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

City Administrator Faye W. Johnson  
City Attorney Kimberly Rothenburg  
City Clerk Shaquita Edwards

**City of West Palm Beach  
City Commission  
DRAFT Agenda  
Monday, April 17, 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. PROCLAMATION

- 6.1. Proclaiming April as Water Conservation Month. Proclamation to be accepted by Elaine Christian, Sustainability Program Coordinator, Office of Sustainability.

**Originating Department:**  
Public Utilities

## 7. CONSENT CALENDAR

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

- 7.1. Minutes of the Regular City Commission Meeting of March 6, 2023.

**Originating Department:**  
Mayor's Office

- 7.2. Minutes of the Regular City Commission Meeting of March 20, 2023.

**Originating Department:**  
Mayor's Office

- 7.3. Resolution No. 86-23 authorizing the Mayor to execute an agreement with Palm Beach County for the Low-Income Household Water Assistance program (LIHWAP) to provide financial assistance to low income households to pay City water and wastewater charges.

**Originating Department:**  
Public Utilities

**Ordinance/Resolution:**

RESOLUTION NO. 86-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING EXECUTION OF THE LOW INCOME HOUSEHOLD WATER ASSISTANCE VENDOR AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The U.S. Department of Health and Human Services has established the Low-Income Household Water Assistance Program (LIHWAP) to assist qualified households with low incomes to pay bills due for water and/or wastewater charges. A program priority is to ensure service is either not disconnected or that service is restored for those low-income households in arears. This is a Federally supported program funded through a federal grant and routed to Palm Beach County to administer through the Florida

Department of Economic Opportunity. This program annually receives an allocation funding outside of the County budgeting process.

Since its launch in November 2022, the program has assisted over 220 households in the City, with payments totaling \$118,102. Palm Beach County administers the program and notifies our Public Utilities Department when a household has been approved for financial assistance with their City utility bill. The County makes payments to the City on the customer's behalf. It is the City's practice to suspend actions on utility accounts upon notification from the County of a participating household, enabling the account to continue receiving service. The primary goal of LIHWAP is to retain continuity of water services to low-income households in Florida with an emphasis on prevention of disconnection and restoration of water utility services.

Historically, the City has accepted payments to customer accounts from help agencies such as Community Services of Palm Beach County, Human Services, Veterans Office, Vickers House, as well as various houses of worship all participating to help those in need.

The Florida Department of Economic Opportunity has strongly encouraged vendor agreements with participating utilities through an annual agreement endorsement by the municipality. Previously, this was a less formal program without any signed agreement.

**Fiscal Note:**

Fiscal impact varies by participant need.

- 7.4. Resolution No. 91-23 authorizing contracts for master property insurance, water system property insurance, excess liability insurance, excess workers' compensation insurance, crime insurance, and miscellaneous insurance policies for policy year 2023-24; and

Resolution No. 96-23(F) utilizes Self Insurance fund balance to provide appropriations for the increased general liability premiums.

**Originating Department:**

Human Resources

**Ordinance/Resolution:**

RESOLUTION NO. 91-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING APPLICATION FOR AND EXECUTION OF ALL NECESSARY CONTRACTS FOR MASTER PROPERTY INSURANCE, WATER SYSTEM PROPERTY INSURANCE, EXCESS LIABILITY, EXCESS WORKERS' COMPENSATION, CRIME INSURANCE, ECR PROPERTY GENERAL LIABILITY AND OTHER INSURANCE, PUBLIC OFFICIALS BOND, CITY CENTER PROPERTY INSURANCE,

FIDUCIARY LIABILITY, AND OTHER MISCELLANEOUS INSURANCE, FOR THE PERIODS OF MARCH 1, 2023 – FEBRUARY 28, 2024, AS RECOMMENDED BY THE CITY'S INSURANCE BROKER, ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC.; AUTHORIZING PAYMENT OF ALL INSURANCE PREMIUMS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 96-23(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 SELF INSURANCE FUND BUDGET TO PROVIDE APPROPRIATIONS FOR AN INCREASE IN GENERAL LIABILITY PREMIUMS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The City, through the broker of record, Arthur J. Gallagher Risk Management Services, Inc., obtained master property insurance, water systems property insurance, excess liability, excess workers' compensation, crime insurance, and other miscellaneous insurance coverages for the 2023-2024 policy year. Master property insurance, utility systems insurance, excess liability insurance, excess workers' compensation insurance, and crime insurance coverages will be bound effective March 1, 2023. Miscellaneous other coverages will bind as they expire. The City is self-insured for workers' compensation, automobile liability, and general liability up to various self-insured retention levels. The City purchases excess insurance policies for liability claims exceeding \$350,000 and for workers' compensation claims exceeding \$500,000.

Section 66-94 of the City Code requires that contracts for insurance be approved by the City Commission.

Resolution No. 91-23 authorizes contracts and binders for the described insurance coverages.

Resolution No. 96-23(F) utilizes the Self Insurance fund balance to provide additional budget appropriations (\$768,918) for the increased cost of general liability premiums. The estimated available Self Insurance Fund balance remaining is \$696,491.

**Fiscal Note:**

Will approve a total not-to-exceed the sum of \$4,337,954 for the specified insurance coverages. Approval will also provide appropriations for increased General Liability premiums in the amount of \$768,918 from the Self Insurance fund balance.

- 7.5. Resolution No. 95-23 approving a Federally Funded Sub-award and Grant Agreement with the Florida Division of Emergency Management to accept a grant in the amount of \$33,411 as reimbursement of eligible costs to the City resulting from DR-4673-Hurricane Ian.

**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 95-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A FEDERALLY FUNDED PUBLIC ASSISTANCE AGREEMENT BETWEEN THE STATE OF FLORIDA, DIVISION OF EMERGENCY MANAGEMENT AND THE CITY OF WEST PALM BEACH TO ACCEPT A GRANT TO REIMBURSE THE CITY FOR ELIGIBLE EXPENSES FROM DR-4673-HURRICANE IAN; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

**Background Information:**

On September 29, 2022, President Biden issued a major disaster declaration (FEMA DR-4673) for the State of Florida as a result of Hurricane Ian. This declaration authorized FEMA to provide public assistance and hazard mitigation grants for eligible states. The State of Florida received public assistance grant funds from the Federal Emergency Management Agency (FEMA) and is authorized to sub-grant a portion of such funds to the City of West Palm Beach pursuant to the requirements of federal and state law.

The City desires to enter into a Federally-Funded Sub-award and Grant Agreement with the State of Florida, Division of Emergency Management (FDEM), to receive grant funds and reimbursement for eligible costs and expenses resulting from Hurricane Ian.

The agreement starts the process for reimbursement based on a FEMA project worksheet obligation. Each successive FEMA project worksheet obligation may trigger modifications until final project closeout.

The City's estimate of FY 2022 unbudgeted expenses resulting from Hurricane Ian is approximately \$81,000, of which approximately \$33,411 are eligible expenses to be reimbursed by FEMA at 100% per FEMA Amendment No. 13 to the Notice of a Major Disaster Declaration issued November 28, 2022.

- Exhibit A: Agreement Number Z3067
- Exhibit B: FEMA Amendment No. 13 to Notice of a Major Disaster Declaration

Accounting project number 22000001 was created to identify Hurricane Ian related revenue and expenses. Revenue will be recognized within the following fund accounts when the City receives reimbursement:

- \$15,078 to General Fund 001-014200-000-331100-22000001
- \$8,805 to Water and Sewage Systems Revenue Fund 450-014200-000-331100-22000001
- \$9,394 to Stormwater System Fund 481-014200-331100-22000001
- \$134 to Information Technology Fund 501-014200-331100-22000001

**Fiscal Note:**

Estimated reimbursement revenue of \$33,411.

## 8. RESOLUTIONS

- 8.1. Resolution No. 92-23(F) authorizes the amendment of the General, Waterfront Real Estate Management and Capital Acquisition fund budgets, recognizing transfers from the Community Redevelopment Agency [Resolution No. 23-5(F)] to provide funds for Police e-bikes and golf carts, a Waterfront Summer Jazz Series, Seaboard Train Station repairs and Engineering consulting services.

**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 92-23(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, WATERFRONT DISTRICT, REAL ESTATE MANAGEMENT AND CAPITAL ACQUISITION FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR VARIOUS MATERIALS AND SERVICES EXPENDITURES FOR THE PARKS AND RECREATION, POLICE AND ENGINEERING DEPARTMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 92-23(F).

**Background Information:**

Sections 163.370 and 163.387, Florida Statutes, allow the annual budget of a Community Redevelopment Agency (CRA) to provide for innovative policing efforts and the installation or reconstruction of utilities, and other initiatives identified in the Redevelopment Plan, as supplemented by the Strategic Finance Plan.

The West Palm Beach CRA is doing a mid-year budget adjustment through Resolution No. 23-5(F), that impacts multiple funds with transfers totaling \$626,560. This Resolution No. 92-23(F) recognizes these transfers and provides appropriations as follows:

**Police/General Fund: \$120,400**

The Police Department is in need of additional funding (\$91,000) to cover contractual obligations entered into during FY 2022 for services within the CRA Districts. These obligations include licensing and maintenance fees for license plate readers installed in the CRA districts, subscription services for up to 40 FUSUS camera donor sites within the district, and other innovative technology software.

The Police department is also receiving funding (\$29,400) through this resolution to modernize and upgrade its current inventory of alternative transportation equipment. These upgrades consist of e-bikes and golf carts which will allow officers to traverse the downtown area rapidly, efficiently, and safely.

**Parks & Rec/Waterfront District Fund: \$40,000**

The Waterfront District Fund is receiving funding for a Summertime Jazz Series.

The City of West Palm Beach, in conjunction with the West Palm Beach Downtown Development Authority, will produce "Jazz on the Waterfront", a Summer Jazz Concert Series in the Lake Pavilion. Jazz on the Waterfront is scheduled for 7pm – 9pm on the third Wednesday of each month on June 21, July 19, and August 16. There will be a nominal admission charge for the 200 anticipated monthly guests who will be encouraged to dine before the event at local downtown restaurants.

The West Palm Beach Downtown Development Authority will be responsible for marketing and public relations, guest surveys, and dessert offerings related to this event. The City of West Palm Beach Community Events Division will book the entertainment and production, coordinate ticket sales and reservations, and provide and set up the venue and cash bar.

**HCD/Real Estate Management Fund: \$345,000**

The Real Estate Management Fund is receiving funding for Seaboard Train Station repairs and maintenance.

As approved by Ordinance No. 4751-17, the City of West Palm Beach and Transit Village PPP-Seaboard, LLC, entered into the Tamarind Parcel Lease Agreement, dated February 2, 2018 which includes the Seaboard Train Station.

The Housing and Community Development Department (HCD) is responsible for managing and monitoring the lease of the property and managing the building maintenance of the station. There are four tenants that operate from the train station: Amtrak, Greyhound Lines, South Florida Regional Transportation Authority (Tri-Rail), and Pizza Grill. Over the last year, the City has received multiple reports from the tenants identifying various repair and/or refurbishment items, while notating significant health and safety issues. Due to the age of the train station and lack of maintenance of the building, there are concerns about the safety of the structure. One major area of concern is the roof. The existing roof is in need of replacement to prevent future leaking and to mitigate safety concerns. Other non-exhaustive items that are in need of attention also include the mitigation of termites, along with waterproofing of exterior walls, windows and window frames.

Amendment No. 1 to the Transit Village, LLC Tamarind Parcel Lease Agreement (contract 20165) provides that the City will develop a list of maintenance items needed at the Seaboard Train Station. Transit Village will review and approve certain proposed maintenance repair items and proposed costs. The Community Redevelopment Agency (CRA) will fund the maintenance repair and refurbishment items and the City will contract to have the work done. Upon completion of the maintenance items, the CRA will provide the final costs to Transit Village. Transit Village will reimburse the CRA for the maintenance costs pursuant to the Incentive Agreement, as amended. Failure to make such reimbursement will result in termination of the Seaboard Station Lease. Previously completed as well as future repairs have reached an estimated total of \$345,000.

**Engineering/Capital Acquisition Fund: \$121,160**

The Capital Acquisition Fund is receiving funding for consulting services. The funding will be used for providing inspection services for the Nora Streetscape and Utility Improvements project. The project involves utility installation of City-owned facilities requiring extensive construction oversight. In order to provide the needed level of inspection oversight, the City has engaged an Engineering consultant firm to provide those services to supplement the City's staff resources.

The CRA companion item is Resolution No. 23-5(F).

**Fiscal Note:**

Approval authorizes the amendment of the General, Waterfront, Real Estate Management and Capital Acquisition fund budgets, recognizing transfers from the Community Redevelopment Agency and to provide appropriations for Police e-bikes and golf carts, a Waterfront Summer Jazz Series, Seaboard Train Station repairs and Engineering consulting services.



## 9. PUBLIC HEARING

- 9.1. Public Hearing and Second Reading of Ordinance No. 5039-23 amending Chapter 94, Article VII - Special Districts, Section 94-203 - Community Service Planned Development (CSPD) District; to modify language regarding the permissible location and required underlying zoning.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5039-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE VII - SPECIAL DISTRICTS, SECTION 94-203 - COMMUNITY SERVICE PLANNED DEVELOPMENT (CSPD) DISTRICT; TO MODIFY LANGUAGE REGARDING THE PERMISSABLE LOCATION AND REQUIRED UNDERLYING ZONING, ADDING AN EXCEPTION FOR EXISTING PD'S WITHIN THE DMP; 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. 5039-23.

**Background Information:**

A request by Jon Schmidt, on behalf of Rosarian Academy Inc., for improvements to the Rosarian Academy school property. As part of these improvements, the applicant is seeking to process three (3) separate applications:

1. A text-amendment to modify language allowing for the expansion of the planned development boundary or allowing the rezoning of Downtown Master Plan (DMP) subdistricts directly into Community Service Planned Developments (CSPD) without an underlying Community Service (CS) zoning designation.
2. An expansion of the boundary of the existing school CSPD by incorporating approximately 1.79 acres through rezoning of right-of-way lands previously abandoned (Approved under Ordinance No. 5028-22 by City Commission on January 23, 2023) and parcels adjacent to the school which are zoned Loftin District Residential (LD-R) and Loftin District - 5 (LD-5).
3. Major Planned Development Amendment to the Rosarian Academy CSPD to do the following:

- The addition of a 150' x 280' athletic field;
- Relocation of early learning classrooms located at 800 N Olive;
- Reconfiguration of parking onsite;
- Improvements to internalized stacking, drop-off, and vehicular circulation; and
- Update the development regulations based on the expansion of the CSPD and any proposed site plan additions or changes.

With the influx of development throughout the City of West Palm; and specially with the relocation of large businesses, firms, offices, and residents to the Downtown; there has been an increased demand on schools and other community services/amenities. As such, Rosarian Academy is looking to capitalize and facilitate improvements to its downtown campus in order to improve site operations/efficiency and provide minor additions in student capacity.

The City's Planning staff recognizes the request and finds the suggested text amendment to be an appropriate means to achieve the school's proposed changes.

This code revision was heard by the Planning Board on March 21, 2023, where the board made its recommendation of approval with a vote of (6-0).

Commission District 3: Commissioner Christy Fox.

## 10. PUBLIC HEARING - QUASI-JUDICIAL

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

10.1. Public Hearing and Second Reading of Ordinance No. 5035-23 designating the Bowser Inn, 311 North Sapodilla Avenue on the West Palm Beach Register of Historic Places.

**Originating Department:**  
Development Services

**Ordinance/Resolution:**  
ORDINANCE NO. 5035-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

DESIGNATING 311 NORTH SAPODILLA AVENUE 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. 5035-23 on Second Reading.

**Background Information:**

This application is for the designation of the site at 311 North Sapodilla Avenue, West Palm Beach, Florida, formerly known as the location of the Bowser Inn, the Seminole Hotel, and the J.C. Lake Building. Additionally, this was the location of the Palm Beach Tribune office, a weekly paper that focused on African-American news items.

The site consists of a primary two-story structure on the corner built in 1927, and two (2) Vernacular one-story buildings that face east built in 1934. The site lies within the Northwest Historic District, but due to alterations over the years, it was classified as non-contributing.

The West Palm Beach Community Redevelopment Agency recently purchased the property and is redeveloping the property. Given the current rehabilitation and the site's importance to the neighborhood, the CRA is seeking an individual designation.

On February 28, 2023, the Historic Preservation Board unanimously recommended approval (7 - 0) to designate this building.

On April 3, 2023, the City Commission unanimously approved the Ordinance on First Reading.

Commission District 3: Commissioner Christy Fox.

- 10.2. Public Hearing and Second Reading of Ordinance No. 5038-23 regarding a request by Harvey E. Oyer, III, of Shutts & Bowen, LLP, on behalf of CityPlace Retail, LLC, for a Major Amendment to the CityPlace Development of Regional Impact (DRI) to Section 3.20 Conversion of Uses of Ordinance No. 4412-12, which contains the current DRI regulations.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5038-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO A DEVELOPMENT OF REGIONAL IMPACT NOW KNOWN AS CITYPLACE DEVELOPMENT OF REGIONAL IMPACT; AMENDING SECTION 3.20 "CONVERSION OF USES" OF ORDINANCE

NO. 4412-12; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT HEREWITH; CONSTITUTING THIS ORDINANCE AS AN AMENDMENT TO THE DEVELOPMENT ORDER APPROVED BY THE CITY OF WEST PALM BEACH IN COMPLIANCE WITH LAW; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5038-23.

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 Major Development of Regional Impact 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.

**Background Information:**

CityPlace is a Development of Regional Impact (DRI) that is governed by Ordinance No. 4412-12, which is the latest amendment of the original DRI approved by Ordinance No. 3098-97. Section 3.3 of Ordinance No. 4412-12 lists the use categories within the DRI and establishes the baseline intensities/densities for each use as shown below.

Retail Use: 850,000 SF  
Office Use: 1,239,182 SF  
Housing: 800 dwelling units  
Hotel: 800 rooms

Minimum 2.5 acres open space as park

Attraction/Recreation:

- a. 2,500 seat Kravis Center Theater
- b. 750,000 SF convention center
- c. 4,000 seat cinema and 500-seat IMAX Theater
- d. 400,500 SF Cultural use

Educational Use: 10,206 SF

Section 3.20 of Ordinance No. 4412-12 establishes that uses may be converted from one category to another, provided that no category may increase by more than 50 percent and no category may decrease by more than 25 percent. For example, the baseline for office is 1,239,182 square feet, so using the full conversion ratio of 50 percent would permit a maximum of 1,858,773 square feet of office or a minimum of 929,387 square feet of office within the DRI. The amount of square footage, hotel rooms or seats that can be converted from one use to another is based on the peak hour vehicle trips generated by the use. The conversion of uses

based on the vehicle trips generated is used so that the overall traffic impact of the DRI does not increase based on the conversion.

The approval of the West Palm Point office building project on the Tent Site exceeded the office baseline of 1,239,182 square feet that has been committed within the DRI (not all the office square footage has been constructed yet). West Palm Point was approved to convert square footage from the Indoor Recreation subcategory in order to increase the amount of office square footage within the DRI by approximately 6 percent over the baseline.

CityPlace Retail, LLC, would like to construct two (2) office towers at the northeast corner of South Rosemary Avenue and Hibiscus Street (former Brio and AMC movie theater block) within the recently approved Rosemary Square East Subarea. CityPlace Retail, LLC, has calculated that the total office square footage for the two towers plus the currently committed office square footage within the DRI would exceed the current conversion cap of 1,858,773 square feet of office. In order to accommodate this additional office square footage, CityPlace Retail, LLC, has requested to increase the maximum cap conversion ratio from 50 percent to 75 percent. The amendment also includes an increase in how much any category may be decreased from 25 percent to 50 percent.

Downtown West Palm Beach and the CityPlace DRI have evolved since the establishment of the original baseline densities and intensities in Section 3.3 and the conversion ratio in Section 3.20. Allowing greater flexibility to change the baseline ratios will permit redevelopment within the DRI to react to development needs, in this case, additional office square footage. Staff has reviewed the applicant's request and does not object to the concept of the change to the conversion ratio. However, staff has analyzed the Section 3.20 language and is proposing additional language to clarify the conversion methodology, so that future conversions are all done in a consistent manner. Staff's updated version of Section 3.20 is included below (Text which is underlined is added. Text which is ~~struck-through~~ is deleted.).

#### SECTION 3.20 CONVERSION OF USES

Subject to Level III site plan approval, the amount of each of the general use categories of Office, Retail, Residential, Attraction/Recreation, Educational and Hotel authorized by this Development Order may be exceeded by way of a conversion from one land use category to another in accordance with the equivalency factors set forth in this provision, provided that (a) the total amount of any land use category that may be converted to another category does not exceed 2550 percent of the amount of development permitted for the land use category from which the conversion is to be made, (b) the conversion does not result in an increase of more than ~~450~~175 percent of the

amount of the general land use category to which the conversion is to be made, and (c) the total of development in the Development of Regional Impact does not exceed the total equivalent development authorized for the Development of Regional Impact. No conversion of square footage designated for the Convention Center Project shall occur without the prior written approval of the Board of County Commissioners of Palm Beach County and the City Commission of the City of West Palm Beach, unless: (1) the property subject to the Convention Center Project is not conveyed to Palm Beach County, or (2) once the property has been conveyed to Palm Beach County, it ever reverts to the West Palm Beach Community Redevelopment Agency. In the event of (1) or (2) above, the 750,000 square feet designated for the Convention Center Project may be converted to another land use category, as described herein above. Except as noted below, conversions shall be made by calculating an equivalency factor based upon the highest peak-hour traffic generation rates found in the latest Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. The equivalency factor shall not include pass by or internal capture calculations. In the event the convention center is not built, the number of residential units permitted in its place will be determined through the Level III site plan review and shall not require a corresponding decrease in other approved land uses. In the event that future phases of the Convention Center Project are not approved through the Level III site plan review by the year 2018, (build-out date), County approval shall not be required for the conversion of the remaining square footage of convention center use to other land uses permitted by this Development Order.

In order to ensure consistent conversion of uses, each use category shall use the following ITE codes and measurement variables for conversion purposes.

<u>Retail Use</u>	820 [Shopping Center
<u>(&gt;150k)] Square Footage</u>	
<u>Office Use</u>	710 [Office Building]
<u>Square Footage</u>	
<u>Hotel</u>	310 [Hotel] Rooms
<u>Theater, Cinema, IMAX Theater</u>	445 [Movie Theater] Seats
<u>Convention center</u>	495 [Recreational Community
<u>Center] Square Footage ***</u>	
<u>Cultural use (Indoor Recreation subcategory)</u>	445 [Movie Theater]
<u>Square Footage (492 [Health/fitness club])</u>	<u>Square Footage</u>
<u>Educational Use</u>	550 [University/College]
<u>Square Footage</u>	

If an ITE code is removed or changed in the current edition from what is listed in this section, then developer's traffic engineer and the City

shall agree on the appropriate new ITE code to use and the new code shall be used for any future conversions.

\*\*\* City staff and Palm Beach County have met since the drafting of this ACM (between 1st and 2nd Reading) to finalize the specific ITE code or other method for the Convention Center use. The final ordinance will reflect the outcome of the meeting.

The ITE Trip Generation Manual includes categories of uses to use to calculate the vehicle trips generated by those uses. Some uses listed in Section 3.3 align with ITE codes and some do not. Code 820, Shopping Center (>150k), is in alignment with the CityPlace use conversion, since CityPlace DRI baseline is 850,000 square feet of retail. The original trip generation calculations for the CityPlace DRI used ITE code 820 for retail, 710 for Office and 310 for Hotel, so these three codes are consistent with the original DRI. The ITE Trip Generation Manual does not include a Convention Center or a Cultural code, so determining the trip generation rate to use for each of these uses can vary among traffic engineers. Staff was unable to locate an ITE code for these uses in the original CityPlace DRI trip generation documents.

A consistent conversion code needs to be established since differing traffic engineers have submitted traffic statements to the City that use different ITE codes for the same DRI use category. For example, the Indoor Recreation subcategory has been used with ITE codes 437, 492, and 495, as part of previous traffic statements submitted by different traffic engineers. The three codes generate different numbers of vehicle trips. Staff reviewed the various traffic statements as well as the definitions in the Zoning and Land Development Regulations to establish the specific codes and their unit of measurement that will be used to ensure consistent conversions.

The update to Section 3.20 also includes the addition of language to clarify that the conversion is based on the highest peak hour traffic generation for a use, since uses have differing AM and PM peak hour impacts and that the conversion from one use to another is based on the actual number of trips generated by the use and that there is no discount in the number of trips based on pass by uses or internal capture.

The changes to Section 3.20 do not approve a specific project. Any specific project will be reviewed for compliance with the development regulations and the CityPlace DRI Capacity Table as a Level III Site Plan Review. The Level III Site Plan Review will require public hearings before the Planning Board and City Commission.

STANDARDS: The Planning Division has determined that the Major DRI Amendment 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.

Compliance with the above referenced standards is detailed in the attached Planning Board Staff Report.

**PLANNING BOARD:** The Planning Board recommended approval (7-0) of the request to the City Commission after a Public Hearing on February 22, 2023.

**CITY COMMISSION:** The City Commission unanimously approved the request at First Reading on April 3, 2023,

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 10.3. Resolution No. 83-23: A request by Donna Isham of Docks and More Construction, on behalf of Katherine Ward, for a Class A Special Use Permit (with waivers) to allow for proposed improvements to an existing dock that includes increasing the length of the existing dock beyond 100 feet, outside the middle one-third of the subject lot located at 7301 South Flagler Drive.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 83-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CLASS A SPECIAL USE PERMIT TO ALLOW FOR PROPOSED IMPROVEMENTS TO AN EXISTING DOCK LOCATED AT 7301 SOUTH FLAGLER DRIVE; 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. 83-23, approving a Class A Special Use Permit to allow for proposed improvements to an existing dock that includes increasing the length of the existing dock beyond 100 feet, outside the middle one-third of the subject lot located at 7301 South Flagler Drive. 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) with the approved waiver and 94-273(a)(2) of the City's Zoning and Land Development Regulations.

**Background Information:**

The subject property is located on the west side of South Flagler Drive, within a single-family residential area. The front (east side) of the property has access to, but non-contiguous riparian rights to the Intracoastal Waterway (Lake Worth Lagoon, Class III Waters). An analysis of the general area shows that the majority of residential lots along the west side of South Flagler Drive have access and non-contiguous riparian rights to the Intracoastal Waterway and are currently built with an accessory dock. A location map of the subject area is provided in the attached location map and survey.

The applicant is requesting approval of a Class A Special Use Permit to allow the extension of the existing dock beyond 100 feet and the installation of one (1) boat lift (24,000 pound 4-post boat lift) on to the existing dock, outside the middle one-third of the subject lot, as extended into the waterway, thereby necessitating waivers.

The proposed extension of the existing dock and the proposed installation of the boat lift will not adversely impact the surrounding properties, and with the exception of the waivers requested, the dock and boat lift have been found to conform to all of the provisions of the City's Zoning and Land Development Regulations.

The Planning Board recommended approval with conditions (7-0) of this request to the City Commission after a Public Hearing on February 22, 2023, based on the testimony presented at the hearing, along with the application submitted and the Staff Report, that the request does comply with the standards for the Class A Special Use Permit.

NOTICES: Pursuant to the requirements of Section 94-39(i)(5) and 94-39(j)(2) of the City's Zoning and Land Development Regulations, the site was posted, individual notices were mailed to property owners within 500 feet of the subject property, and the Resolution was advertised in the Palm Beach Post. To date, the City has received two (2) public comments expressing both opposition and support for the general nature of this request.

Commission District 5: Commissioner Christina Lambert.

- 10.4. Resolution No. 84-23: A request by Joseph Verdone of Carlton Fields, on behalf of Brent and Blanca Yohe, for a Class A Special Use Permit (with waivers) to allow for existing improvements on an existing dock outside the middle one-third of the subject lot located at 222 Arlington Road.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 84-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CLASS A SPECIAL USE PERMIT TO ALLOW FOR EXISTING IMPROVEMENTS ON AN EXISTING DOCK LOCATED AT 222 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. 84-23 for a Class A Special Use Permit to allow for existing improvements on an existing dock outside the middle one-third of the subject lot located at 222 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) with waivers approved and 94-273(a)(2) of the City's Zoning and Land Development Regulations.

**Background Information:**

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). An analysis of the general area shows that the majority of residential lots along the C-51 Canal are currently built with an accessory dock.

The applicant is requesting approval of a Class A Special Use Permit to allow for the existing improvements to the existing dock, including the placement of the existing finger pier and existing boat lift located outside the middle one-third of the subject lot, as extended into the waterway, thereby necessitating a waiver. Also, the applicant is seeking a waiver for the placement of the existing boat lift, which creates the situation of a watercraft docked in a position extending beyond the west side setback line required for the principal structure on the subject property, as extended into the waterway.

The existing improvements to the existing dock will not adversely impact the surrounding properties, and with the exception of the waivers requested, the dock and boat lift have been found to conform to all of the provisions of the City's Zoning and Land Development Regulations.

The Planning Board recommended approval with conditions (7-0) of this request to the City Commission after a Public Hearing on February 22, 2023, based on the testimony presented at the hearing, along with the application submitted and the Staff Report, that the request does comply with the standards for the Class A Special Use Permit.

NOTICES: Pursuant to the requirements of Section 94-39(i)(5) and 94-39(j)(2) of the City's Zoning and Land Development Regulations, the site was posted, individual notices were mailed to property owners within 500 feet of the subject property, and the Resolution was advertised in the Palm Beach Post. To date, the City has not received any inquiries regarding the general nature of this request.

Commission District 5: Commissioner Christina Lambert.

## 11. COMMENTS FROM THE PUBLIC

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

## 12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

## 13. ADJOURNMENT

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

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