



**City of West Palm Beach
City Commission**

**DRAFT
AGENDA**

**August 12, 2019
5:00 P.M.**

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, FLORIDA 33401, {(561) 822-1210}

**MAYOR
KEITH A. JAMES**

CITY COMMISSION

**PRESIDENT CHRISTINA LAMBERT
COMMISSIONER KELLY SHOAF COMMISSIONER CORY NEERING
COMMISSIONER RICHARD A RYLES COMMISSIONER JOSEPH A. PEDUZZI**

**ADMINISTRATION
CITY ADMINISTRATOR, JEFFREY L. GREEN
CITY ATTORNEY, KIMBERLY ROTHENBURG
CITY CLERK, HAZELINE CARSON**

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

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.

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

CONSENT CALENDAR (1):

1. Resolution No. 215-19 approving the Guaranteed Maximum Price for 300 Block Clematis Alleyway for the Construction Contract with Burkhardt Construction establishing the GMP and Resolution No. 249-19 approving a Third Amendment to the Project Funding Agreement for additional CRA funding.
[Agenda Cover Memorandum No.: 22576](#)

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

RESOLUTIONS (2-3):

2. Resolution No. 191-19 authorizing acceptance of federal entitlement grants from CDBG, HOME and HOPWA programs for City's Housing & Community Development programs and approving the City's Annual One-Year Action Plan for Fiscal Year 2019-2020.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING ACCEPTANCE OF FEDERAL ENTITLEMENT GRANTS UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM, THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM; AND THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM; APPROVING THE USE OF THE GRANT FUNDS; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY TO RECEIVE AND USE THE FUNDS INCLUDING CERTIFICATIONS OF CONSISTENCY WITH THE CONSOLIDATED PLAN; APPROVING THE ANNUAL ONE-YEAR ACTION PLAN FOR FISCAL YEAR 2019-2020; AUTHORIZING AND DIRECTING THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO SUBMIT THE ANNUAL ONE-YEAR ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND

URBAN DEVELOPMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 22572](#)

Staff Recommended Motion:

Approve Resolution. No 191-19.

Background:

The City of West Palm Beach is an entitlement recipient of federal funds from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant Program (CDBG), HOME Investment Partnerships Program (HOME), and the Housing Opportunities for Persons with AIDS Program (HOPWA).

The City anticipates receiving a total of \$4,621,677 in FY 2019 funding (October 1, 2019 – September 30, 2020) as follows: CDBG - \$943,823; HOME - \$434,602; and HOPWA - \$3,243,252. The funds are intended to address the community development and housing needs within the corporate limits of the City of West Palm Beach by achieving the overall goal of decent housing, providing a suitable living environment, and expanding economic development opportunities principally for low and moderate-income persons.

In order to receive these funds, the City is required to submit an Annual One-Year Action Plan to HUD which describes the City's intended use of these funds. The submission deadline of the Annual One-Year Action Plan is August 15, 2019.

Attached is Resolution No. 191-19 which: (a) authorizes the acceptance of the funds, (b) approves the uses of funds for the federal programs, (c) authorizes the Mayor to execute grant agreements, and all other documents necessary for the submission of the Plan and the receipt and use of grant funds, and (d) authorizes submittal of the Plan to HUD for its review and approval.

Fiscal Note:

For Fiscal Year 2019-2020, the City has been allocated \$943,823 for the Community Development Block Grant (CDBG) Program, \$434,602 for the HOME Investment Partnerships (HOME) Program, and \$3,243,252 for the Housing Opportunities for Persons with AIDS (HOPWA) Program.

- 3. Resolution No. 243-19 of the City Commission of the City of West Palm Beach, Florida, approving economic incentives for Black Coral Rum, LLC.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING ECONOMIC INCENTIVES FOR BLACK CORAL RUM, LLC; AUTHORIZING THE EXECUTION OF A RELATED GRANT AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 22577](#)

Staff Recommended Motion:

Approve Resolution No. 243-19.

Background:

Black Tie Rum, LLC a/k/a Steel Tie Spirits, is a relocation and expansion project. Originally started in Riviera Beach under the Black Coral Rum label, Steel Tie Spirits has expanded into West Palm Beach by building out a manufacturing facility located at 1615 Clare Avenue as part of the Warehouse District project. The expansion will add another craft beverage manufacturer to the series of other manufacturers in the City. The following is a profile of the economic impact of the Steel Tie Spirits facility:

Activated Industrial Space: 6,300 square feet

Estimate number of employees: 12

Capital Investment: \$1.1 million

Water usage: 20,000 gallons a week

Steel Tie has made improvements to the building in excess of \$1 million. Steel Tie has made a specific request for a building improvement assistance grant from the City for the costs associated with constructing an increased water line to supply the factory. The scope of the project includes opening Clare Avenue in order to increase the size of the plumbing that will service the building for both product and fire safety purposes. The cost of the plumbing project and the requested grant amount is \$50,000. This building improvement grant is substantially less than other grants in the past and represents less than 5% of the cost to buildout the factory.

The factory will be able to produce vodka, gin, whiskey, brandy and assorted liquors. These products will be created through local sourced ingredients. The Steel Tie Spirits facility will also include a general retail component that will benefit the Warehouse District. Products sold at the Steel Tie Spirits location will include the manufactured product, logged merchandise and bar tools. The location will also be used as an educational facility for the City's bar and restaurant workforce. Craft cocktail training courses will be available and scheduled regularly.

COMMISSION DISTRICT: Steel Tie Spirits is in District 5 represented by Commissioner Christina Lambert.

Fiscal Note:

Funds are budgeted out of incentives dollars.

PUBLIC HEARING (4):

- 4. Public Hearing and First Reading of Ordinance No. 4862-19 amending Section 94-313 of the City's Zoning and Land Development Regulation to allow for a maximum of two existing docks if adjacent single-family residential lots are combined.**

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 94-313, DOCKS, TO ENABLE A MAXIMUM OF TWO EXISTING DOCKS TO BE PRESERVED IN THE EVENT THAT TWO ADJACENT SINGLE FAMILY LOTS ARE COMBINED; 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.

[Agenda Cover Memorandum No.: 22574](#)

Staff Recommended Motion:

APPROVE Ordinance No. 4862-19, amending Section 94-313 of the City's Zoning and Land Development Regulations to allow for the preservation of a maximum of two existing docks if adjacent single-family residential lots are combined. This motion is based upon the factual testimony presented, the application submitted, the staff report, and the recommendation of the Planning Board, along with the finding that the amendment is consistent with the standards of Section 94-32 of the Zoning and Land Development Regulations.

Background:

The City's Zoning and Land Development Regulations contain numerous standards which regulate the type, location, and numerical and dimensional characteristics of docks, including Section 94-313(a)(3)(f), which limits the maximum number of docks to one per single family residential city lot. However, recent redevelopment in West Palm Beach has included a significant increase in the construction of new single-family homes, particularly in waterfront locations such as Flagler Drive. Such redevelopment often includes the demolition of existing single-family homes and combining adjacent single-family residential lots into one in an effort to maximize land values and exposure to the Intracoastal Waterway and to command more expansive views of neighboring Palm Beach Island. These lots, like those on North Flagler Drive, commonly contain existing docks for residents to keep their boats. The regulation of docks in West Palm Beach falls under the purview of the Florida Department of Environmental Protection, Army Corps of Engineers, and the City's Zoning and Land Development Regulations.

Staff presented this item during the September 6, 2018 Mayor/Commission Workshop. Staff presented the scenario of a simple waterfront single family residential lot combination that may require the demolition of an existing dock. The Mayor and Commissioners were unanimous in directing Staff to proceed with an amendment to Section 94-313(a)(3)(f) in order to enable the preservation of existing docks as a result of single family residential lots being combined. Members of the commission commented that the maximum number of docks to be preserved as a result of lots being combined should be capped at two, and that this regulation apply solely to residential properties, explaining that the increase in lot size substantiates a second dock. New docks will still require staff level review in addition

to obtaining permits from the requisite agencies as previously discussed. To ensure that docks on newly combined adjacent parcels maintain adequate separation distance, newly combined single-family residential lots containing docks must each contain a minimum width of 75 feet.

PLANNING BOARD: The Planning Board recommended approval (7-0) of the request to the City Commission after a Public Hearing on June 18, 2019.

PUBLIC NOTICE: Ordinance 4862-19 will be advertised in the Palm Beach Post on August 2, 2019 prior to second reading.

COMMISSION DISTRICT: The amendment applies City-wide.

**PUBLIC HEARING – QUASI JUDICIAL (5-8):
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

5. **Public Hearing and Second Reading of Ordinance 4856-19, a City initiated rezoning of the expired Palm Beach Medical Group Commercial Planned Development from CPD to Loftin District-10, Loftin District-4, Brelsford Park District-5 and Providencia Park District-Professional Office.**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REZONING THE EXPIRED PALM BEACH MEDICAL GROUP PLANNED DEVELOPMENT LOCATED GENERALLY NORTH OF 6TH STREET AND SOUTH OF 9TH STREET, EAST OF DIXIE HIGHWAY AND WEST OF OLIVE AVENUE FROM COMMERCIAL PLANNED DEVELOPMENT DISTRICT TO LOFTIN DISTRICT 10, LOFTIN DISTRICT 4, BRELSFORD PARK DISTRICT 5, AND PROVIDENCIA PARK DISTRICT PROFESSIONAL OFFICE; DECLARING THIS REZONING TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 22578](#)

Staff Recommended Motion:

APPROVE Ordinance No. 4856-19 for the rezoning of the expired Palm Beach Medical Group Commercial Planned Development to rezone the properties from Commercial Planned Development to the applicable existing zoning: Loftin District-10, Loftin District-4, Brelsford Park District-5, and Providencia Park District-Professional Office. This motion is based on the factual testimony presented, the staff report, the recommendation of DAC and Planning Board, and the findings that the rezoning is consistent with the Comprehensive Plan and complies with the standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

Prior to 1994, properties within downtown West Palm Beach were not regulated under a Downtown Master Plan (DMP). The downtown area was generally grouped under the City Center districts, as regulated by Article IV "City Center District". Planned Developments (PDs) were permitted in the Downtown area prior to 1994. Seventeen Planned Developments were approved within the boundaries of the current DMP area, two of which were never built and for which the corresponding site plans have since expired. One of these is the subject PD, the Palm Beach Medical Group CPD.

The Palm Beach (PB) Medical Group CPD properties were rezoned in 1988 from General Commercial (GC) City Center General Commercial District (CC3), and Office Commercial (OC) to Commercial Planned Development (CPD). The CPD received site plan approval for medical and pharmacy use, an approval which has since expired.

In 1995, Article IV "City Center Districts" was replaced by Article IV "Downtown West Palm Beach" adopting new zoning designations and prohibiting new PDs within the Downtown area. The adopted zoning map as approved by Ordinance 2759-94 did not display the specific boundaries of the existing PDs. The site plan expired in 1994, however the CPD zoning remained as the original 1988 Ordinance did not provide for any clause that the zoning changes would be repealed if the site plan expired.

The Downtown Master Plan regulations were updated in 2009, however the PD boundaries were again not illustrated on the updated zoning map.

Recognizing the PB Medical CPD site plan has expired, and as part of an effort to clean up past records within the DMP area, staff is recommending the rezoning of the abandoned PB Medical CPD to the applicable zoning of the district in which such property is located: Loftin District-10 (LD-10), Loftin District-4 (LD-4), Brelsford Park District-5 (BPD-5), and Providencia Park District-Professional Office (PPD-PO), which are the zoning districts currently designated for these properties in Figure 3-Subdistrict Boundaries of the Downtown Master Plan.

ANALYSIS:

Staff has found the rezoning to be consistent with the Comprehensive Plan, as the DMP prohibits new PDs. Thus, the removal of the PD zoning from the site would bring the properties into better compliance with the intention of the Comprehensive Plan. Specifically, Policy 3.1.4-D states that "If a planned development expires or is abandoned, the properties included within the planned development will be deemed to have the FAR, building heights, and zoning for the district in which the properties are located..." The rezoning from CPD to DMP zoning designations directly aligns with the intention of this Policy within the DMP Element of the Comprehensive Plan.

Staff found the rezoning to comply with the amendment standards of Section 94-32 of the ZLDRs. Specifically, staff found that one of the criteria standards is whether and the extent to which the proposed amendment is inconsistent with existing and proposed land uses.

The uses that were permitted as part of the PB Medical Group PD were the uses permitted in the GC and CC-3 zoning districts, which no longer exist within the DMP area. These districts permitted most commercial and retail uses, while limiting heavier industrial uses and residential uses. The LLD-4, LD-10, BPD-5, and PPD-PO districts permit similar commercial and retail uses but also permits residential uses. Residential uses are generally permitted in most districts within the DMP, as the DMP envisions a balanced mix of land uses to achieve an active downtown area. The amendment would improve the consistency of land uses of these properties.

The proposed amendment will not impact the development pattern that has previously been reviewed for the properties, as they will be rezoned to the intended districts as currently illustrated on the DMP Zoning Atlas.

Staff's professional opinion is that the rezoning of these properties would bring the properties into compliance with the DMP Element of the Comprehensive Plan and with the Zoning regulations of the DMP. Staff's full analysis is included in the attached staff report.

The proposed amendment was presented to the Downtown Action Committee during its April 10, 2019 meeting and the board recommended approval (7-0) as presented by staff. The proposed amendment was presented to the Planning Board during its June 18, 2019 meeting and the board recommended approval (7-0) as presented by staff.

Evidence of compliance with all publication and notice requirements are found in the Planning Division's files.

COMMISSION DISTRICT: The properties are located within Commission District 3-Commissioner Richard Ryles.

A notification to all the property owners within 500 feet of the subject properties was sent June 4, 2019.

6. Public Hearing and Second Reading of Ordinance 4857-19, a City initiated rezoning of the expired Northwest Center Commercial Planned Development from CPDD to Northwest District-4 and Northwest District-8.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REZONING THE EXPIRED NORTHWEST CENTER COMMERCIAL PLANNED DEVELOPMENT LOCATED GENERALLY NORTH OF 3RD STREET AND SOUTH OF 6TH STREET, BETWEEN ROSEMARY AVENUE AND WEST RAILROAD AVENUE ALONG WITH THE SINGLE PARCEL LOCATED AT THE SOUTHWEST CORNER OF 5TH STREET AND ROSEMARY AVENUE AND THE SINGLE PARCEL LOCATED AT THE SOUTHWEST CORNER OF 4TH STREET AND ROSEMARY AVENUE FROM COMMERCIAL PLANNED DEVELOPMENT DISTRICT TO NORTHWEST DISTRICT 8 AND NORTHWEST DISTRICT 4; DECLARING THIS REZONING TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY;

**PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE;
PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

[Agenda Cover Memorandum No.: 22579](#)

Staff Recommended Motion:

APPROVE Ordinance No. 4857-19 to rezoning the expired Northwest Center CPDD to rezone the properties from Commercial Planned Development (CPD) to Northwest District 4 and Northwest District 8. This motion is based on the factual testimony presented, the staff report, the recommendation of DAC and Planning Board, and the findings that the rezoning is consistent with the Comprehensive Plan and complies with the standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

Prior to 1994, properties within downtown West Palm Beach were not regulated under a Downtown Master Plan (DMP). The downtown area was generally grouped under the City Center districts, as regulated by Article IV "City Center District". Planned Developments (PDs) were permitted in the Downtown area prior to 1994. Seventeen Planned Developments were approved within the boundaries of the current DMP area, two of which were never built and for which the corresponding site plans have since expired. One of these is the subject PD, the Northwest Center CPDD.

The Northwest CPDD properties were rezoned in 1991 and 1992 from Neighborhood Commercial (NC) to Office Commercial (OC) and further to Commercial Planned Development District (CPDD). The CPDD received site plan approval for approximately 287,000 square feet of office and commercial use, and approval which has since expired.

In 1995, Article IV "City Center Districts" was replaced by Article IV "Downtown West Palm Beach" adopting new zoning designations and prohibiting new PDs within the Downtown area. The adopted zoning map as approved by Ordinance 2759-94 did not display the specific boundaries of the existing PDs. The site plan expired in 1997, however the CPDD zoning remained as the 1991/1992 rezoning Ordinances did not provide for any clause that the zoning changes would be repealed if the site plan expired.

The Downtown Master Plan regulations were updated in 2009, however the PD boundaries were again not illustrated on the updated zoning map.

Recognizing the Northwest CPDD site plan has expired, and as part of an effort to clean up past records within the DMP area, staff is recommending the rezoning of the abandoned Northwest CPDD to Northwest District-4 and Northwest District-8, which are the zoning districts currently designated on these properties in Figure 3-Subdistrict Boundaries of the Downtown Master Plan.

ANALYSIS:

Staff has found the rezoning to be consistent with the Comprehensive Plan, as the DMP now prohibits new PDs. Thus, the removal of the PD zoning from the site would bring the

properties into better compliance with the intentions of the Comprehensive Plan. Specifically, Policy 3.1.4-D states that "If a planned development expires or is abandoned, the properties included with the planned development will be deemed to have the FAR, building heights, and zoning for the district in which the properties are located..." The rezoning of CPDD to DMP zoning designations directly aligns with the intention of this Policy within the DMP Element of the Comprehensive Plan.

Staff found the rezoning to comply with the amendment standards of Section 94-32 of the ZLDRs. Specifically, staff found that one of the criteria standards is whether and the extent to which the proposed amendment is inconsistent with existing and proposed land uses. The approved site plan for the Northwest Center CPDD permitted office and commercial uses, which are permitted uses within Northwest District-4 and Northwest District-8. The rezoning would improve the consistency of land uses by rezoning the properties to DMP zoning designations, consistent with the zoning of adjacent properties.

The proposed amendment will not impact the development pattern that has previously been reviewed for the properties, as they will be rezoned to the intended districts as currently illustrated on the DMP Zoning Atlas.

Staff's professional opinion is that the rezoning of these properties would bring the properties into compliance with the DMP Element of the Comprehensive Plan and with the Zoning regulations of the DMP. Staff's full analysis is included in the attached staff report.

The proposed amendment was presented to the Downtown Action Committee during its April 10, 2019 meeting and the board recommended approval (7-0) as presented by staff. The proposed amendment was presented to the Planning Board during its June 18, 2019 meeting and the board recommended approval (7-0) as presented by staff.

COMMISSION DISTRICT: The properties are located within Commission District 3-Commissioner Richard Ryles.

A notification to all the property owners within 500 feet of the subject properties was sent June 4, 2019.

7. Public Hearing and First Reading of Resolution 186-19, for the abandonment of the east-west alley right-of-way located west of Rosemary Avenue, east of Henrietta Avenue, between 7th Street and 8th Street.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING THE ALLEY RIGHT-OF-WAY LOCATED WEST OF ROSEMARY AVENUE, EAST OF HENRIETTA AVENUE, BETWEEN 7TH STREET AND 8TH STREET; AUTHORIZING THE MAYOR TO EXECUTE A DISCLAIMER OF INTEREST IN THE AFORESAID RIGHT-OF-WAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 22573](#)

Staff Recommended Motion:

Approve Resolution No. 186-19 based on the findings that the alley abandonment is consistent with the Comprehensive Plan and complies with the requirements of Section 78-217 and Section 94-112 of the Code of Ordinances.

Background:

Since mid-2016, the City of West Palm Beach's Community Redevelopment Agency (CRA) has been leading an initiative called Historic Northwest Rising (HNWR) to revitalize the Historic Northwest Neighborhood. The vision of the initiative is to provide the Historic Northwest District with a multi-purpose venue and public space focused on culture and arts. In April 2016, the Historic Northwest Rising was awarded a 2016 Knight Cities Challenge grant. Through the rehabilitation and expansion of the Sunset Lounge and transformation of adjacent areas, including the vacant lot located just south of the Sunset Lounge (subject property containing the alley to be abandoned), the initiative aims to bring job opportunities to the Northwest Neighborhood.

The CRA purchased the subject lots in June 2016. The purchase of the properties was with the intention for redevelopment as part of the Historic Northwest Rising initiative. This property has been envisioned to be an urban open space area since the time of the "Northwest Neighborhood Strategic Development Plan" published in 2000 by Stull and Lee, Inc. From August 2016 to April 2017, the HNWR conducted community outreach and engagement services to discuss the revitalization of the area, including the idea for the proposed urban open space. The intention of the design for this urban open space is to provide the Historic Northwest Neighborhood with public space focused on arts and entertainment, in an effort to bring together the community.

The site plan for the urban open space includes a heritage path, playground area, and recreational open space for the Northwest Neighborhood community. The project is proposed in conjunction with the rehabilitation and expansion of the Sunset Lounge which is located just north of this project site between 8th Street and 9th Street.

The overall project is approximately 0.09 acres, which includes the alley to be abandoned. The full report of the Special Review analysis for the "Heart and Soul Park" is attached. The report includes analysis of the criteria of Section 94-112 from the Downtown Master Plan, which includes requirements for proposed developments seeking to abandon alleys within the DMP area.

DOWNTOWN ACTION COMMITTEE: The DAC approved the Special Review and recommended approval for the alley abandonment (7-0) at the May 5, 2019 meeting.

PUBLIC NOTICE: Resolution No. 186-19 was advertised in the Palm Beach Post on June 22, 2019.

COMMISSION DISTRICT: The subject property is located within Commission District No. 3- Commissioner Richard Ryles.

8. **Public Hearing and First Reading of Ordinance No. 4863-19: Regarding a rezoning of ±0.85 acres located at 3907 South Flagler Drive from Multifamily High Density Residential to Residential Planned Development, including a waiver to the minimum land area required, to provide for the demolition of all existing structures and construction of a 27-unit multifamily development; and**

Public Hearing of Resolution No. 242-19: Discussion regarding the development regulations and conditions for the 3907 South Flagler Drive Residential Planned Development, and the granting of waivers of the Zoning and Land Development Regulations.

The above-referenced requests are being made by F. Martin Perry and Susan Taylor, of Perry & Taylor, P.A., on behalf of Flagler WPB Owner LLC.

Ordinance No. 4863-19: 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 AN APPROXIMATELY 0.85 ACRE PARCEL LOCATED AT 3907 SOUTH FLAGLER DRIVE FROM A MULTIFAMILY HIGH DENSITY RESIDENTIAL ZONING DESIGNATION TO RESIDENTIAL PLANNED DEVELOPMENT TO CREATE THE 3907 S. FLAGLER RESIDENTIAL PLANNED DEVELOPMENT; GRANTING A WAIVER OF THE MINIMUM AREA REQUIRED; PROVIDING FOR THE ESTABLISHMENT OF DEVELOPMENT REGULATIONS BY SEPARATE RESOLUTION; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Resolution No. 242-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING THE DEVELOPMENT REGULATIONS, INCLUDING THE SITE AND LANDSCAPE PLANS AND BUILDING ELEVATIONS, FOR THE 3907 S. FLAGLER RESIDENTIAL PLANNED DEVELOPMENT LOCATED AT 3907 SOUTH FLAGLER DRIVE; GRANTING WAIVERS TO THE ZONING AND LAND DEVELOPMENT REGULATIONS; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 22575](#)

Staff Recommended Motion:

APPROVE Ordinance No. 4863-19, changing the zoning designation of ±0.85 acres located at 3907 South Flagler Drive from Multifamily High Density Residential to Residential Planned Development, and granting a waiver of the minimum area required. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land

Development Regulations. The City Commission finds that particular circumstances justify the reduction of the planned development acreage to less than ten (10) acres and that the requirements for the planned development district zoning and the benefits to be derived from the planned development district zoning can be derived in such lesser area.

DISCUSS Resolution No. 242-19, which will approve the development regulations and conditions for the 3907 South Flagler Drive Residential Planned Development, and grant waivers of the Zoning and Land Development Regulations. This Resolution will be considered at the Second Reading of the Ordinance.

Background:

(The information provided below is a general summary. A full analysis is included in the Staff Report attached hereto as ATTACHMENT 1).

Located on the west side of South Flagler Drive, approximately 100 feet north of Southern Boulevard, the subject property consists of two (2) parcels totaling ± 0.85 acres. Currently, the site is occupied by three (3) primary buildings containing a total of 25 residential dwelling units. The two (2) westernmost buildings are a single story, while the mid-rise building along South Flagler Drive is five (5) stories in height; the buildings were constructed in the 1950s and 1970s, respectively.

In May 2015, the subject parcels were acquired by the current owner and are continuing to be leased, however, the owner is looking to redevelop the site by removing all of the existing structures/improvements and construct a new nine (9) story multifamily project consisting of 27 residential dwelling units. The proposed building consists of ground-level parking and eight (8) floors of residential units above, as well as a roof-top terrace. An amenity/pool deck is proposed west of the residential structure, also situated above ground-level parking.

In order to move forward with the proposed redevelopment, the applicant is requesting that the property be rezoned from the current Multifamily High Density (MF32) Residential zoning designation to a Residential Planned Development (RPD), so as to allow the request of certain waivers from the City's Zoning and Land Development Regulations (ZLDRs). With the exception of three (3) waivers, Staff has found that the proposed development complies with the requirements of the City's ZLDRs, subject to the conditions contained in Resolution No. 242-19; the waiver requests are outlined below and described in detail in ATTACHMENT 1:

Waiver Request #1: Section 94-207(c)(2) and Sec. 94-241, Table VIII-1 – Minimum Land Area.

Waiver Request #2: Section 94-207(c)(4) – Residential Planned Development Required Setbacks.

Waiver Request #3: Section 94-241, Table VIII-1 – Maximum Building Height.

Waiver Request #4: Section 94-306(a) – Height Exceptions | Mechanical Equipment.

CONCLUSION: While the applicant is requesting minor waivers from the City's ZLDRs regarding the placement of the building and its height, allowing it to be concentrated in a portion of the lot that is most appropriate, they are not requesting to exceed the allowable intensity or density afforded by the City's Zoning and Land Development Regulations. It is Staff's professional opinion that the requested waivers and the proposed development comply with the standards required by the City's Comprehensive Plan and Zoning and Land Development Regulations, and therefore is recommending approval, subject to the conditions set forth in Resolution No. 242-19.

PLANNING BOARD: After a Public Hearing on June 18, 2019, the Planning Board recommended approval (7-0).

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. 4863-19 and Resolution No. 242-19 will be advertised in the Palm Beach Post on August 16, 2019, prior to Second Reading.

COMMISSION DISTRICT: The site is located within Commission District No. 3 – Commissioner Richard Ryles.

Fiscal Note:

No fiscal impact.

APPEALS (9):

9. **Appeal of Historic Preservation Board's decision in Case #19-14, denying the request for whitewashing (painting) of a previously unpainted brick surface on a historic structure located at 3301 S. Flagler Drive.**

[Agenda Cover Memorandum No.: 22535](#)

Staff Recommended Motion:

Deny the request for a Certificate of Appropriateness for whitewashing a previously unpainted brick surface.

The City Commission may deny the certificate of appropriateness, approve the certificate, or approve the certificate with conditions.

MOTION FOR DENIAL: Deny the Certificate of Appropriateness for whitewashing of the exterior brick surface at 3301 S. Flagler Drive based on the factual testimony presented, the application submitted and the staff report, along with the findings that, pursuant to Section 94-49(c) of the Code of Ordinances, the following conditions for the basis of denial exist: [State the specific conditions].

MOTION FOR APPROVAL WITHOUT CONDITIONS: Approve the Certificate of Appropriateness for whitewashing of the exterior brick surface at 3301 S. Flagler Drive based on the factual testimony presented, the application submitted and the staff report,

along with the findings that ... [the structure is not capable of being repaired and reused in a practical and feasible manner].

Background:

BACKGROUND: The property is located at 3301 South Flagler Drive. This Colonial Revival style single-family residence is a contributing structure in the Prospect Park/Southland Park Historic District. It was built in 1939 by Herman Herndon and is known as the William and Lois Wall House. It is located on a prominent corner as Greenwood Drive bends into South Flagler Drive. The exterior finish is primarily red brick with some painted white clapboard siding. The applicant is requesting to white wash (apply white paint, then remove portions of the paint to let some red show) the existing exposed red brick.

HISTORIC PRESERVATION BOARD. This request came to be heard by the Historic Preservation Board on March 26, 2019. Planning Staff presented the application for a Certificate of Appropriateness for whitewashing (painting) of a previously unpainted brick surface on a historic structure with the recommendations of DENIAL based on the existence of at least four (4) conditions listed in Section 94-49(c)(4)b of the City Code of Ordinances on which denial may be based (reference in the attached staff report). The Historic Preservation Board voted (5-2) to DENY the application.

APPEAL. The Applicants appeal of the Historic Preservation Board's decision was timely received on April 8, 2019. Pursuant to Sec. 94-50 of the Code of Ordinance, Historic Preservation Board decisions are appealed to the City Commission. The City Commission's review is de novo and the decision shall be based on the testimony and evidence presented to the Commission at this hearing. A decision of the City Commission may be appealed to a court of competent jurisdiction within 30 days.

RELEVANT CODE PROVISIONS:

Sec. 94-49. - Certificate of appropriateness procedures for review.
(a) Review. The board or the preservation planners must review actions affecting the exterior of properties and all resources, including noncontributing properties, within districts.

(3) Secretary of the Interior's standards for rehabilitation. In reviewing an application, the Secretary of the Interior's standards for rehabilitation (as may be amended from time to time) shall be applied. The current version is as follows:

- a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- c. Each property shall be recognized as a physical record of its time, place, and use.

Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of buildings or structures, if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Sec. 94-49(c)(5): Decisions regarding applications for certificates of appropriateness shall be based on the application, the application's compliance with the historic preservation provisions of this chapter, and the evidence and testimony presented in connection with the application. In reviewing an application, the division and the board shall be aware of the importance of finding a way to meet the current needs of the property owner. The division and the board shall also recognize the importance of recommending approval of plans that will be reasonable for the property owner to carry out. Any conditions or requirements imposed shall be reasonably related to the certificate of appropriateness sought by the applicant.

COMMISSION DISTRICT: The property is located in Commission District 3, Commissioner Richard Ryles.

Fiscal Note:

No fiscal impact.

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 and written communications shall be placed in the record; and 2) site visits, investigations, etc.**

NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.