022.

Originating Department:

Mayor's Office

Background Information:

Past practice has been for the City Commission to cancel its meeting when it falls near the holidays in order to permit the elected officials, City staff, and residents an opportunity to enjoy the holiday. Cancellation of a City Commission meeting is authorized pursuant to Chapter 2, Article II, Section 2.31(1) of the City Code, as follows: "By majority vote of a quorum of the City Commission taken at a regular meeting, a subsequent regular meeting may be canceled or the date or time thereof changed".

Fiscal Note:

No fiscal impact.

- 8.3. Resolution No. 307-22 approving an Ad Valorem Tax Exemption, Completed Work Application, for the property located at 218 Edgewood Drive.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 307-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE PROPERTY LOCATED AT 218 EDGEWOOD DRIVE, WEST PALM BEACH, FLORIDA, AS A RESULT OF THE HISTORIC REHABILITATION OF THE PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

At the April 26, 2022 meeting, the Historic Preservation Board (HPB) reviewed and recommended approval (7-0) of the Completed Work Application for the property at 218 Edgewood Drive. The HPB determined that the improvements to the historic property were successfully completed according to the Secretary of the Interior's Standards for Rehabilitation. The defining architectural characteristics of the building were preserved, and new features were determined to be compatible.

This is a mid-block site in the Prospect Park/Southland Park Historic District. The existing primary structure on site was built in 1949 in the Minimal Traditional style and was reclassified as a contributing structure in the latest resurvey. Character defining features of this split-level plan house include the front porch, picture window flanked by side windows, and wooden outriggers.

Section 94-51 of the Code of Ordinances sets forth an Ad Valorem Tax Exemption program for historic properties. The program permits a ten (10) year Ad Valorem Tax Exemption for improvements made to historic

properties. To qualify, the property must be designated as an individual site, or as a contributing property within an historic district in the Local and/or National Registers of Historic Places. The property owner is required to apply for the program before improvements are initiated and again after the project is completed. The exemption is given for the City's and County's portion of taxes associated with the increased value of the property due to the improvements.

Significant improvements to the property include a 2,177 square foot addition on the main house and a new 510 SF garage as well as rehabilitation of the main structure. The applicant estimates the work to total \$700,000.

The State Legislation allowing this exemption requires that the Commission approve the final application. After the Commission's approval, the information will be forwarded to the Palm Beach County Property Appraiser's office for implementation.

Commission District 5: Commissioner Christina Lambert.

- 8.4. Resolution No. 308-22 approving an Ad Valorem Tax Exemption, Completed Work Application, for the property located at 221 Wildermere Road.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 308-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE PROPERTY LOCATED AT 221 WILDERMERE ROAD, WEST PALM BEACH, FLORIDA, AS A RESULT OF THE HISTORIC REHABILITATION OF THE PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

At the November 16, 2022 meeting, the Historic Preservation Board (HPB) reviewed and recommended approval (5-0) of the Completed Work Application for the property at 221 Wildermere Road. The HPB determined that the improvements to the historic property were successfully completed according to the Secretary of the Interior's Standards for Rehabilitation. The defining architectural characteristics of the building were preserved, and new features were determined to be compatible.

This contributing home was built circa 1921 in the American Foursquare style and is part of the Mango Promenade Historic District. Its character defining features include a porch and smooth stucco.

Section 94-51 of the Code of Ordinances sets forth an Ad Valorem Tax Exemption program for historic properties. The program permits a ten (10) year Ad Valorem Tax Exemption for improvements made to historic properties. To qualify, the property must be designated as an individual site, or as a contributing property within an historic district in the Local and/or National Registers of Historic Places. The property owner is required to apply for the program before improvements are initiated and again after the project is completed. The exemption is given for the City's and County's portion of taxes associated with the increased value of the property due to the improvements.

Significant improvements to the property include an approximately two-story 500 square foot addition on the main house as well as rehabilitation of the main structure. The applicant estimates the work to total \$100,000.

The State Legislation allowing this exemption requires that the Commission approve the final application. After the Commission's approval, the information will be forwarded to the Palm Beach County Property Appraiser's office for implementation.

Commission District 5: Commissioner Christina Lambert.

- 8.5. Resolution No. 309-22 approving an Ad Valorem Tax Exemption, Completed Work Application, for the property located at 223 Belmonte Road.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 309-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE PROPERTY LOCATED AT 223 BELMONTE ROAD, WEST PALM BEACH, FLORIDA, AS A RESULT OF THE HISTORIC REHABILITATION OF THE PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

At the September 27, 2022 meeting, the Historic Preservation Board (HPB) reviewed and recommended approval (7-0) of the Completed Work Application for the property at 223 Belmonte Road. The HPB determined that the improvements to the historic property were successfully completed according to the Secretary of the Interior's Standards for Rehabilitation. The defining architectural characteristics of the building were preserved, and new features were determined to be compatible.

The property at 223 Belmonte Road is in the El Cid Historic District, consisting of a contributing primary house and a non-contributing

accessory structure. The primary structure is known as the Herbert and Mary Burnham House built in 1940 in the Monterey style by Burnup and Sims. The two-story structure has had some modifications over the years, but still retains its classic Monterey detailing that is a common architectural style on this street. Character defining features include lap siding, second floor balcony, and large eight over eight double hung wood windows.

Section 94-51 of the Code of Ordinances sets forth an Ad Valorem Tax Exemption program for historic properties. The program permits a ten (10) year Ad Valorem Tax Exemption for improvements made to historic properties. To qualify, the property must be designated as an individual site or as a contributing property within an historic district in the Local and/or National Registers of Historic Places. The property owner is required to apply for the program before improvements are initiated and again after the project is completed. The exemption is given for the City's and County's portion of taxes associated with the increased value of the property due to the improvements.

Significant improvements to the property include a new accessory structure of approximately 837 SF and rehabilitation of the main structure. The applicant estimates the work to total \$2,165,249.

The State Legislation allowing this exemption requires that the Commission approve the final application. After the Commission's approval, the information will be forwarded to the Palm Beach County Property Appraiser's office for implementation.

Commission District 5: Commissioner Christina Lambert.

- 8.6. Resolution No. 312-22 authorizing the Mayor to execute a Maintenance Map for Parker Avenue from Forest Hill Boulevard to Nottingham Boulevard.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 312-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH AUTHORIZING THE MAYOR TO EXECUTE AND RECORD A MAINTENANCE MAP FOR PARKER AVENUE FROM FOREST HILL BOULEVARD TO NOTTINGHAM BOULEVARD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The City has maintained the Parker Avenue right-of-way, between Forest Hill Boulevard and Nottingham Boulevard for more than seven (7) years.

The Parker Avenue Rehabilitation project will construct a Complete Streets design for Parker Avenue from Forest Hill Boulevard to Nottingham Boulevard, and will include two multi use paths, milling and resurfacing, wayfinding, signing, pavement markings, irrigation, landscaping, signal improvements, drainage improvements and pedestrian lighting. The Parker Avenue Rehabilitation project improvements comply with the recommendations from the City's Mobility Plan and Bicycle Master Plan.

By Resolution No. 98-18, the City Commission authorized submission of an application for a Local Initiative grant to the Florida Department of Transportation (FDOT) through the Palm Beach Transportation Planning Agency (TPA) and grant funding was awarded.

Parker Avenue Improvements will be a joint funded effort through the City's sales tax initiatives and the Palm Beach Transportation Planning Agency (TPA) local initiatives grant funding.

Pursuant to one of the grant requirements, the City must prove ownership of the area to be improved with the grant funds. Although most of the existing Parker Avenue right-of-way was platted and dedicated to the City many years ago, some portions of the existing sidewalk may lie within private property, or the actual property line is not clear. However, all such sidewalks have historically been maintained by the City.

Section 95.361, Florida Statutes, allows the City to record a Maintenance Map after the City has maintained a road for a period of seven (7) years or more. The filing of a maintenance map by the City in the Office of the Circuit Court of Palm Beach County vests the ownership of the map area in the City. By this method, the City can provide the required ownership documents for Parker Avenue for utilization of the grant funds.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact for maintenance map.

- 8.7. Resolution No. 313-22 approves a Conditional Settlement Agreement totaling \$215,000 in the matter of Nicolas Quintero and Lucia Aviles, his wife, v. City of West Palm Beach.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 313-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT TOTALING \$215,000 IN THE MATTER OF NICOLAS QUINTERO AND LUCIA

AVILES, HIS WIFE V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Nicolas Quintero and Lucia Aviles, his wife, have brought a claim by way of a complaint for damages in the Fifteenth Judicial Circuit in Nicolas Quintero and Lucia Aviles, his wife, v. City of West Palm Beach, for an accident that occurred on May 12, 2021. The City has reached a settlement agreement with Mr. Quintero, Ms. Aviles, and their attorney to resolve the matter for a total of \$215,000. The Plaintiffs have signed 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. 313-22 approves the Conditional Settlement Agreement.

- 8.8. Resolution No. 3-23(F) authorizes the amendment of the Information Technology Fund to provide appropriations in the amount of \$400,000 for the replacement of the Police Headquarters Access Control System.

Originating Department:

Information Technology

Ordinance/Resolution:

RESOLUTION NO. 3-23(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 2022/2023 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE INFORMATION TECHNOLOGY FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE REPLACEMENT OF THE ACCESS CONTROL SYSTEM AT POLICE HEADQUARTERS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

As part of the continued process to update the City's technology infrastructure, the current building access control system at Police Headquarters has reached its end-of-life and is in need of replacement. Replacing the current system will ensure appropriate controls related to building and property access continue to remain up to date.

In order to fund this equipment replacement, we are requesting a transfer of \$400,000 from the Information Technology Data Analytics project, which was funded at \$850,000 for FY23. The Data Analytics project is a long-

term project, with the goal to provide the City a robust, data-driven decision support system by consolidating and upgrading the City's current data storage, access infrastructure, and reporting capabilities. Transferring the requested funds from this project will not impact FY23 Data Analytics project deliverables, and the request is to allocate funds only from this project that will not be needed in FY23 to fund the replacement of the noted access control system.

Approval of Resolution No. 3-23(F) will provide appropriations for the replacement of the Police Access Control System, while maintaining the level of FY23 funding required for the Data Analytics Infrastructure to continue to move forward as planned.

Fiscal Note:

Approval of Resolution No. 3-23(F) will provide appropriations for the replacement of the Police Access Control System, while maintaining the level of FY23 funding required for the Data Analytics Infrastructure to continue to move forward as planned.

9. RESOLUTIONS

- 9.1. Resolution No. 310-22 authorizing acceptance of a grant in the amount of \$4,000 from St. George's Society of Palm Beach for a tree planting project at West Palm Beach Woodlawn Cemetery and authorizing the Mayor to execute all documents necessary to purchase and plant the trees; and

Resolution No. 311-22(F) authorizing the City Commission of the City of West Palm Beach, Florida, to accept and appropriate funds from St. George's Society of Palm Beach, A Walk in the Forest Funding Effort, to plant trees in Woodlawn Cemetery.

Originating Department:

Public Utilities

Ordinance/Resolution:

RESOLUTION NO. 310-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A GRANT IN THE AMOUNT OF \$4,000 FROM THE ST. GEORGE'S SOCIETY OF PALM BEACH FOR THE PURCHASE AND PLANTING OF TREES AT THE CITY'S WOODLAWN CEMETERY; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY TO PURCHASE AND PLANT THE TREES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 311-22(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 2022/2023 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 RECOGNIZE A DONATION FROM ST. GEORGE'S SOCIETY OF PALM BEACH AND TO PROVIDE APPROPRIATIONS FOR THE TREE PLANTING PROJECT IN WOODLAWN CEMETERY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 310-22 and Resolution No. 311-22(F).

Background Information:

St. George's Society of Palm Beach is a non-profit organization and has been fundraising for the last year as part of their "A Walk in the Forest" project to buy trees and have them planted in a variety of locations. This is a five-part project, and one of the components is donating trees to the City of West Palm Beach. They have donated 1,000 trees to the City of Liverpool, England with the Queen's Green Canopy in honor of HRM Queen Elizabeth II's Platinum Jubilee. They are also donating locally to the City of Boynton Beach and the Town of Palm Beach. In addition, they are donating trees to Tanzania, Africa through The White Feather Foundation. A final tree donation will be made to Glasgow, Scotland to complete the Platinum Jubilee plantings.

St. George's Society is proposing to award a grant to the City in the amount of \$4,000 for the purchase and planting of trees in Woodlawn Cemetery. Woodlawn Cemetery was selected as a planting site to provide beautification and shade and to reduce the heat island effect at the Cemetery. Woodlawn Cemetery is a prominent location within the City in which visitors and neighborhood residents will be able to enjoy the flowering tree canopy.

The City's Department of Parks and Recreation - Parks Maintenance Division will provide oversight of the project and preparation of a site plan, which will include moving and replanting two (2) Plumeria Trees and the planting of five (5) new Florida Grade 1, 12' flowering trees. The flowering trees will consist of two (2) Pink Trumpet Trees and three (3) Jacaranda Trees. The trees will be planted in the entryway medians, running east to west. Appropriations for this project will be transferred to the Parks and Recreation Parks Maintenance Division General Fund budget for purchase and planting of the trees by a landscape contractor hired by the City.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

Approval will recognize the receipt of a donation, providing appropriations for Tree planting at Woodlawn Cemetery.

- 9.2. Resolution No. 4-23(F) authorizing the appropriation of \$500,000 General Fund discretionary fund balance in Fiscal Year 2023 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 the Small and Minority/Woman business grant program.

Originating Department:

Mayor's Office

Ordinance/Resolution:

RESOLUTION NO. 4-23(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 2022/2023 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 THE SMALL AND MINORITY/WOMAN BUSINESS GRANT PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 4-23(F).

Background Information:

As discussed at the August 31, 2022 Mayor/Commission Work Session, Staff is bringing forward an F-Resolution appropriating \$500,000 of General Fund discretionary fund balance dollars for the creation of a new Grant Program by the Office of Small and Minority Business Programs (OSMBP). Increased program funding for OSMBP is one of the priority projects in the Updated FY22-23 Strategic Plan under the Equity & Empowerment Strategic Pillar 5.

Contingent on the Commission's approval of the appropriation of the funds, OSMBP will finalize the proposed Grant Program guidelines for presentation to the Board at a Mayor/Commission Work Session. The final Grant Program guidelines will then be scheduled for Board consideration and approval at an upcoming City Commission meeting.

10. PUBLIC HEARING

- 10.1. Public Hearing and Second Reading of Ordinance No. 4999-22 amending Chapter 86 of the City's Code of Ordinances to establish the City's Wrecker Operator System.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 4999-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 86 (TRAFFIC) BY AMENDING AND RESTATING ARTICLE I (IN GENERAL) TO AMEND SECTION 86-1 (DEFINITIONS) TO ADD NEW DEFINITIONS AND ADD A NEW SUBSECTION 86-9 TO CREATE A WRECKER OPERATOR SYSTEM; 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. 4999-22 on second reading.

Background Information:

The City previously provided for the towing or storage of disabled vehicles or vessels by entering into franchise agreements with towing companies selected through the City's procurement process. The franchise agreements, among other things, charged the towing companies a franchise fee, payable to the City, for the privilege of operating within the City. Florida Statute 166.04464 now prohibits Municipalities from imposing a fee or charge on an authorized wrecker operator or towing business for towing, impounding or storing a vehicle or vessel. The statute does authorize a Municipality to impose a reasonable administrative fee or charge on the registered owner or other legally authorized person(s) in control of a vehicle or vessel to cover the cost of enforcement when the vehicle or vessel is towed from public property. The fee may not exceed 25 percent (25%) of the maximum towing rate and may be collected on behalf of the City by an "authorized wrecker operator" or towing business. The legislature also adopted Section 166.043, which requires counties to establish the maximum rates (rates chargeable by towing companies). Palm Beach County's current rates are provided. This section also provides that Municipalities may opt-out of the applicability of the County rates by adopting their own ordinance establishing such rates. The City does not presently have such an ordinance.

Based on cost factors associated with vehicle removal, the Finance Department has determined that the approximate cost to the City to remove a vehicle is One Hundred Thirty One and 35/100 Dollars (\$131.35). Prior to the recent legislation prohibiting the imposition of fees upon towing companies, the City collected \$15,000 annually from two (2) towing companies, which were selected competitively to provide towing services within the City. The Police Department has determined that it ordered 6,223 total tows during the year 2021, and that through October of 2022, it has ordered 5,345 total tows. Department records do not show the number of tows by class, and it is unable to estimate the total number of future tows.

Section 323.002, Florida Statutes, defines an "authorized wrecker operator" as "any wrecker operator who has been designated as part of the "wrecker operator system" established by the governmental unit having

jurisdiction over the scene of a wrecked or disabled vehicle”. That section defines “Wrecker Operator System” as “a system for the towing or removal of wrecked, disabled, or abandoned vehicles under which a County or Municipality contracts with one or more wrecker operators for the towing or removal of wrecked, disabled, or abandoned vehicles from accident scenes, streets, or highways. A wrecker operator system must include using a method for apportioning the towing assignments among the eligible wrecker operators through the creation of geographic zones, a rotation schedule, or a combination of these methods”.

Section 323.004 defines “unauthorized wrecker operator” as any wrecker operator who has not been designated as part of the wrecker operator system. That section prohibits unauthorized wrecker operators from monitoring police radio communications in order to determine the location of a disabled vehicle; from driving by the scene of a disabled vehicle to offer towing services; and if they are driving by the scene of a disabled vehicle and is stopped by the disabled vehicle operator, it regulates the disclosures that must be made to the operator. Violation of these provisions is an offense ranging from a noncriminal violation to a first degree misdemeanor.

The City does not have a Wrecker Operator System. Ordinance No. 4999-22 establishes the City’s Wrecker Operator System. It provides the method of selection and qualifications for operators; imposes an administrative fee in the amount of 25 percent of the maximum towing rate established by Palm Beach County from time to time; authorizes wrecker operators to collect the fee on behalf of the City; regulates the operation of unauthorized operators; and provides for the right of disabled vehicle owners or operators to choose an operator of their own choice.

Fiscal Note:

No fiscal note.

- 10.2. Public Hearing and Second Reading of Ordinance No. 5027-22 amending Chapter 94 Article IV: Downtown Master Plan, Section 94-105 Use Requirements, and Section 94-111 Parking and Loading Requirements to modify specific regulations regarding existing (P16) off-site accessory surface parking lots in residential sub districts; and Section 94-127 Brelsford Park District, Section 94-128 Northwest Neighborhood District, and Section 94-132 - Transfer of Development Rights Program to modify provisions regarding private open space requirements for certain subdistricts.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5027-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING ARTICLE IV - DOWNTOWN MASTER PLAN URBAN REGULATIONS - SECTION 94-105 USE REQUIREMENTS, AND SECTION 94-111 PARKING AND LOADING REQUIREMENTS TO MODIFY SPECIFIC REGULATIONS REGARDING EXISTING OFF-SITE ACCESSORY SURFACE PARKING LOTS IN RESIDENTIAL SUB DISTRICTS; AND SECTION 94-127 BRELSFORD PARK DISTRICT, SECTION 94-128 NORTHWEST NEIGHBORHOOD DISTRICT, AND SECTION 94-132 - TRANSFER OF DEVELOPMENT RIGHTS PROGRAM TO MODIFY PROVISIONS REGARDING PRIVATE OPEN SPACE REQUIREMENTS FOR CERTAIN SUBDISTRICTS; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5027-22 amending Article IV, Downtown Master Plan Urban Regulations - Section 95-105 Use Requirements, and Section 94-111 Parking and Loading Requirements; and Section 94-127 Brelsford Park District, Section 94-128 Northwest Neighborhood District, and Section 94-132 - Transfer of Development Rights Program.

Background Information:

It is both the City Planning Division's and Community Redevelopment Agency's (CRA) desire to eliminate the provisions included within the use requirements of Section 94-105 (d.)(P16) for existing surface parking lots; as the existing standards are no longer applicable or desirable to the context of the impacted neighborhoods and districts. The requested changes are in response to increased demand and intensity of activity and commercial uses within both the Northwest Neighborhood and Brelsford Park Districts. Amending the provisions within the use requirements and subsequent landscape or parking language, provides flexibility to both existing and future land uses. Clear standards in setbacks and landscape buffers are maintained as part of these existing or permitted surface parking uses.

The CRA is actively working with the various churches and owners of many of the existing parking lots identified within Figure IV-2 of the ZLDRs. The Northwest Neighborhood contains a majority of these surface lots. Both the City and CRA wish to renovate these spaces, bring them up to code compliance, and provide improved parking access to the growing neighborhood.

The current DMP regulations include specific standards for the provision of public and private open spaces. The standards, included in Table IV-7 of Section 94-109, establish the minimum size of the open space, the adjacent active use abutment, minimum seating, and other minimum characteristics intended to ensure the quality of the open space provided.

In recent months, Planning staff has identified the need to clarify certain standards within the building requirements tables, specifically, the standard for the provision of private open space within the Section 94-128 Northwest Neighborhood District (NWD), Section 94-127 Brelsford Park District (BPD), and their respective incentive tables shown in Section 94-132. Planning staff recognized recent project proposals in which developers and applicants have had issues meeting the minimum Private Open Space requirement of 12% on lots less than 25,000 square feet. Planning staff identified that this provision, within districts that are heavily-catered toward lower-scale mixed use and residential development, negatively constrains the already smaller parcels or properties (standard parcels within NWD that are approximately 50'x150', requiring almost 900 square feet of private open space on lots only containing 7,500 square feet in total). The significant requirement results in non-optimal private open spaces, which are designed to meet a standard rather than to provide an amenity or aesthetic enhancement for private users. As a result, projects within the NWD and BPD districts provide private open spaces that are either too small, disconnected, or not adequately meeting the intent of code.

Based upon these observations and recognizing the provision is perhaps not appropriate for these districts or the lots below 25,000 square feet, staff is recommending an amendment to remove the 12% of private open space standards within the NWD and BPD building requirement tables. The removal of this provision would impact the BPD-5, NWD-8, NWD-5, NWD-4, NWD-2, and NWD-2C sub districts, as well as the NWD 2-4, and NWD 3-4 Transfer of Development Rights Incentive districts found in Section 94-132.

Commission District 3: Commissioner Christy Fox.

- 10.3. Public Hearing and Second Reading of Ordinance No. 5030-22: A declaration of an extension to the zoning in progress to allow parklets established under the Temporary Outdoor Dining program to continue operation, while revised parklet regulations are adopted and adoption of a temporary fee for parking meter use associated with parklets.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5030-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA DECLARING AN EXTENSION TO THE ZONING IN PROGRESS FOR PARKLETS; PERMITTING CONTINUED OPERATION OF PARKLETS BY BUSINESSES WHO HAVE ESTABLISHED THEM UNDER THE TEMPORARY OUTDOOR DINING PROGRAM DURING THE EMERGENCY MEASURES OF THE COVID-19 PANDEMIC UNTIL NEW REGULATIONS ARE ADOPTED; PROVIDING A CONFLICTS CLAUSE,

A SEVERABILITY CLAUSE, A SUNSET CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5030-22 declaring an extension to the zoning in progress to allow parklets established under the Temporary Outdoor Dining program to continue until revised parklet regulations are adopted or until November 29, 2023, whichever first occurs and revise monthly parking meter rental fees for parklets.

Background Information:

A parklet is a seating platform that converts curbside parking spaces into vibrant community spaces that may provide amenities such as: seating, landscaping, bicycle parking, art, among others. Ordinance No. 4667-16 established Chapter 78, Article XVIII, of the Code of Ordinances, which allowed the creation of parklets in compliance with the regulations.

In concert with the Governor's Executive Order, on May 19, 2020, the City of West Palm Beach issued a Declaration of Emergency, which allowed expanded outdoor seating for restaurants under a Temporary Outdoor Dining (TOD) Program to ensure businesses had the greatest ability to operate successfully during the COVID-19 economic recovery. The TOD program allowed expanded seating on sidewalks and for parklets. After the City's Declaration of Emergency expired, the TOD Program expired, but many businesses desire to retain their expanded outdoor seating.

On March 22, 2021, Ordinance No. 4936-21 updated the regulations for sidewalk cafe seating to reflect lessons learned from the pandemic and provide additional flexibility for business owners and comfort for pedestrians. However, in the case of the parklets, the regulations have not yet been updated. On November 29, 2021, the City Commission declared a Zoning in Progress for parklets (Ordinance No. 4921-21) in order to facilitate the development and adoption of revised regulations and standards for parklets. The City, in conjunction with the Downtown Development Authority, continue to work on developing revised regulations to the City's code regarding the utilization of parklets for businesses within the City. While the revised parklet regulations are being drafted, staff desires to establish an extension to the Zoning in Progress for parklets. No new applications to use a parklet will be accepted until new parklet regulations are adopted, or until the Zoning in Progress expires on November 29, 2023.

Existing parklets will be allowed to continue to operate under the Temporary Outdoor Dining Program regulations and the existing ordinances, with two (2) additional conditions:

1. Businesses with parklets located in metered parking spaces shall be required to pay the parking space meter bagging fee as amended, effective on February 1, 2023;

2. Parklet meter fees approved through Ordinance No. 4921-21 shall be waived from January 1, 2022 through January 1, 2023; and
3. Parklets with tents shall be required to remove the tents. Umbrellas may be used in accordance with the existing regulations.

Ordinance No. 5030-22 establishes an extension to the Zoning in Progress for up to one (1) year for the development of new regulations for parklets in the public right-of-way.

Commission District 1: Commissioner Cathleen Ward.

Commission District 3: Commissioner Christy Fox.

- 10.4. Public Hearing and First Reading of Ordinance No. 5026-22 amending Chapter 94 Article IV: Downtown Master Plan, Sec. 94-131 - Incentive Programs - General; to modify and clarify special provisions regarding historic structure relocation and designation.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5026-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING ARTICLE IV - DOWNTOWN MASTER PLAN URBAN REGULATIONS - SECTION 94-131 – INCENTIVE PROGRAMS – GENERAL (B.)(5.); TO MODIFY CERTAIN REQUIREMENTS REGARDING ELIGIBLE HISTORIC STRUCTURES AND CLARIFY SPECIAL PROVISIONS FOR THE RELOCATION AND DESIGNATION OF ELIGIBLE HISTORIC STRUCTURES; DECLARING THESE PROPOSED ZONING TEXT AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE ZONING AND LAND DEVELOPMENT REGULATIONS OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5026-22 amending Article IV, Downtown Master Plan Urban Regulations - Section 94-131 - Incentive Programs - General (b.)(5.).

Background Information:

A request by Harvey E. Oyer III, of Shutts & Bowen LLP, on behalf of CityPlace North I LLC for a text amendment to the Zoning and Land Development Regulations, Article IV-Downtown Master Plan Urban Regulations, Section 94-131 Incentive Programs - General to modify and clarify special provisions regarding eligible historic structures.

Many of the Downtown's Incentive Districts identified within the Zoning Atlas Figure 4 - TDR Sending and Receiving Sites map contain structures eligible to designate themselves as historically significant. As a result, many developments seeking to utilize these incentives must integrate said structures into the proposed new development; often times this method is utilized by incorporating façade elements, preserving portions or the structure wholly. The proposed language allows for eligible historic structures, which perhaps will not integrate optimally, or be appropriately positioned in relation to the new developments, to be preserved, but relocated to areas more suitable to its scale, context, and use.

The City's Planning staff recognizes the request and finds the suggested text amendment to be an adequate alternative, which preserves the eligible historic buildings, maintains the structural integrity, appropriately relocates, and subsequently formally designates the eligible historic structure.

This code revision was heard by the Downtown Action Committee on December 14, 2022, with an unanimous recommendation of approval (8-0); and by the Planning Board on November 15, 2022, also with an unanimous recommendation of approval (7-0). The results of both meetings will be presented to the City Commission.

Commission District 3: Commissioner Christy Fox.

- 10.5. Public Hearing and First Reading of Ordinance No. 5032-23 approving an amendment to the Downtown Master Plan Housing Incentive Program; and

Resolution No. 228-22 approving the Downtown Master Plan Housing Incentive Program implementation guide.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5032-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ZONING AND LAND DEVELOPMENT REGULATIONS AT ARTICLE IV - DOWNTOWN MASTER PLAN, SECTION 94-134 DOWNTOWN MASTER PLAN HOUSING INCENTIVE PROGRAM, TO MODIFY CERTAIN REQUIREMENTS AND CLARIFY SPECIAL PROVISIONS; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 228-22 (FOR DISCUSSION PURPOSES ONLY): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE DOWNTOWN MASTER

PLAN HOUSING INCENTIVE PROGRAM IMPLEMENTATION GUIDE; ESTABLISHING COMPLIANCE REQUIREMENTS; AFFORDABILITY REQUIREMENTS; APPLICATION PROCESS; INCENTIVES; AND MONITORING REQUIREMENTS; PROVIDING AND EFFECTIVE DATE AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5032-23 amending the Zoning and Land Development Regulations at Article IV Downtown Master Plan Section 94-134 Downtown Master Plan Housing Incentive program. This motion is based on the factual testimony presented, the staff report, the recommendation of the Planning Board, and the findings that the amendment 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.

Resolution No. 228-22 adopting the Downtown Master Plan Housing Incentive Program implementation guide will be considered at second reading.

Background Information:

On August 9, 2021, the City Commission adopted Ordinance No. 4958-21 establishing the Downtown Master Plan (DMP) Housing Incentive Program (HIP). The incentive allowed additional development capacity and height for eligible properties in exchange for the provision of residential units for families with income between 60%-100% of the Area Median Income (AMI).

Since the adoption of the program, staff has been working with developers in the implementation of the program and identifying possible details that require adjustment or clarification. Two (2) projects have been submitted utilizing the new DMP Housing Incentive Program. One is a 25-story residential project located at Fern Street and Quadrille Boulevard (Residences of Palm Beach West), and the other is a 10-story residential project at Datura Street and Tamarind Avenue (Solana). The two (2) projects have the potential to produce approximately 67 units (63 units from Residences of Palm Beach West and 4 from Solana) for families with incomes between 60% and 100% of the Area Median Income (AMI).

Based on feedback received by staff during the first year of implementation, staff is recommending some adjustments to the program.

In addition to the proposed amendment to the ZLDRs, staff is presenting to the City Commission, the DMP Housing Incentive Program Implementation Guide. The implementation guide includes further details on requirements for the program such as affordability controls, application process, additional incentives and monitoring requirements as well as the specific language for the Community Redevelopment Agency supplemental incentive. The implementation guide is included in

Resolution No. 228-22, and it will be presented for approval during the second reading of Ordinance No. 5032-22.

A companion CRA Resolution No. 22-50 will be presented to the CRA Board for approval of the TIF incentive program that supports the DMP Housing Incentive Program.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

- 10.6. Public Hearing and First Reading of Ordinance No. 5033-23 amending the Commission Rules of Procedure to regulate connection to the City's network and equipment.

Originating Department:

Information Technology

Ordinance/Resolution:

ORDINANCE NO. 5033-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 2 (ADMINISTRATION), ARTICLE II (CITY COMMISSION), SECTION 2-31 (RULES OF PROCEDURE) REGARDING THE USE OF TECHNOLOGY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5033-23 on first reading and schedule second reading.

Background Information:

In 2017, the Mayor adopted Technology Use Policy 1-28. One of the stated purposes of the Technology Use Policy is "to protect City networks and infrastructure resources against threats." The policy provides that only City sanctioned and approved removable media for City official purposes can be used on City equipment. The policy is applicable to all employees, contractors, consultants, temporary staff, and other City workers.

In order to further protect the City's network and infrastructure, it is necessary to adopt a policy applicable to the public's use of City equipment during public meetings. The City Commission's Rules of Procedure is codified in Section 2-31 of the City of West Palm Beach Code of Ordinances. Ordinance No. 5033-23 amends section 2-31 to prohibit the public from connecting to the City's network and from attaching removable media to City equipment.

- 10.7. Resolution No. 87-22 amending the Comprehensive Fee Schedule for Sidewalk Café permits.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 87-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE COMPREHENSIVE FEE SCHEDULE FOR SIDEWALK CAFÉ PERMITS; PROVIDING FOR THE EXPIRATION OF EXISTING SIDEWALK CAFÉ PERMITS AND RENEWAL UNDER THE REVISED REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 87-22.

Background Information:

On March 22, 2021, the City Commission approved Ordinance No. 4936-21 amending the regulations regarding sidewalk café permits. At the time, staff proposed a uniform usage fee charge per square feet of right of way utilized for sidewalk café seating. The City Commission asked Planning staff to revise the annual usage fees in consideration of the different market conditions between downtown businesses and Northwood Village businesses, as well as to perform more outreach to gathered merchants' input.

As a result, Planning staff has revised the Sidewalk Café usage fee and recommends the following fee schedule:

- An application fee: \$150
- An annual renewal fee: \$50
- An annual fee per square feet utilized in excess of 50 square feet:
 - \$4.00 per square foot of permitted area in excess of 50 square feet for sidewalk café seating for restaurants within the DMP.
 - \$2.00 per square foot of permitted area in excess of 50 square feet for sidewalk café seating for restaurants within Northwood Village, or other City-owned right-of-way.
- For applicants utilizing 50 square feet or less area, the applicant will ONLY pay the Application or Renewal fee.

The proposed fees are based on an evaluation of similar sidewalk café fees assessed by neighboring municipalities, as well as the difference in

rental price per square foot of commercial space between areas along Clematis Street and Northwood Road. In addition, a reduction in fees, and a simplified approach, which includes a carve out for minimal outdoor seating areas for smaller business revisions came from taking into consideration merchants' feedback.

Planning staff brought this item forward to City Commission on April 18, 2022 with a revised proposal. City Commission continued the item to request that staff meet with both the Northwood and Downtown business owners to provide a comprehensive overview and discuss the fee schedule further.

On May 5, 2022, Planning staff attended a Northwood merchant meeting providing details of staff's original proposal and heard the merchant's and resident's proposals or alternatives which included: keeping the existing fees, deferring fees until further development of the Northwood area, seasonal fees, reduced first-time application fees, payment plans, and removing the usage fee from the proposal.

On May 11, 2022, staff attended a Downtown merchant meeting at the Downtown Development Authority (DDA) office to provide details of Planning staff's original proposal and heard the merchant's and resident's proposals or alternatives which included: a tiered fee system based either on restaurant size, number of seats, or number of tables.

Both meetings had expressed a desire for application fees collected to be reinvested or put toward City events programming, streetscape cleaning, washing, and maintenance.

On August 9, 2022, Planning staff held a Zoom meeting with the DDA requesting that the Downtown merchants provide additional details into their tiered fee proposal. No merchants attended the meeting despite invitations being sent out to several persons.

On September 19, 2022, Planning staff brought this item forward to City Commission with a revised proposal. City Commission directed staff to do more outreach and come back with per square foot alternatives that consider different types of spaces/uses.

On November 2, 2022 and November 17, 2022, City staff met with Downtown and Northwood Village merchants to gather their feedback, which included: reducing the per square feet fee, accommodating small businesses with limited outdoor footprint and the desire of some merchants to have a tiered approach.

Staff brings forward Resolution No. 87-22 with the revised proposal of a per square feet usage fee. It is staff's professional opinion that this is the

most effective and fair way to assess a fee for utilizing the City's property and the most commonly used. According to the Downtown Development Authority, the average annual per seat revenue for a downtown establishment is approximately \$31,359 (\$86 per day). With a dozen seats, the total revenue generated would exceed \$376,300 making the typical sidewalk café fee a small fraction of the revenues generated.

The new fee schedule will be applicable to Sidewalk Cafes City-wide, but primarily those located within the Downtown and Northwood Village, District 1 and District 3.

Commission District 1: Commissioner Cathleen Ward.

Commission District 3: Commissioner Christy Fox.

11. PUBLIC HEARING - QUASI-JUDICIAL

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

11.1. Public Hearing and Second Reading of Ordinance No. 5023-22 designating the Florida Public Utilities Company (FPUC) building on the West Palm Beach Register of Historic Places.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5023-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING 401 SOUTH DIXIE HIGHWAY AS A HISTORIC SITE ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5023-22 on second reading.

Background Information:

This application is for the designation of the structure at 401 South Dixie Highway, West Palm Beach, Florida, formerly known as the Florida Public Utilities Company (FPUC) building.

The FPUC Office Building, built in 1965, in downtown West Palm Beach embodies the distinctive characteristics of the mid-century modernist architecture. The Building meets local register criteria A and D. It is significant as an important element of the commercial history of West Palm Beach and a mainstay as the downtown evolved and developed around it.

It is also significant as a representation of the work of the firm founded by renowned architect, Marion Sims Wyeth (1889-1982), whose work over 55 years made him one of Palm Beach's most prolific architects with many notable commissions and as he helped shaped the image of West Palm Beach and neighboring Palm Beach.

On October 25, 2022, the Historic Preservation Board unanimously recommended approval (7 - 0) to designate this building.

The item was approved on first reading on December 12, 2022.

Commission District 3: Commissioner Christy Fox.

- 11.2. Public Hearing and First Reading of Ordinance No. 5028-22: A request by Jon Schmidt, of Schmidt Nichols, on behalf of Rosarian Academy Inc., for an abandonment of the terminus portion of Eucalyptus Street (155' east of North Olive Avenue) and the alleyway between 7th Street and Eucalyptus Street, generally located west and adjacent to the Rosarian Academy; consisting of approximately 0.23 acres or 10,101 square feet.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5028-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING THE TERMINUS PORTION OF THE EUCALYPTUS STREET RIGHT-OF-WAY (APPROXIMATELY 155 FT. EAST OF N. OLIVE AVENUE) AND THE ALLEYWAY BETWEEN 7TH STREET AND EUCALYPTUS STREET, CONSISTING OF APPROXIMATELY 0.23 ACRES (10,101 SQUARE FEET), GENERALLY LOCATED WEST AND ADJACENT TO THE ROSARIAN ACADEMY; RESERVING MAINTENANCE, DRAINAGE, AND UTILITY EASEMENTS; AUTHORIZING EXECUTION OF A DISCLAIMER OF INTEREST IN THE AFORESAID RIGHTS-OF-WAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5028-22 pursuant to the criteria contained in Section 78-217 of the City Code.

Background Information:

A request by Jon Schmidt, of Schmidt Nichols, on behalf of Rosarian Academy Inc.

The subject property, the terminus portion of Eucalyptus Street (155' east of North Olive Avenue) and the alleyway between 7th Street and Eucalyptus, are approximately 45-foot and 25-foot wide right-of-way and

alleyway respectively, located east of North Olive Avenue, between 7th Street and 8th Street, just east of the Rosarian Academy. The Eucalyptus Street portion is encumbered by underground public utilities and overhead FPL power lines.

The applicant, who is also the owner of the tracts of land immediately north, south, and east of the right-of-way and alleyway, desires to vacate the right-of-way and alleyway to assemble the tracts for future redevelopment to the Rosarian Academy.

Pursuant to the appraisal performed by Robert Banting of Anderson & Carr, the applicant will pay the City \$115,000 for the Eucalyptus parcel and \$520,000 for the alley parcel.

Commission District 3: Commissioner Christy Fox.

- 11.3. Public Hearing of Resolution No. 248-22 regarding a Class A Special Use Permit to allow for the construction and placement of a dock and boatlift outside the middle one-third of the subject lot located at 234 Arlington Road.

The above-referenced request is being made by Amy D. Bahl, Esq., on behalf of Donald Kirkham, III and Monica Lynn Makarovich.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 248-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CLASS A SPECIAL USE PERMIT TO CONSTRUCT A DOCK AND BOATLIFT OUTSIDE THE MIDDLE ONE-THIRD OF THE LOT LOCATED AT 234 ARLINGTON ROAD; DECLARING THE DEVELOPMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; GRANTING WAIVERS TO THE ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 248-22, approving a Class A Special Use Permit to allow for the construction of a dock and boatlift outside the middle one-third of the lot located at 234 Arlington Road. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, the findings that the request complies with the Comprehensive Plan, and the standards in Section 94-36(e)(3) through (5), 94-313(a)(3) and 94-273(a)(2) of the City's Zoning and Land Development Regulations.

Background Information:

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

The subject property is located on the south side of Arlington Road, within a single-family residential area. The rear (south side) of the property has access to, but non-contiguous riparian rights to the C-51 Canal. Contiguous access to the canal is separated by a strip of grassy upland/right-of-way owned by the South Florida Water Management District (SFWMD).

Per Section 94-313(a)(3)(h) of the Zoning and Land Development Regulations (ZLDRs), a dock and all mooring-related structures associated with the dock must be placed within the middle one-third of the lot. Since the subject property is a 75-foot wide lot, all components of the dock structure (including the boatlifts, pilings, etc.) must be placed within the center 25-foot portion of the lot.

The applicant proposes to construct and locate a 35-foot by 40-foot L-shaped dock with an approximately 14-foot wide by 14-foot long 20K vertical boatlift (at the southwest corner of the dock structure) outside the center 25-foot portion of the property. The applicant states that a dock designed in compliance with the ZLDRs would be impractical and prevent the applicant from having an adequate dock to enjoy and provide for their mooring-related needs. To address this, the applicant is seeking a waiver to locate the dock and boatlift outside the middle one-third of the lot. The waiver request is summarized below:

**Waiver Requested: Section 94-313(a)(3)(h)*
Location and Setbacks (Middle 1/3 of the Lot)**

Setback Location	Required	Proposed	Waiver
East Property Line	25 feet	10 feet	15 feet
West Property Line	25 feet	15 feet**	10 feet

*Docks, "tees," dolphins, pilings, boatlifts, and other mooring-related facilities shall be constructed within the middle one-third of the lot on which a dock is constructed, as extended into the waterway.

**Applicant had initially requested a 10-foot setback from the west property line; the applicant has since increased the setback from the west property line to 15 feet.

Per the Zoning and Land Development Regulations (ZLDRs), accessory docks are permitted by-right on properties possessing riparian rights, provided the construction of the dock (and all mooring-related structures associated with the dock) conform to the standards in Section 94-313(a)(3) for dimensional and locational requirements. In the event the applicant cannot meet all the standards set forth in the ZLDRs, the applicant may request waivers from the standards with a Class A Special Use Permit, to be reviewed and consider by the City Commission.

The applicant initially requested the dock and boatlift to be setback ten (10) feet from the east and west property lines, which Planning staff has

supported. The applicant provided impact statements from multiple Florida licensed marine engineers stating that the location of the dock and boatlift setback ten (10) feet from the east and west property lines would not impede upon the riparian rights of the immediate neighbors. Despite the impact statements presented, the immediate neighbor to the west (240 Arlington Road) has expressed safety concerns with the 10-foot setback location for the dock and boatlift from the west property line and objected to the waiver request. The applicant has since increased the setback of the dock and boatlift to fifteen (15) feet from the west property line.

The Planning Division found the request satisfies the required standards found within the City's Zoning and Land Development Regulations. As such, staff is recommending approval of the request, subject to the conditions outlined in Resolution No. 248-22.

NEIGHBORHOOD OUTREACH AND PUBLIC COMMENT

The applicant has reached out to their neighbors in the area regarding the application for the Class A Special Use Permit and the layout for the proposed dock and boatlift. A total of nineteen (19) support letters from property owners with an existing dock and/or access to the C-51 Canal (including the immediate neighbor to the east, and the two (2) neighbors across the subject property on the south side of the Canal) were provided as part of the application.

As noted above, the immediate neighbor to the west expressed concerns regarding the impact of the waiver request of the dock and boatlift from the west property line and their ability to navigate their vessel(s)/watercraft(s) safely to their property. The western neighbor provided an objection letter, as well as opinion letters from two (2) boat captains to Staff.

Since the Planning Board meeting (heard on August 16, 2022), the applicant has deferred moving forward to the City Commission with the Class A Special Use Permit application in hopes of reaching a resolution with the western neighbor. Unfortunately, a resolution could not be reached between the applicant and western neighbor.

PLANNING BOARD

After a Public Hearing on August 16, 2022, the Planning Board recommended denial (3-2) of the request.

Shortly before the Planning Board meeting, the applicant and the western neighbor agreed to three (3) conditions regarding the dock and boatlift. A formal letter from the legal representative of the western neighbor was provided to Planning staff summarizing the agreed upon terms and conditions between the neighbors and requested that the conditions be

included in the recommendation of approval. It was also requested in the letter that if the Board did not agree to the conditions, that the matter be continued to the next Planning Board meeting. Planning staff had reviewed the conditions provided, and although staff did not have an issue with increasing the dock and boatlift setback from 10 to 15 feet from the west property line, staff had concerns regarding the enforcement of the other two (2) conditions, which specifically requested that vessels and/or watercrafts could not be parked or encroach within fifteen (15) feet of the western property line, or be parked or encroach beyond the 40-foot maximum allowable dock length at the south end of the approved dock into the navigable channel. The concerns raised by staff included monitoring of the dock, accessibility for code enforcement officers onto private property should there be a violation, and the fact that encroachment into the navigable channel is strictly enforced and regulated by the SFWMD (not the City of West Palm Beach). Unfortunately, due to a medical procedure with the western neighbor's legal representative, the issues with the conditions raised by staff were not resolved prior to the meeting, and the western neighbor objected to moving forward with any modification to conditions without legal representation. The Board ultimately recommended denial of the Class A Special Use Permit to the City Commission with hope that the neighbors could resolve the issues and conditions prior to City Commission.

As noted above, since the Planning Board meeting, the applicant tried to work out a resolution with the immediate neighbor to the west. The applicant explored reconfiguring the location of the dock and boatlift; however, it was ultimately decided that providing an additional 5-foot setback from the west property line (increasing the west property line setback to a total of 15 feet) was the most practical solution.

PUBLIC NOTICE

Individual notices were mailed to all property owners within 500 feet of the property, and a sign was posted on the subject property. Resolution No. 248-22 was also advertised in the Palm Beach Post on October 7, 2022.

Commission District 5: Commissioner Christina Lambert.

- 11.4. Resolution No. 303-22 approving the plat entitled "Heyniger Replat of Lots 3, 4, 5, and 6, Block Q, Prospect Park South."

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 303-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MINOR SUBDIVISION (REPLAT) OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "HEYNIGER REPLAT OF LOTS 3, 4,

5, AND 6, BLOCK Q, PROSPECT PARK SOUTH" CONSISTING OF FOUR (4) SEPARATE LOTS, AND CONTAINING A TOTAL OF APPROXIMATELY 3.64 ACRES, LOCATED ON THE EAST SIDE OF WASHINGTON ROAD, GENERALLY NORTH OF ROOSEVELT PLACE AND APPROXIMATELY 200 FEET SOUTH OF ROYAL PALM ROAD; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 303-22 creating the plat entitled "Heyniger Replat of Lots 3, 4, 5, and 6, Block Q, Prospect Park South." This motion is based upon the application submitted, the staff report, factual testimony, and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-342 of the City's Zoning and Land Development Regulations.

Background Information:

The subject property is 3.64 acres in size and is located on the east side of Washington Road, generally north of Roosevelt Place and approximately 200 feet south of Royal Palm Road. The subject property is currently comprised of three (3) separate residential lots with existing residences and accessory structures on each of the three lots. The lots are located within the Prospect Park Historic District and have a current zoning designation of Historic Single-Family High Density Residential, Context 5 (SF14-C5).

The applicant is requesting a minor subdivision (replat) to reconfigure the existing three (3) residential lots within the subject property into four (4) new lots. The existing structures within the subject area will be relocated within the proposed new lot lines. The relocation of the existing contributing historic structures, new construction and the layout of all existing and proposed structures within the new lot lines of the proposed subdivision have already received approval by the City's Historic Preservation Board (HPB). Additionally, Planning staff has coordinated with Historic Preservation on the approvals issued by the HPB and has reviewed the site plan for compliance with the ZLDRs (i.e. building setbacks for the zoning district, etc.).

Based on staff's review of the requested minor subdivision/replat, each of the proposed new residential lots meets the minimum lot size and dimensional requirements for the SF14-C5 zoning district.

STANDARDS: The plat complies with the subdivision General Design Standards of Section 94-342 of the Zoning and Land Development Regulations.

PLANNING BOARD: As a Minor Subdivision, the subject plat was not required to be reviewed by the 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. 303-22 was advertised in the Palm Beach Post on December 17, 2022.

Commission District 5: Commissioner Christina Lambert.

12. COMMENTS FROM THE PUBLIC

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

13. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

14. ADJOURNMENT

*Pursuant to Resolution No. 179-95, adopted according to the provisions of Section 286.0115, Florida Statutes, members of the Commission shall disclose on the record: 1) ex-parte communications - verbal or written 2.) written communications shall be placed in the record; and 3) site visits, investigations, etc. shall be disclosed.

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