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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
Agenda
Monday, August 7, 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.
- Any person desiring to address the Commission **shall** file a written request with the city clerk prior to consideration of the matter by the Commission or prior to the public comment portion of a meeting. The person wishing to speak **shall** complete a comment card for each agenda item the person wishes to address, which **shall** include the person's full name, address, and the numbered agenda item. The person will not be recognized if the comment card is not completed.

5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA

6. APPOINTMENTS

- 6.1. City Commission approval is requested for the Mayor's reappointment of Robert Sanders, Richard V. Reikenis, and Daryl K. Houston to the Downtown Development Authority for a term to expire on July 1, 2027. It is a requirement that the City Commission confirms these reappointments.

Originating Department:
Mayor's Office

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. Resolution No. 179-23 approves the agreement between the City of West Palm Beach and NORA Holdings, LLC to bundle the public art requirement for the multiple private development properties located within North Railroad Avenue, Palm Beach Lakes Boulevard to the north, Quadrille boulevard to the south, North Dixie Highway to the east, and Florida East Coast Railway to the west. One percent (1%) is \$239,703.06.

Originating Department:
Mayor's Office

Ordinance/Resolution:

RESOLUTION NO. 179-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE PUBLIC ART COMPLIANCE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND NORA HOLDINGS. L.L.C., PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Chapter 78, Article V of the Code of Ordinances (Public Art program) applies a public art assessment to all private development projects, including new construction, or the renovation or improvement of an existing building, where total constructions costs are over \$500,000.

The Developers for NORA (North Railroad Avenue) have several properties located between Palm Beach Lakes Boulevard to the north, Quadrille Boulevard to the south, North Dixie Highway to the east, and Florida East Coast Railway to the west. The Development is subject to the public art requirement, and because it has a multitude of buildings with an expansive footprint under the same ownership, an agreement was drafted to allow an opportunity to bring a diverse body of artworks to NORA through ArtLife, the City's public art program.

NORA describes itself as "Cultivating a Complete District for Contemporary West Palm Beach". Phase 1 will include 150,000 square feet of adaptive reuse and new development and will bring in hotels, restaurant, retail, office residential development, and the opportunity to integrate public art.

The agreement allows for the owner(s), while adhering to the code of ordinances, to escrow the one percent (1%) as a bundle, and commission artists of different backgrounds and art practices, including but not limited to sculpture, installation, and video by national, regional, and local artists. Thoughtfully, curating this unique public space within the established terms of the agreement will bring a distinct cultural experience to the City's residents and visitors.

Resolution No. 179-23 approves the established terms set forth in the agreement between NORA Holdings, LLC and the City of West Palm Beach in compliance with the Public Art Ordinance for the identified projects and gives the Mayor the authority to sign this agreement.

The selected artists and their proposed artworks will be presented to City Commission after review and recommendation by the ArtLife Committee at a later date.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

- 7.2. Resolution No. 183-23 approving an agreement with Palm Beach County for lease by the City of seven (7) parking spaces located at 429 Park Place, West Palm Beach, Florida 33401.

Originating Department:

Parking

Ordinance/Resolution:

RESOLUTION NO. 183-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE LEASE OF SEVEN (7) PARKING SPACES ACCESSIBLE FROM PARK PLACE; APPROVING A LEASE AGREEMENT WITH PALM BEACH COUNTY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Background Information:

Certain areas of South Dixie are experiencing a shortage of adequate parking spaces to support local businesses and restaurants. This shortage of accessible parking spaces creates a potential spillover of traffic and parking on residential neighborhood streets, causing traffic congestion and a lack of parking for residents. This agreement will provide much-needed parking for patrons or employees of local businesses and restaurants near

South Dixie and Park Place. Leasing these spaces from the County will help mitigate potential spillover into the residential neighborhood and provide additional parking for local businesses in that area.

Palm Beach County is willing to lease the seven (7) parking spaces to the City, for a term of one (1) year, with two (2) options to renew for two (2) years each, in accordance with the Lease Agreement.

The Board of County Commissioners will consider the lease at their August 22 meeting.

Resolution No. 183-23 authorizes the City to lease the parking spaces utilizing Parking revenues.

Commission District 5: Commissioner Christina Lambert.

- 7.3. Resolution No. 187-23 waiving a potential conflict of interest relating to GrayRobinson's representation of CVS Health Corporation and West Palm Beach Dixie, LLC in connection with a code compliance matter and its representation of the City in unrelated matters.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 187-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, WAIVING A POTENTIAL CONFLICT OF INTEREST RELATING TO GRAYROBINSON'S REPRESENTATION OF CVS HEALTH CORPORATION AND WEST PALM BEACH DIXIE, LLC IN CONNECTION WITH A CODE COMPLIANCE MATTER AND ITS REPRESENTATION OF THE CITY IN UNRELATED MATTERS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The City of West Palm Beach is represented by GrayRobinson, P.A. (the "firm") as Outside Counsel on several matters including legislative affairs.

The firm desires to represent CVS Health Corporation ("CVS") in connection with a City of West Palm Beach code compliance matter involving a property located at 6800 S. Dixie Highway where CVS is the tenant.

The firm also desires to represent West Palm Beach Dixie, LLC ("WPB Dixie") in connection with a City of West Palm Beach code compliance matter involving a property located at 6800 S. Dixie Highway where WPB Dixie is the owner.

The firm requests that the City waive any potential conflict and has stated that it is able to provide competent and diligent representation to both the City in unrelated matters and CVS and WPB Dixie in the matters described herein.

The firm agrees that it will not represent CVS or WPB Dixie in any formal litigation or similar adversarial proceedings against the City, and if the matter it expects to handle for CVS and WPB Dixie becomes adversarial, it will not represent either party in the litigation.

The firm has also sought written consent from CVS and WPB Dixie, who have each agreed to waive this potential conflict under the conditions outlined herein.

Chapter 2 (Administration), Section 2-222 (Qualifications, Term), of the Code of Ordinances of the City of West Palm Beach (the "Code") allows the City Commission to waive a potential conflict of interest in unrelated matters or transactions, which will not adversely affect the counsel's representation of the City.

The City of West Palm Beach desires to waive the potential conflict of interest between the City of West Palm Beach and the firm.

Fiscal Note:

No fiscal impact.

- 7.4. Resolution No. 195-23 granting a revocable license to Palm Beach County allowing installation of water pipes in a portion of the M-Canal right-of-way.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 195-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA GRANTING A REVOCABLE LICENSE TO PALM BEACH COUNTY FOR A WATER MAIN CROSSING ACROSS THE M-CANAL AND WATER CATCHMENT AREA; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The City of West Palm Beach is the owner of the Water Catchment Area located in Palm Beach County, Florida (the "Water Catchment Area") for public water supply purposes and for environmental, educational and conservation purposes, pursuant to the Special Laws of the Florida Legislature, Ch. 67-2169 ("The Special Act"), as amended. The Water

Catchment Area serves as a natural surface water supply source for the City of West Palm Beach and has been designated as a Class I potable water supply protected by State and Federal laws. The M-Canal is part of the City's Water Catchment Area.

Palm Beach County previously purchased all utility infrastructure owned by the Indian Trails Improvement District and became the water utility service provided for the District. Pursuant to Resolution 413-10, the City transferred to Palm Beach County a 12-inch water main along the north line of the M-Canal previously utilized by the Indian Trail Improvement District. The City's M-Canal right-of-way separates the County's 12-inch main from the Counties other water mains north of the M-Canal.

In order to replace a fire hydrant, the County must tie into and connect their water main along the M-Canal; which requires a license to cross through a portion of the City's M-Canal right of way which separates the County water mains.

Resolution No. 195-23 grants the County a license to cross through that portion of the City's M-Canal right of way which separates the County water mains, so that the County can connect their pipes.

Fiscal Note:

No fiscal impact.

- 7.5. Resolution No. 202-23(F) authorizing the appropriation of \$207,383 from the Waterfront District Fund reserves for the purchase of various operational and capital expenses including data fiber, security, lighting, and equipment for the West Palm Beach Waterfront locations.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 202-23(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 WATERFRONT DISTRICT FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE PURCHASE OF MATERIALS AND SERVICES AND FOR UPGRADES AT THE WEST PALM BEACH WATERFRONT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The West Palm Beach Waterfront is a year round hub for events and activities attracting hundreds of thousands of residents and visitors annually. The continued development of the Waterfront has resulted in a

need for additional security measures, infrastructure, and new and additional equipment.

Additional security needs include data fiber to the east, seawall side of Flagler Drive and the Meyer Amphitheatre to assist with security camera and internet communication. Also included are three (3) new high powered security cameras for the Waterfront Commons, a security access system for the Lake Pavilion and the Waterfront Commons bathroom/storage/electrical room area.

After twelve (12) years, the sound system in the Great Lawn requires replacing. The current system is failing at a rapid rate with speakers malfunctioning and amps not working at all. The new system would use the latest technology from the same manufacturer, as the original system, and integrate into the recently programmed speaker system at the new Centennial Fountain. The sound system is an integral part of the Holiday in Paradise programming for Sandi Tree. Replacement of pixel lights and controllers for Sandi's music and light shows are also needed after twelve (12) years of use.

Funds are available in the Reserve for Future Projects account, which currently has a balance of \$1,940,904. It is recommended that \$207,383 be distributed to allow for the above mentioned needs.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

Approval will provide appropriations for improvements and upgrades to various Waterfront locations.

- 7.6. Resolution No. 203-23(F) authorizing the appropriation or transfer of City funds for the renovation of the Gaines Park Community Center, Gaines Park Tennis Center, and Howard Park Tennis Center.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 203-23(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, CAPITAL ACQUISITION, AMERICAN RESCUE PLAN ACT GRANT, AND AMERICAN RESCUE PLAN ACT CAPITAL GRANT FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR RENOVATIONS TO THE GAINES PARK COMMUNITY CENTER, GAINES PARK TENNIS CENTER, AND

HOWARD PARK TENNIS CENTER; PROVIDING AN EFFECTIVE DATE;
AND FOR OTHER PURPOSES.

Background Information:

The Gaines Park Community Center, Gaines Park Tennis Center, and the Howard Park Tennis Center renovation projects were approved for improvements with the 2020 Parks General Obligation Bond Referendum. The projects have been designed and bids have been received for the renovation of the facilities. The bids received are over the adopted budget.

1) The Gaines Park Community Center and Tennis Center budget for design and construction was set at \$10.5M. After design and permit review, the remaining budget for construction is \$9,178,561. With the bid price at \$14,769,752; the budget deficit for this project is \$5,591,191.

The Gaines Park Community Center project includes the expansion and renovation of the existing Community Center and enlarging the gym from middle school to high school regulation.

The Gaines Park Tennis Center project includes a new Tennis Center Building, renovation of the six (6) existing hard courts, replacing fencing and court lighting, and an add-alternate for the construction of two (2) new hard courts.

2) The Howard Park Tennis Center budget for design and construction was set at \$2.5M. After design, the remaining budget for construction is \$2,237,915. With the bid price at \$2,882,195; budget deficit for the project is \$644,500.

The Howard Park Tennis Center project includes a total rebuild of the seven (7) har-tru clay courts with a hydro grid watering system, replacing fencing and court lighting, modification of the clubhouse, the addition of four (4) pickleball courts, and the renovation of two (2) hard courts.

The allocation of \$6,235,472 would permit the projects to be awarded, allowing construction to begin Fall 2023.

Approval of Resolution No. 203-23(F) will recognize cash carryforward (\$3,335,472) and the re-allocation of ARPA funds (\$2,900,000) to provide appropriations for Gaines and Howard Park renovation projects.

Commission District 1: Commissioner Cathleen Ward.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

Approval will recognize cash carryforward and the re-allocation of ARPA funds to provide appropriations for Gaines and Howard Park renovation projects.

8. PUBLIC HEARING

- 8.1. Public Hearing and Second Reading of Ordinance No. 5048-23 regarding a text amendment to the City's Code of Ordinances, Chapter 94, Zoning and Land Development Regulations, Section 94-203, to add "cultural facilities" as an eligible use to apply for a parking waiver within a Community Service Planned Development District.

The above-referenced request is being made by Jon Schmidt of Schmidt Nichols, on behalf of Cox Science Center and Aquarium, Inc.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5048-23: 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 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE VII – SPECIAL DISTRICTS, SECTION 94-203 – COMMUNITY SERVICE PLANNED DEVELOPMENT DISTRICT TO ADD CULTURAL FACILITIES AS A USE ELIGIBLE TO APPLY FOR A PARKING WAIVER WITHIN A COMMUNITY SERVICE PLANNED DEVELOPMENT DISTRICT; DECLARING THIS AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5048-23 for a text amendment to the City's Code of Ordinances, Chapter 94, Zoning and Land Development Regulations, Section 94-203, to add cultural facilities as a use eligible to apply for a parking waiver within a Community Service Planned Development zoning district. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with Section 94-32 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)

This application is a privately-initiated text amendment to the City's Zoning and Land Development Regulations (ZLDRs) to add "cultural facilities" as

an eligible use to apply for a parking waiver within a Community Service Planned Development (CSPD) zoning district. Currently, only schools (public and private colleges/universities) are eligible to apply for a parking waiver within a CSPD zoning district.

In 1995, the City entered into a long-term lease agreement with the Cox Science Center and Aquarium (the "Science Center") to operate within Dreher Park. The lease agreement enabled the Science Center to develop a Master Plan for the facility and undertake a capital fundraising campaign to finance improvements associated with the Master Plan. The lease agreement was subsequently amended in 2010, 2012, and 2015 to expand the lease area boundaries and other terms. In recent years, the Science Center became the recipient of a large donation, which enabled the Science Center to move forward with a major expansion of their facility within the confines of their lease area. The application for the proposed expansion project includes a request to rezoning the lease area to a CSPD to allow the expansion and some flexibility from the requirements of the ZLDRs, including parking.

The purpose of the amendment is to allow the Science Center, a cultural facility, the ability to apply for a parking waiver to address the parking requirements for the use within the constraints of their lease area. The location of the Science Center within Dreher Park provides a great opportunity to utilize available parking within the park and outside of the lease area boundaries to address the parking associated with the expansion.

Staff does not object and supports the proposed text amendment. The text amendment requires that only "cultural facilities" (a use that generally provides benefits to the public) is added as a use that is eligible to apply for a parking waiver within a CSPD. The proposed text amendment will not change the criteria or process for parking waivers within a CSPD zoning district.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0) of the request.

PUBLIC NOTICE: Ordinance No. 5048-23 was advertised in the Palm Beach Post on July 28, 2023.

Ordinance No. 5048-23 approves the text amendment.

Commission District: The amendment applies City-wide.

- 8.2. Public Hearing and Second Reading of Ordinance No. 5060-23 amending Chapter 22, Article XII, of the City's Code of Ordinances, providing for repeal of an ordinance that is now preempted to the state per state law.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5060-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REPEALING SECTIONS 22-448 AND 22-449 OF ARTICLE XII OF CHAPTER 22 (BUSINESS REGULATIONS – RENTAL DWELLING UNITS), WHICH REQUIRED WRITTEN NOTICE BY LANDLORDS FOR TERMINATION OF CERTAIN TENANCIES, AND WHICH REQUIRED WRITTEN NOTICE BY LANDLORDS OF RENTAL PAYMENT INCREASES IN CERTAIN TENANCIES; DECLARING ANY SPECIFIC PROVISION OF ANY CITY OF WEST PALM BEACH ORDINANCE, RESOLUTION, RULE, OR POLICY IN CONFLICT WITH THIS ORDINANCE NULL, VOID, AND REPEALED TO THE EXTENT OF SUCH CONFLICT; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5060-23 on second reading, with effective date of ordinance, per law, of ten (10) days after passage on second reading.

Background Information:

In 2022, the Commission adopted Ordinance No. 5007-22 requiring a 60-day notice prior to termination or rent increase in certain residential tenancies. During this 2023 state legislative session, CS/HB 1417 was adopted (now Laws of Florida 2023-314), which specifically preempts regulations relating to notice under the landlord/tenant statute to the state (per sec. 83-425, Florida Statutes). The preemption supersedes any regulation adopted by the City. Accordingly, the current sections in the City code (sec. 22-448 and sec. 22-449) should be repealed so as not to be inconsistent with state law.

Ordinance No. 5060-23 will repeal the residential tenancy sections in Chapter 22, Article XII (Businesses and Business Regulation, Rental Dwelling Units). The remaining sections in Article XII are not affected or changed by this repeal. Staff recommends approval of current Ordinance No. 5060-23, on second reading, with an effective date of the ordinance as per law.

- 8.3. Public Hearing and First Reading of Ordinance No. 5053-23 amending Chapter 94, Article XV - Parking Regulations, Section 94-486, Table XV-6 - Citywide Parking Requirements to amend the minimum parking requirements for the warehousing facilities for families and small businesses use category.

The above-referenced request is a privately initiated proposed text amendment made by Jon Schmidt of Schmidt Nichols, on behalf of 2500 N. Florida Mango LLC.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5053-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ARTICLE XV – PARKING, SECTION 94-486, TABLE XV-6; TO AMEND THE MINIMUM PARKING REQUIREMENTS FOR WAREHOUSING FACILITIES FOR FAMILIES AND SMALL BUSINESSES USE CATEGORY; DECLARING THIS PROPOSED ZONING TEXT AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5053-23 amending the City's Zoning and Land Development Regulations at Article XV - Parking Regulations, Section 94-486, Table XV-6 - Citywide Parking Requirements. This motion is based upon the factual testimony presented, the staff report, the recommendation of the Planning Board, and the findings that the proposed amendment complies with all the amendment standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

A request by Jon Schmidt of Schmidt Nichols, on behalf of 2500 N. Florida Mango LLC, seeking an approval for the privately initiated proposed text amendment modifying Chapter 94, Article XV - Parking Regulations, Section 94-486, Table XV-6 - Citywide Parking Requirements. Specifically, to replace the current minimum parking requirements language for the Warehousing Facilities for Families and Small Businesses use category with the proposed text amendment language stating one (1) parking space per 200 storage bays, minimum of five (5) parking spaces.

The applicant also currently has a rezoning request in review to change the zoning designation of the property located at 2500 North Florida Mango Road from General Commercial to Commercial Planned Development to allow for a 108,292 square foot Warehousing Facility for Families and Small Businesses with a total number of sixteen (16) parking spaces proposed based on the proposed text amendment. However, a total number of thirty-three (33) parking spaces is required for the proposed use under the current minimum parking requirements. Since the property located at 2500 North Florida Mango Road is located outside of the designated areas eligible for parking waivers, the proposed redevelopment project is not eligible to receive a waiver from the current minimum parking requirements.

The City's Planning staff recognizes the request and finds the proposed text amendment will bring the City's Zoning and Land Development Regulations (ZLDRs) up to date and make the ZLDRs more consistent with modern-day parking requirements involving the parking demand generated by Warehousing Facilities for Families and Small Businesses.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

- 8.4. Public Hearing and First Reading of Ordinance No. 5056-23: A City-initiated request amending Chapter 94, Section 94-302, Fences, hedges, and walls to prohibit fences, hedges, and walls on the east side of Flagler Drive for non-contiguous residential property east of Flagler Drive where the primary residence is west of Flagler Drive.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5056-23: 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 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE X – SUPPLEMENTAL DISTRICT REGULATIONS, SECTION 94-302 – FENCES, HEDGES, AND WALLS TO PROHIBIT FENCES HEDGES AND WALLS ON THE EAST SIDE OF FLAGLER DRIVE FOR NON-CONTIGUOUS RESIDENTIAL PROPERTY EAST OF FLAGLER DRIVE WHERE THE PRIMARY RESIDENCE IS WEST OF FLAGLER DRIVE; DECLARING THIS AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5056-23 amending Chapter 94, Section 94-302, Fences, hedges, and walls; to prohibit fences, hedges and walls on the east side of Flagler Drive for non-contiguous residential property east of Flagler Drive where the primary residence is west of Flagler Drive. This motion is based upon the factual testimony presented, the staff report, the recommendation of the Planning Board, and the findings that the proposed amendment complies with all the amendment standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

When portions of Flagler Drive were constructed in the 1930s, some of the original homeowner's property was split on both sides of Flagler Drive leaving the homeowner with land on the east side of Flagler Drive adjacent to the intracoastal waterway. This not only allowed the City to construct

Flagler Drive, but also to construct the existing linear trail/sidewalk along the waterfront for the citizens of the City. The City has maintained this area since Flagler Drive was constructed. The City has recently received an inquiry about installing a fence on the east side of Flagler Drive, adjacent to the intracoastal. In order to maintain the overall character and vista of the waterfront along Flagler Drive, as well as to ensure City access to maintain the Flagler Drive right-of-way, the City is initiating this text amendment to prohibit fences, hedges, and walls east of Flagler Drive for non-contiguous residential parcels located on the west side of Flagler Drive.

Staff has determined that this text amendment will clarify any ambiguity in the City's Zoning and Land Development Regulations (ZLDRs) concerning fences, walls, and hedges on the east side of Flagler Drive. Compliance with the standards of the Zoning and Land Development Regulations are provided in the staff report.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

Fiscal Note:

No fiscal impact.

9. PUBLIC HEARING - QUASI-JUDICIAL

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

9.1. Public Hearing and Second Reading of Ordinance No. 5049-23: A Rezoning to change the zoning designation of approximately ±10.5 acres within Dreher Park, generally located east of Interstate-95 and approximately 970 feet north of Summit Boulevard from Recreation and Open Space (ROS) to Community Service (CS);

Public Hearing and Second Reading of Ordinance No. 5050-23: A further Rezoning changing approximately ±10.5 acres within Dreher Park, generally located east of Interstate-95 and approximately 970 feet north of Summit Boulevard from Community Service (CS) to Community Service Planned Development (CSPD); and

Public Hearing of Resolution No. 172-23 approving the development regulations and conditions for the Cox Science Center and Aquarium Community Service Planned Development (CSPD) and granting waivers of the Zoning and Land Development Regulations.

The above-referenced requests are being made by Jon Schmidt of Schmidt Nichols, on behalf of Cox Science Center and Aquarium, Inc., to provide for a 73,356 square foot expansion of the Cox Science Center and

Aquarium facility and associated site improvement within their lease area boundaries.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5049-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, BY REZONING APPROXIMATELY 10.5 ACRES WITHIN DREHER PARK, GENERALLY LOCATED EAST OF INTERSTATE-95 AND APPROXIMATELY 970 FEET NORTH OF SUMMIT BOULEVARD FROM RECREATION AND OPEN SPACE TO COMMUNITY SERVICE; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5050-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, BY REZONING APPROXIMATELY 10.5 ACRES WITHIN DREHER PARK, GENERALLY LOCATED EAST OF INTERSTATE-95 AND APPROXIMATELY 970 FEET NORTH OF SUMMIT BOULEVARD FROM COMMUNITY SERVICE TO COMMUNITY SERVICE PLANNED DEVELOPMENT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 172-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE DEVELOPMENT REGULATIONS AND CONDITIONS FOR THE COX SCIENCE CENTER AND AQUARIUM COMMUNITY SERVICE PLANNED DEVELOPMENT; GRANTING WAIVERS OF THE ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5049-23, changing the zoning designation of ±10.5 acres located within Dreher Park, generally located east of Interstate-95 and approximately 970 feet north of Summit Boulevard from Recreation and Open Space to Community Service. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Approve Ordinance No. 5050-23, changing the zoning designation of 10.5 acres located within Dreher Park, generally located east of Interstate-94 and approximately 970 feet north of Summit Boulevard from Community Service to Community Service Planned Development. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Sections 94-32 and 94-35(c) of the City's Zoning and Land Development Regulations.

Approve Resolution No. 172-23, approving the development regulations and conditions for the Cox Science Center and Aquarium Community Service Planned Development and grant waivers of the 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 Cox Science Center and Aquarium (the "Science Center") currently has a long-standing lease agreement with the City to locate and operate within Dreher Park. The Science Center has been located within the park since 1961 and the lease area is currently comprised of two non-contiguous lease area parcels totaling ±6.55 acres.

As the recipient of a large donation in recent years, the Science Center developed a Strategic Plan in 2017 to guide the improvement and expansion of the facility over an 8 (eight) year period (from 2017 through 2025). The final phase of the Strategic Plan provides for a major expansion of the facility, which requires the current lease area boundaries to be increased to accommodate the proposed expansion.

Currently, the applicant and the City are in the process of amending the lease area boundaries within Dreher Park to add an additional ±3.95 acres to the Science Center lease area. Once the lease agreement is finalized, the Science Center lease area will be consolidated into one (1) parcel totaling ±10.5 acres.

To enable the expansion project that would complete the Science Center Strategic Plan, the ±10.5-acre lease area must be rezoned to a Community Service Planned Development (CSPD). The requests are summarized in the Ordinances and Resolution below:

Rezoning from Recreation and Open Space to Community Service (Ordinance No. 5049-23)

As noted above, the Science Center is an existing longstanding use within Dreher Park. Since the existing use is a community service-type use (a "use that benefits and serve the public," as defined in Future Land Use

Element Policy 1.1.2 of the City's Comprehensive Plan), the proposed Community Service (CS) zoning designation of the lease area would be more complementary to the Science Center use than the existing zoning designation of Recreation and Open Space (ROS), which emphasizes open space recreational-type uses (i.e. parks). The rezoning to CS is necessary to further rezoning the lease area to a Community Service Planned Development (CSPD) for consistency.

Rezoning to Community Service Planned Development (Ordinance No. 5050-23)

A further rezoning of the lease area to a CSPD is required to enable the applicant to seek waivers from the Zoning and Land Development Regulations (ZLDRs), which is necessary in order to accommodate the expansion of the Science Center within the constraints of their lease area.

Cox Science Center and Aquarium CSPD (Resolution No. 172-23)

The Cox Science Center and Aquarium CSPD establishes the development regulations and conditions applicable to the Science Center lease area, including the site development plan for the expansion and the waivers necessary to accommodate the expansion project within the constraints of the Science Center lease area. The expansion project provides for the construction of 73,356 square feet of additional building within the lease area (a three-story 66,896 square feet extension of the existing main Science Center building, and a 6,460 square foot new Operations building) and associated site improvements.

To accommodate the proposed expansion project, the applicant is seeking the following four (4) waivers from the requirements of the ZLDRs:

1. Minimum parking for cultural facilities
2. Minimum building separation
3. Perimeter landscape buffer
4. Fence/gate height within the required front setback

CONCLUSION: The rezoning to CSPD will enable the Science Center to proceed with the final phases of its expansion project, while maintaining full integration and compatibility with the existing circulation pattern and uses within Dreher Park. The waivers are necessary to accommodate the proposed development plan for the Science Center expansion within the constraints of their lease area. The waivers have been analyzed based on the applicant's justification, mitigation measures, necessity to provide for an integrated project with the surrounding environment and appropriateness in meeting the intent of the ZLDRs, and standards for qualitative design. It is staff's professional opinion that the rezoning, the requested waiver and the development plan for the expansion complies with the standards required by the City's Comprehensive Plan and ZLDRs,

and therefore, staff is recommending approval of the requests subject to the conditions contained in Resolution No. 172-23.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0) of the requests, subject to the conditions contained in Resolution No. 172-23.

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the subject lease area, and signs were posted along the perimeter of Dreher Park. In accordance with the advertising requirements of the ZLDRs, Ordinance No. 5049-23, Ordinance No. 5050-23, and Resolution No. 172-23 were advertised in the Palm Beach Post on July 28, 2023.

Commission District 5: Commissioner Christina Lambert.

- 9.2. Public Hearing and First Reading of Ordinance No. 5051-23 regarding a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily to Commercial; and

Public Hearing and First Reading of Ordinance No. 5052-23 regarding a Rezoning to change the Zoning designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily Medium Density Residential (MF-20) to General Commercial.

The above-referenced requests are being made by Josh Nichols of Schmidt Nichols, on behalf of 316 Southern Propco LLC and Malvern 511 Inc.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5051-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF ONE (1) PARCEL LOCATED AT 301 MALVERNE ROAD, APPROXIMATELY 0.175 ACRES, FROM MULTIFAMILY (MF) TO COMMERCIAL (C); DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5052-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, FLORIDA, BY REZONING ONE (1) PARCEL LOCATED AT 301 MALVERNE ROAD, APPROXIMATELY 0.175 ACRES, FROM MULTIFAMILY MEDIUM DENSITY (MF20) RESIDENTIAL TO GENERAL COMMERCIAL (GC); DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5051-23, a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily to Commercial. 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 request meets the "New Issues" standard of Future Land Use Policy 1.1.5 of the City's Comprehensive Plan.

Approve Ordinance No. 5052-23, a rezoning to change the Zoning designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily Medium Density Residential (MF-20) to General Commercial. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

The subject property is comprised of one (1) parcel, with the address of 301 Malverne Road, consisting of approximately 0.175 acres. Specifically, the subject property is located at the northwest quadrant of the South Olive Avenue and Malverne Road intersection. The subject property has frontage along both roadways; however, access to the site is only from Malverne Road. The subject property contains an existing two-family dwelling (duplex).

The applicant is proposing an expansion of the existing car wash use on Southern Boulevard, on the adjacent property to the north, to the subject property. To allow the requests, applications were submitted to change the following:

- Future Land Use designation of the subject property from Multifamily (MF) to Commercial (C); and
- Zoning designation of the subject property from Multifamily Medium Density (MF20) Residential to General Commercial (GC).

While staff has a concern about the conversion of residential property into a commercial use, the benefits of including this parcel into the Mint Eco Car Wash property outweigh these concerns. The limited stacking available at the car wash site has led to congestion issues on both South Olive Avenue and Southern Boulevard. If the rezoning and land use plan amendments are approved by the City Commission, the applicant will then be required to seek a Class B Special Use permit from the Zoning Board of Appeals. Staff will require that vehicular access only be provided from South Olive Avenue and not from Malverne Road. In addition, extensive buffering will be required along the western edge of the multifamily parcel at 301 Malvern Road as well as South Dixie Highway.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Ordinance No. 5051-23 and Ordinance No. 5052-23 were advertised in the Palm Beach Post.

Commission District 5: Commissioner Christina Lambert.

- 9.3. Public Hearing and First Reading of Ordinance No. 5054-23: A City-initiated request for a Future Land Use Map Amendment to change the Future Land Use designation of 1.519 acres of land located at 1400 Henrietta Avenue from Community Service (CS) to Multifamily (MF); and

Public Hearing and First Reading of Ordinance No. 5055-23: A City-initiated request for a rezoning to change the zoning designation of 1.519 acres of land located at 1400 Henrietta Avenue from Coleman Park-Community Service (CP-CS) to Coleman Park- Multifamily Low Density (CP-MF14).

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5054-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF THE PARCEL LOCATED AT 1400 HENRIETTA AVENUE, AND COMPRISED OF 1.519 ACRES FROM COMMUNITY SERVICE (CS) TO MULTIFAMILY (MF); DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5055-23: AN ORDINANCE OF THE CITY COMMISSION

OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, FLORIDA, BY REZONING THE PARCEL LOCATED AT 1400 HENRIETTA AVENUE, AND COMPRISED OF 1.519 ACRES FROM COLEMAN PARK- COMMUNITY SERVICE (CPCS) TO COLEMAN PARK- MULTIFAMILY LOW DENSITY RESIDENTIAL (CP-MF14) RESIDENTIAL DISTRICT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5054-23, changing the Future Land Use designation of 1.519 acres, located at 1400 Henrietta Avenue, from Community Service to Multifamily. This motion is based on the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the provisions of Chapter 163, Florida Statutes, and the City's Comprehensive Plan.

Approve Ordinance No. 5055-232, to rezone 1.519 acres, located at 1400 Henrietta Avenue, from Coleman Park Community Service (CPCS) to Coleman Park Multifamily Low Density Residential (CP-MF14). This motion is based upon the application submitted, the staff report, the testimony given, the recommendation of the Planning Board, along with the findings that the Rezoning Standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

On July 17, 2006, the City of West Palm Beach accepted the conveyance from Palm Beach County, without charge, of property at 1400 Henrietta Avenue. By deed restrictions, use of the Property was initially limited to the development of affordable or workforce housing. In 2011, Palm Beach County agreed to amend the deed restrictions to allow for the utilization of the property to suit other neighborhood needs such as use as an urban market garden, a community center, a recreation center, cultural facility, or park. To facilitate this, the City Commission approved a Future Land Use (FLU) map amendment from Multifamily (MF) to Community Service (CS) and a Rezoning from Multifamily Low Density (MF14) to Coleman Park Community Service (CP-CS) in 2012. From September 2013 to October 2021, the parcel was leased to a third party in attempts to establish an urban market garden for the purpose of providing sustainable farming education, job training, and employment opportunities. However, in 2021 the City ended that lease.

At the December 9, 2022 Mayor/Commission Work Session, the City Commission expressed support of a partnership with the West Palm Beach Housing Authority (WPBHA) for the redevelopment of the 1.519 acres site as an affordable rental housing development for families. In order to facilitate this, the City is processing this City-initiated request to change the subject

property FLU from CS to MF and the zoning from CS to CP-MF14 residential zoning district.

PB Case No. 1956: Future Land Use (FLU) Map Amendment

The first request is for a FLU Map Amendment to change the FLU designation of the subject property from CS to MF. With regard to land use compatibility, the subject area is bounded by residential uses to the west and the south and L. A. Kirksey and the FEC railroad track are located to the north and east of the property. The proposed MF FLU designation would return the property to its original FLU designation and allow the City to provide affordable housing on the property, which is logical giving the surrounding land uses.

Pursuant to Chapter 163 of the Florida Statutes, any FLU Map Amendment must be evaluated to determine if the proposed land use will have significant impact on the level-of-service (LOS) for public facilities (i.e. drainage, potable water, wastewater, solid waste, schools, and traffic) that service the property and the surrounding area. The LOS for public facilities is analyzed based on the maximum development potential for the current and proposed FLU, and whether each public facility has the reserved capacity to accommodate the change in land use. Table 1 (below) summarizes the maximum development potential for the current and proposed FLU designation for the subject area.

**Table 1
Current and Proposed Future Land Use Designation Maximum
Development Potential for the Subject Area**

<u>FLU Designation</u>		<u>Maximum Intensity</u>	<u>Maximum Development Potential</u>
<i>Existing:</i>	Community Service	0.75	49,625 sq. ft.
<i>Proposed:</i>	Multifamily (MF)	32.27 dwelling units/acre	49 dwelling units

Approval of the FLU designation from CS to MF would decrease the development potential and return the property to its original FLU designation to permit multifamily residential development. The LOS analysis for each public facility are provided in the staff report.

It is staff's professional opinion that the request for the FLU Map Amendment has met at least one of the required standards in the evaluation for a FLU change pursuant to Future Land Use Element (FLUE) Policy 1.1.5 of the City's Comprehensive Plan. The evaluation of the required standards for the FLU Map Amendment is provided in the staff report.

PB Case No. 1957: Rezoning

The second request is to rezone the subject area from CS to CP-MF14 Residential. The rezoning to CP-MF14 is consistent with the proposed FLU designation of MF for the subject area. It is also staff's professional opinion that the rezoning of the subject area is compatible with the zoning land use pattern of the immediate area and that the proposed rezoning meets the Rezoning Standards of Section 94-32 of the Zoning and Land Development Regulations (ZLDRs). Staff's analysis of the Rezoning Standards is provided in the staff report.

CONCLUSION: The purpose of the FLU Map Amendment and rezoning is to allow the option of developing multifamily (including townhouse units) residential within the subject area to provide for affordable housing within the Coleman Park Neighborhood. The proposed amendments will also remain consistent with the current residential land use and zoning of the surrounding neighborhood.

It is staff's professional opinion that the request complies with the standards required by the Comprehensive Plan and the ZLDRs, as provided in the staff report.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0) of the Future Land Use Map Amendment and rezoning request.

PUBLIC NOTICE: Individual Notices were mailed to all property owners within 500 feet of the subject property, and signs have been posted on the properties. Per Statutory requirements, First Reading of the Ordinances were advertised in the Palm Beach Post on July 31, 2023.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

No fiscal impact.

- 9.4. Public Hearing and First Reading of Ordinance No. 5057-23 regarding a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.60 acres located at 4801 South Dixie Hwy from Commercial to Commercial East; and

Public Hearing and First Reading of Ordinance No. 5058-23 regarding a Rezoning to change Zoning designation of approximately 0.60 acres located at 4801 South Dixie Highway from Single Family High Density (SF-14) to Neighborhood Commercial.

The above-referenced requests are being made by Josh Nichols of Schmidt Nichols, on behalf of 418 South Dixie.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5057-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF ONE (1) PARCEL LOCATED AT 4801 SOUTH DIXIE HIGHWAY, APPROXIMATELY 0.60 ACRES, FROM COMMERCIAL (C) TO COMMERCIAL EAST (CE); DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5058-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, FLORIDA, BY REZONING ONE PARCEL LOCATED AT 4801 S. DIXIE HIGHWAY, CONSISTING OF APPROXIMATELY 0.60 ACRES, FROM SINGLE FAMILY (SF-14) RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5057-23, a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.60 acres located at 4801 South Dixie Highway from Commercial to Commercial East. 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 request complies with the provisions of Chapter 163, Florida Statutes, meets the "New Issues" standard of Future Land Use Policy 1.1.5 of the City's Comprehensive Plan.

Approve Ordinance No. 5058-23, a rezoning to change the zoning designation of approximately 0.60 acres located at 4801 South Dixie Highway from Single Family High Density (SF-14) to Neighborhood Commercial. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

Located approximately on the west side of South Dixie Highway, the overall subject property located at 4801 S. Dixie Highway consists of 0.60 acres. This property is considered unique and has two (2) separate zoning and two (2) separate future land use designations. The western portion of 0.24 acres of the property is zoned Single Family High Density Residential (SF-14), and 0.36 acres of the eastern portion of the property is zoned Neighborhood Commercial (NC). Regarding the future land use designations, 0.24 acres of the western portion of the property has a future land use of Commercial (C), and 0.36 of the eastern portion of the property has a future land use of Commercial East (CE).

Sitting on the property right now is an existing brick building. The purpose of this request is to allow the property to be properly redeveloped and converted to a high turnover restaurant. Also, this request would allow the property to have one (1) zoning designation and one (1) future land use (FLU) designation throughout the whole property. To allow the requests, applications were submitted to change the following:

- Future Land Use designation of the subject property from Commercial (C) to Commercial East (CE); and
- Zoning designation of the subject property from Single Family High Density (SF-14) Residential to Neighborhood Commercial (NC).

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Ordinance No. 5051-23 and Ordinance No. 5052-23 were advertised in the Palm Beach Post.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 9.5. Resolution No. 178-23: A request by John K. Rice of Gunster, on behalf of 1525 North Flagler LLC, for a Class A Special Use Permit (with waivers) to allow for a dock that extends beyond 100 feet of the subject lot located at 1525 North Flagler Drive.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 178-23: 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 ON THE PROPERTY LOCATED AT 1525 NORTH 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:

APPROVAL with CONDITIONS: Based on the findings that the petition meets the required standards in Section 94-36(e)(3) through (5), Sections 94-313(a)(3) and (4), and Section 94-273(a)(2) of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs).

This recommendation is made subject to the following conditions:

1. Advertising signage is prohibited on the dock.
2. A dock covenant and hold harmless agreement to allow the applicant's dock to connect and/or have access over the City's existing seawall, shall be executed between the applicant and the City, and recorded in the records of Palm Beach County prior to the issuance of a building permit for the construction of the dock.
3. Plans for the proposed fire lane within the right of way and crossing the seawall will have to be approved by and receive a permit from the Engineering Services Department.

Background Information:

The subject property is located at 1525 North Flagler Drive and is comprised of property on both the east and west sides of North Flagler Drive. The portion of the subject property located west of Flagler Drive is comprised of a one-story professional office building (with associated parking), and the property east of Flagler Drive is comprised of submerged lands. The cumulative acreage of the subject property is 0.55 acres.

The applicant is requesting the approval of a Class A Special Use Permit to allow for the construction of a dock greater than 100 feet in length. Designing a dock in compliance with the ZLDRs was determined to be impractical and prevent the applicant for having a dock that avoids damaging the marine environment, and also allowing the applicant to have a full use and enjoyable dock located at safe water depths. Approval of a Class A Special Use Permit would allow the applicant to extend the dock an additional 182.3 feet to protect the marine environment (seagrasses). The total length of this proposed dock will total to 282.3 feet. The dock will attach to the existing City-owned seawall on the east side of Flagler Drive. A six (6) foot tall security fence will be placed at the base of the marginal dock, and the dock will extend outward into the waterway, within the middle one-third portion of the subject lot. Two (2) mooring slips are designed into the proposed dock structure; no boat lifts will be provided.

The Planning Board recommended approval with conditions (3-2) of this request to the City Commission after a Public Hearing on June 20, 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.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

No fiscal impact.

10. 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.

11. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

12. 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.