



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, November 01, 2021 at 6:00 PM

City Hall Council Chambers | 5800 Melaleuca Lane

AGENDA

Mayor and City Council

Joel Flores, Mayor

John Tharp, Deputy Mayor

Peter A. Noble, Councilmember, District II

Judith Dugo, Councilmember District III

Jonathan G. Pearce, Councilmember, District IV

Paula Bousquet, Councilmember, District V

Administration

Andrea McCue, City Manager

Glen J. Torcivia, City Attorney

Quintella Moorer, City Clerk

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY

SPECIAL BUSINESS

1. **Presentation:** President Ava L. Parker, Palm Beach State College.

CONSENT AGENDA

2. **Official Minutes:** City Council Meeting Minutes, October 18, 2021. - Quintella L. Moorer.
3. **Proclamation:** National Hunger and Homelessness Week, November 13-21, 2021.
4. **Resolution 2021-52:** Ratifying the Side Agreement to the Collective Bargaining Agreement between the City of Greenacres and the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. for the period of November 1, 2021, through September 30, 2023; authorizing the appropriate City Officials to effectuate the terms of the Side Agreement; and providing an effective date. - Brian Fuller, Fire Rescue Chief.
5. **Resolution 2021-53:** Approving the additional Software Agreement between the City of Greenacres and Tyler Technologies for the upgrade of the Code Enforcement and Community Development software; authorizing the appropriate City Officials to execute the agreement; providing for an effective date. - Monica Powery, Director of Purchasing.
6. **Resolution 2021-54:** Approving the First Amendment to the Telecommunications Lease Agreement between the City of Greenacres and RG Towers, LLC. and providing an effective date. (City Hall Complex) - Andrea McCue, City Manager.
7. **Resolution 2021-55:** Approving a First Amendment to the Telecommunications Lease Agreement by and between the City of Greenacres and RG Towers, LLC and providing an effective date. (Ira Van Bullock Park) - Andrea McCue, City Manager.

- 8. Resolution 2021-56:** Providing notice of the 2022 Municipal Election to be held on March 8, 2022 pursuant to the City Charter and Florida Statutes; approving the calendar year 2022 Agreement for vote processing equipment use and election services with the Palm Beach County Supervisor of Elections; designating the County Canvassing Board as the City's Canvassing Board for the March 2022 Election; and providing an effective date. - Quintella L. Moorer, City Clerk.

REGULAR AGENDA

- 9. Ordinance 2021-14: First Reading:** Amending the Comprehensive Plan, more specifically to adopt a Property Rights Element, in its entirety as contained herein providing for repeal of conflicting Ordinances; providing for severability; providing for transmittal to the Department of Economic opportunity; providing for inclusion in the Comprehensive Plan; and providing for an effective date. - Caryn Gardner-Young, Zoning Administrator.
- 10. Ordinance 2021-15: First Reading:** Amending the Comprehensive Plan, more specifically to update the Five Year Capital Improvements Plan of the City of Greenacres as outlined in the Capital Improvement Element, as contained herein; providing for repeal of conflicting Ordinances; providing for severability; providing for transmittal to the Department of Economic Opportunity; providing for inclusion in the Comprehensive Plan; and providing for an effective date. - Caryn Gardner-Young, Zoning Administrator.
- 11. Ordinance 2021-16: First Reading:** Creating a new multipurpose development review and appeals board to be called the "Planning and Zoning Board of Appeals" at Section 16-81 through Section 16-85 of Chapter 16, Zoning Regulations, Article 2, Administration, Division 3 of the City's Code of Ordinances; repealing the existing Sections 16-81 through 16-84 of Chapter 16, Zoning Regulations, Article 2, Administration, Division 3, Planning Commission/Local Planning Agency and repealing the existing Sections 16-101 through 16-107 of Chapter 16, Zoning Regulations, Article 2 Administration, Division 4, Zoning Board of Adjustments and Appeals, creating a new division 4 to be entitled "variances", at Chapter 16, Zoning Regulation, Article 2, Administration, to include Sections 16-101 through 16- 105 and creating a new administrative variance process at Section 16-106; providing for related revisions throughout the City's Code of Ordinances to replace the existing boards' name with the name of the new Planning and Zoning board of appeals; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date. - Caryn Gardner-Young, Zoning Administrator.
- 12. Ordinance 2021-17: First Reading:** Amending the Comprehensive Plan, more specifically to update the City of Greenacres 10 year Water Supply Facilities Work Plan as adopted by reference in the Intergovernmental and Public Facilities Elements, as contained herein; providing for repeal of conflicting ordinances; providing for severability; providing for transmittal to the Department of Economic Opportunity; providing for inclusion in the Comprehensive Plan; and providing for an effective date. - Caryn Gardner-Young, Zoning Administrator.

DISCUSSION ITEM

13. Property Improvement Program Criteria. - Carlos Cedeño and Aileen Hernandez, Administrative Assistant.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS

CITY MANAGER'S REPORT**CITY ATTORNEY'S REPORT****MAYOR AND CITY COUNCIL REPORT****ADJOURNMENT****Upcoming Council Meetings**

December 6, 2021

December 20, 2021

Meeting Records Request

Any person requesting the appeal of a decision of the City Council will require a verbatim record of the proceedings and for that purpose will need to ensure that such verbatim record is made. Pursuant to FS. 286.0105, the record must include the testimony and evidence upon which the appeal is to be based. The City of Greenacres does not prepare or provide such verbatim record.

Notice of Council Meetings and Agendas

The first and third Monday of each month are regular meeting dates for the City Council; special or workshop meetings may be called, whenever necessary. Council Agendas are posted on the City's website on the Friday prior to each Council meeting. A copy of the meeting audio and the complete agenda may be requested at CityClerk@greenacresfl.gov or 561-642-2006.

Americans with Disabilities Act

In accordance with the provisions of the Americans with Disabilities Act (ADA), this document can be made available in an alternate format upon request. Special accommodations can be provided upon request with three (3) days advance notice of any meeting, by contacting City Clerk Quintella Moorner at Greenacres City Hall, 5800 Melaleuca Lane, Greenacres, Florida. Phone No. 561-642-2006. Hearing Assistance: If any person wishes to use a Listen Aid Hearing Device, please contact the City Clerk prior to any meeting held in the Council Chambers.



CITY COUNCIL MEETING

City of Greenacres, Florida

Monday, October 18, 2021 at 6:00 PM

City Hall Council Chambers | 5800 Melaleuca Lane

MINUTES

Mayor and City Council

Joel Flores, Mayor

John Tharp, Deputy Mayor

Peter A. Noble, Councilmember, District II

Judith Dugo, Councilmember District III

Jonathan G. Pearce, Councilmember, District IV

Paula Bousquet, Councilmember, District V

Administration

Andrea McCue, City Manager

Glen J. Torcivia, City Attorney

Quintella Moorer, City Clerk

CALL TO ORDER AND ROLL CALL

Mayor Flores called the meeting to Order at 6pm and Assistant City Clerk Tapia called the Roll.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Motion made by Councilmember Bousquet, Seconded by Councilmember Dugo to approve the agenda. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Pearce, and Councilmember Bousquet.

COMMENTS FROM THE PUBLIC FOR AGENDA ITEMS ONLY - None.

SPECIAL BUSINESS

1. **Presentation:** Fire Rescue Promotional Pinning Ceremony. - Chief Brian Fuller.

Chief Fuller announced new Assistant Fire Chief Phillip Konz, new Battalion Chief Steven Papia and new Captain Brian Brady. Chief Fuller congratulated all of the new promotions and their family members pinned them.

CONSENT AGENDA

2. **Official Minutes:** City Council Meeting Minutes, October 4, 2021. - Quintella L. Moorer, City Clerk.
3. **Proclamation:** Florida City Government Week, October 23-29.
4. **Resolution 2021-49:** Satisfying certain liens imposed against residential property, pursuant to Section 15-31, City of Greenacres Code. - Teri Beiriger, Director of Finance.
5. **Resolution 2021-50:** Approving an agreement for mobile and temporary food event services; authorizing the appropriate City Officials to execute the agreement; providing for an effective date. - Monica Powery, Director of Purchasing.

- 6. Resolution 2021-51:** Authorizing the execution of the Local Agency Program (LAP) Agreement for Dillman Trail with the Florida Department of Transportation (FDOT); and providing for an effective date. - Kara Irwin-Ferris, Development & Neighborhood Services, Director.

Motion made by Councilmember Bousquet, Seconded by Deputy Mayor Tharp to approve the Consent Agenda. Voting Yea: Deputy Mayor Tharp, Councilmember Noble, Councilmember Dugo, Councilmember Pearce, and Councilmember Bousquet.

REGULAR AGENDA - None.

DISCUSSION ITEM

7. City Hall Exterior Upgrades. - Andrea McCue, City Manager.

Ms. McCue discussed the planned upgrades to City Hall. She said a group of employees lead by Ms. Aileen Hernandez, Administrative Assistant, brainstormed upgrade ideas to present shortly. Ms. McCue highlighted the current progress of the upgrades. She presented a few concept ideas to Council. A few ideas included column stone wrapping, painting, and landscaping. Ms. McCue presented various color and shutter options. Option one had an orange, darker stone wrapping and Option two had a natural stucco detail with stone wrapping.

Councilmember Dugo preferred the natural color scheme. Councilmember Noble did not agree with the stone wrapping he felt it would be hard to maintain. Deputy Mayor Tharp preferred Option number two. Councilmember Bousquet preferred Option number one. Mayor Flores agreed with both Options, but flavored the natural color scheme.

Mayor Flores asked the budget for the upgrades. Ms. Hernandez stated they were waiting on quotes. She stated the project completion date was hopefully February 2022 but that was not final due to the state of the current market.

Ms. McCue stated the City Hall pathway was flag marked to begin the process. She also suggested replacing the standard bike rack with an art form rack, the Council agreed.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS - None.

CITY MANAGER'S REPORT (September Department Report)

8. Community & Recreation Services Department Report.
9. Development & Neighborhood Services Report.
10. Finance Department Report.
11. Fire Rescue Report.
12. Information Technology Department Report.
13. Palm Beach Sherriff Office - District 16 Report.
14. Purchasing Department Report.
15. Public Works Department Report.
16. Youth Programs Department Report.

Ms. McCue stated Public Works received a beautification grant, which would offset some cost.

Ms. McCue stated they had meetings with Waste Management and mentioned improvements had been made such as responses and more communication. She also mentioned some changes were made to the recycling pick up. Posting of Notices would be placed by recycling containers for residents.

Ms. McCue said the pricing of commodities were up by thirty percent, she was doing more research and would advise of any major changes.

CITY ATTORNEY'S REPORT

MAYOR AND CITY COUNCIL REPORT

Councilmember Dugo suggested a Discussion Item on the next agenda to discuss the Criteria requirements for the Property Improvement Program.

Ms. McCue stated the November 15, 2021 Council Meeting may be cancelled.

ADJOURNMENT

6:35pm

Joel Flores
Mayor

Quintella Moorer, CMC
City Clerk

Date Approved: _____



ITEM SUMMARY

MEETING DATE: November, 01, 2021

FROM: Brian Fuller, Fire Chief, Fire Rescue

SUBJECT: 2020-2023 CBA – Side Agreement

BACKGROUND

The City of Greenacres recognizes that the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. (Union) is the exclusive representative of those certain public safety employees for the purposes of collective bargaining. The current Collective Bargaining Agreement was approved by the City Council via Resolution 2020-30 on September 24, 2020.

ANALYSIS

Resolution 2021-52 establishes a Side Agreement (attached) which has substantive changes in regards to Article 2 Recognition, Article 16 Salary Plan, and Article 22 Residency for the period of November 1, 2021 through September 30, 2023.

FINANCIAL INFORMATION

Article 16, Salary Plan contained in this Side Agreement provides the new pay scales for both the Fire Marshal and the Assistant Fire Marshal.

LEGAL

Attorney has reviewed Resolution 2021-52 and approves for legal sufficiency and compliance.

STAFF RECOMMENDATION

Staff recommends approval of Resolution 2021-52.

RESOLUTION NO. 2021-52

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, RATIFYING THE SIDE AGREEMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF GREENACRES AND THE PROFESSIONAL FIREFIGHTERS/PARAMEDICS OF PALM BEACH COUNTY, LOCAL 2928, IAFF, INC., FOR THE PERIOD OF NOVEMBER 1, 2021, THROUGH SEPTEMBER 30, 2023; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EFFECTUATE THE TERMS OF THE SIDE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on behalf of certain public safety employees of the City of Greenacres, a collective bargaining unit was granted by the Public Employees Relations Commission on March 24, 2014; and

WHEREAS, the City of Greenacres recognizes that the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. (Union) is the exclusive representative of those certain public safety employees for the purposes of collective bargaining; and

WHEREAS, the Side Agreement (attached hereto as Exhibit "A") has been bargained collectively in the determination of wages and other conditions of employment between the City and the Union; and

WHEREAS, the Side Agreement needs to be ratified by the City Council and members of the Union; and

WHEREAS, on October 23, 2021, the members of the Union ratified the Side Agreement; and,

WHEREAS, the City Council finds ratifying the Side Agreement is in the best interests of the City and serves a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

GREENACRES, FLORIDA, THAT:

SECTION 1. The City Council of the City of Greenacres hereby ratifies the Side Agreement to the Collective Bargaining Agreement (attached hereto as Exhibit “A”) between the City and the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. for the period of November 1, 2021 through September 30, 2023.

SECTION 2. The City Council of the City of Greenacres hereby authorizes the appropriate City Officials to effectuate the terms of the Agreement.

SECTION 3. This Resolution shall become effective upon adoption.

RESOLVED AND ADOPTED this 1st of day of November 2021

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Jonathan Pearce, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Monica Powery, Director, Purchasing

SUBJECT: Tyler Technologies Addendum - EnerGov SaaS Service Agreement

BACKGROUND

In November 1991, the City of Greenacres procured a Financial and Administrative software program with New World Systems. This item was upgraded from an AS400 technology to a Microsoft Windows platform in March 2013. In November 2015, New World Systems was bought out by Tyler Technologies inheriting our Agreement.

In May 2007, the City of Greenacres purchased Code Enforcement Software from EnerGov. EnerGov was then purchased by Tyler Technologies in November 2012.

The EnerGov desktop solution has been outdated for some time causing the Code Enforcement Division to lag behind current industry best practices.

The City of Greenacres desires to obtain the most efficient software on the market to streamline processes for department functionality. The current iteration of EnerGov is recognized as an industry leading software platform for the management of community development and code enforcement.

ANALYSIS

In April 2020, City Staff began an in-depth review of various available software systems for functionality, ability, improved citizen engagement, and ease of use as well as full integration with the City's current Financial Management System. By subscribing to this system, the burden of maintaining it falls upon the vendor rather than the City's Information Technology Department.

City staff determined that the best course of action is to upgrade the system and procure directly from our current Public Administration Software provider, Tyler Technologies. City staff negotiated pricing and obtained significant cost discounts which include the migration of data from the current EnerGov and Community Development systems to the new platform free of charge, as well as reduced annual subscription fees.

The total cost of implementation is \$113,300.00 which includes project management, rapid deployment implementation services, training/production support, report development, GIS analysis services and operational system assurance.

The ongoing annual software subscription cost is \$83,538.00 which provides access and maintenance to the system. This pricing includes optional enhancements to the system allowing for optimal citizen engagement and requests.

FINANCIAL INFORMATION

Sufficient funds are budgeted in Capital Improvement Program 301-26-26-64-91 (CIP 301-094) for the implementation and in 001-26-26-49-7 Computer Software & Programs for the annual subscription costs.

LEGAL

The recommendation for award is in accordance with the requirements of City policies and procedures.

STAFF RECOMMENDATION

Approval of Resolution No. 2021-53 authorizing the execution of the Addendum and Agreement with Tyler Technologies.

RESOLUTION NO. 2021-53

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE ADDITIONAL SOFTWARE AGREEMENT BETWEEN THE CITY OF GREENACRES AND TYLER TECHNOLOGIES FOR THE UPGRADE OF THE CODE ENFORCEMENT AND COMMUNITY DEVELOPMENT SOFTWARE; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City and New World Systems Corporation entered into an Agreement for LOGOS AS400 Public Administration Software on November 4, 1991; and

WHEREAS, In May 2007 City of Greenacres purchased Code Enforcement Software from EnerGov; and

WHEREAS, In November 2012 Tyler Technologies acquired EnerGov inheriting the City's Agreement; and

WHEREAS, In March 2013 the LOGOS AS400 Public Administration Software system was upgraded to a Windows platform; and

WHEREAS, in November 2015, New World Systems was acquired by Tyler Technologies inheriting the City's Agreement; and

WHEREAS, City staff has identified and included the upgrade of both the Code Enforcement from EnerGov Desktop and replacement of the Community Development module of the New World software, in the Capital Improvement Program; and

WHEREAS, the in-depth analysis performed by City staff indicates that upgrade of the current Code Enforcement and Community Development Software to the EnerGov SaaS System is the best alternative for delivering higher customer service levels at the most reasonable cost with the most efficient transition; and

WHEREAS, the City and Tyler Technologies desire to enter into an agreement to upgrade the existing software.

Page No. 2

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The City Council hereby authorizes the EnerGov SaaS Service Agreement between the City of Greenacres and Tyler Technologies.

SECTION 2. The City Council authorizes the appropriate City Officials to execute the Agreement.

SECTION 3. This Resolution shall be effective upon its adoption.

RESOLVED AND ADOPTED this 1 of day of November 2021

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Jonathan Pearce, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Andrea McCue, City Manager, Administration

SUBJECT: City Hall Tower Lease Amendment #1

BACKGROUND

The City entered into an Agreement with RG Towers, LLC on October 20, 2021 to construct, support and operate a wireless communications facility at the City Hall Complex.

ANALYSIS

RG Towers is requesting to amend the Lease area to 20' x 30'..

FINANCIAL INFORMATION

Lease rent will increase by two hundred and fifty dollars and no cents (\$250.00) to be paid monthly.

LEGAL

The Resolution has been prepared in accordance with applicable City codes and reviewed for legal sufficiency.

STAFF RECOMMENDATION

Recommend approval of Resolution 2021-54.

RESOLUTION NO. 2021-54

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE TELECOMMUNICATIONS LEASE AGREEMENT BETWEEN THE CITY OF GREENACRES AND RG TOWERS, LLC; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres (City) is the owner of certain real property located in Greenacres, Florida, generally known as the City Hall Complex (Parcel Control Number 18-42-44-26-00-000-7110); and

WHEREAS, on October 20, 2014, the City and RG Towers, LLC (Tenant) entered into an agreement for the purposes of allowing the Tenant to construct, support and operate a wireless communications facility at the City Hall Complex (Agreement); and

WHEREAS, City and Tenant desire to modify the Agreement to increase the Tenant's leased area and increase the annual rent paid by Tenant to City; and,

WHEREAS, the City Council finds amending the Agreement as set forth herein serves a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The First Amendment to the Agreement with RG Towers, LLC, which is attached hereto and made a part hereof, is hereby approved and the Mayor is authorized to execute the same.

SECTION 2. This resolution shall become effective upon its adoption.

Resolution No. 2021-54 | City Hall Tower Lease First Amendment

Page No. 2

RESOLVED AND ADOPTED this 1st day of November, 2021

Joel Flores, Mayor

John Tharp, Deputy Mayor

Voted:

Attest:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Jonathan Pearce, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Voted:

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Andrea McCue, City Manager, Administration

SUBJECT: Ira Van Bullock Park Tower Lease Amendment #1

BACKGROUND

The City entered into an Agreement with RG Towers, LLC on December 16, 2013 to construct, support and operate a wireless communications facility at Ira Van Bullock Park.

ANALYSIS

RG Towers is requesting to amend the Lease area of the tower, relocate City equipment at their cost and give back 200sqft of the reserved 1,000sqft future lease area in exchange for 160sqft.

FINANCIAL INFORMATION

Zero cost to the City.

LEGAL

The Resolution has been prepared in accordance with applicable City codes and reviewed for legal sufficiency.

STAFF RECOMMENDATION

Recommend approval of Resolution 2021-55.

RESOLUTION NO. 2021-55**A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE TELECOMMUNICATIONS LEASE AGREEMENT BY AND BETWEEN THE CITY OF GREENACRES AND RG TOWERS, LLC; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Greenacres (City) is the owner of certain real property located in Greenacres, Florida, generally known as Ira Van Bullock Park (Parcel Control Number: 18-42-44-23-01-029-0010); and

WHEREAS, on December 16, 2013, City and RG Towers, LLC (Tenant) entered into an Agreement for the purposes of allowing Tenant to construct, support and operate a wireless communications facility at Ira Van Bullock Park (Agreement); and

WHEREAS, City and Tenant desire to modify the Agreement to revise the area leased by the Tenant and allow Tenant to relocate City equipment at Tenant's sole cost and expense; and,

WHEREAS, the City Council finds amending the Agreement as set forth herein serves a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The City Council hereby approves the First Amendment to the Agreement, which is attached hereto and incorporated herein, and authorizes the Mayor to execute the same.

SECTION 2. This Resolution shall become effective upon adoption.

Resolution No. 2021-55 | Ira Van Bullock Park Tower Lease First Amendment
Page No. 2

RESOLVED AND ADOPTED this 1st day of November 2021

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Jonathan Pearce, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Quintella L. Moorer, City Clerk, City Clerk's Office

SUBJECT: Resolution No. 2021-56; Notice of Election

BACKGROUND

Pursuant to the City's Charter and Florida State Statutes. The City has determined that settling the March 8, 2022 Municipal Election, entering into the 2022 Agreement with the Palm Beach County Supervisor of Elections and designating the Canvassing Board for the 2022 Municipal Elections as set forth herein serves a valid public purpose and is in the best interest of the City of Greenacres.

ANALYSIS

The Palm Beach County Supervisor of Elections recommends approval of the agreement to ensure a streamline election process.

FINANCIAL INFORMATION

Proposed budget amount of \$55,000.

LEGAL

The Attorney has reviewed the ordinance for legal sufficiency and compliance.

STAFF RECOMMENDATION

Staff recommends approval of Resolution No. 2021-56.

RESOLUTION NO. 2021-56

A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, PROVIDING NOTICE OF THE 2022 MUNICIPAL ELECTION TO BE HELD ON MARCH 8, 2022 PURSUANT TO THE CITY CHARTER AND FLORIDA STATUTES; APPROVING THE CALENDAR YEAR 2022 AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES WITH THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS; DESIGNATING THE COUNTY CANVASSING BOARD AS THE CITY'S CANVASSING BOARD FOR THE MARCH 2022 ELECTION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, each year, the City of Greenacres enters an agreement with the Palm Beach County Supervisor of Elections for vote processing equipment use and election services; and

WHEREAS, the Palm Beach County Supervisor of Elections has provided the City with an agreement for calendar year 2022, which includes the March 2022 municipal election; and

WHEREAS, the City's annual Municipal General Election is set for Tuesday, March 8, 2022, pursuant to the City Charter; and

WHEREAS, it is the desire of the City Council to designate the Palm Beach County Canvassing Board to serve as the City's Canvassing Board for the City's Municipal General Election as offered by the Supervisor of Elections; and

WHEREAS, the City Council has determined that setting the March 2022 municipal election for March 8, 2022, entering the 2022 Agreement with the Palm Beach County Supervisor of Elections and designating the Canvassing Board for the 2022 Municipal Elections as set forth herein serves a valid public purpose and is in the best interests of the City of Greenacres.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

Section 1. The 2022 Municipal Election will be held on Tuesday, March 8, 2022.

Section 2. The 2022 Agreement for Vote Processing Equipment Use and Election Services with the Palm Beach County Supervisor of Elections is hereby approved and the Mayor is authorized to execute the same.

Section 3. The City Commission hereby designates the County Canvassing Board to serve

as the City's Canvassing Board for the Municipal General Election scheduled for Tuesday, March 8, 2022. The City Clerk shall participate as part of the Canvassing Board if a quorum of the County Canvassing Board is not present.

Section 4. This Resolution shall become effective upon its adoption.

RESOLVED AND ADOPTED this 1st day of November, 2021.

Joel Flores, Mayor
Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Noble, Council Member,
District II

Voted:
Judith Dugo, Council Member,
District III

Voted:
Jonathan Pearce, Council Member,
District IV

Voted:
Paula Bousquet, Council Member,
District V

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Kara Irwin-Ferris, AICP, Development & Neighborhood Services Director

SUBJECT: **Ordinance 2021-14, CPA-21-04**
Property Rights Element

BACKGROUND

Statutory provisions in Chapter 163, Florida Statutes, related to comprehensive plans, were amended during the last Florida Legislative session, through CS/HB 59 (Harris Act) by adding Florida Statutes Section 163.3177(6)(i), which requires each local government to adopt a Property Rights Element into their comprehensive plan. Inclusion of the Property Rights Element is intended to protect private property rights and to ensure they are considered in local decision-making.

The new law which was effective July 1, 2021, requires each local government to adopt a Property Rights Element by the earlier of: (1) the adoption of its next proposed plan amendment that is initiated after July 1, 2021, or (2) the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes. The proposed Property Rights Element Comprehensive Plan Amendment is intended to meet this requirement.

The Local Planning Agency reviewed this text amendment on October 20, 2021, and recommended approval by a vote of 5-0.

ANALYSIS

Overall, this amendment is compatible with the Treasure Coast Regional Planning Council's Strategic Policy Plan and Chapter 163, Florida Statutes.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2021-14 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of CPA-21-04 through the adoption of Ordinance 2021-14.

CPA-21-02 (Ordinance 2021-14)

Revised: October 20, 2021

Exhibit "A"

Date: September 15, 2021



LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

Ordinance 2021-14: Property Rights Element Text Amendment

First Reading: A City-initiated request for a text amendment that will add a Property Rights Element within the City of Greenacres Comprehensive Plan as required by Florida Statutes.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department:

Development and Neighborhood Services

Project Manager

Caryn Gardner-Young, Zoning Administrator

Reviewed By:

Director of Development and Neighborhood Services

Kara L. Irwin-Ferris, AICP

Glen J. Torcivia
City Attorney

Approved By:

City Manager

Andrea McCue

Public Notice:

☒ Required

☐ Not Required

Dates:

Paper: The Lake Worth Herald

Mailing

☐ Required

☒ Not Required

Notice Distance: _____

Attachments:

- Ordinance 2021-14
- Exhibit A

City Council Action:

☐ **Approval**

☐ **Approve with conditions**

☐ **Denial**

☐ **Continued to:** _____

I. Executive Summary

On April 1, 2021, the Florida House passed CS/CS/CS/HB 59 (Harris Act) with the bill subsequently passing the Florida Senate on April 8, 2021. Governor DeSantis signed the legislation into law on June 29, 2021 (Chapter 2021-195, Laws of Florida).

Statutory provisions in Chapter 163, Florida Statutes, related to comprehensive plans, were amended to require each local government to adopt a Property Rights Element into their comprehensive plan. Inclusion of the Property Rights Element is intended to protect private property rights and to ensure they are considered in local decision-making.

The new law adds Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021, each local government is required to adopt a Property Rights Element by the earlier of: (1) the adoption of its next proposed plan amendment that is initiated after July 1, 2021, or (2) the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes.

The Florida Department of Economic Opportunity has interpreted the term “initiated” to mean the date of the Local Planning Agency (our Planning Commission) hearing and not the date an application was received. So, only those Land Use Amendment items that went to Local Planning Agency in June or earlier can proceed to City Council for adoption prior to the adoption of the new Property Rights Element. This could potentially impact small scale amendments that went or are going to Planning Commission in July and thereafter, meaning they could be delayed until the Property Rights Element is adopted. It is anticipated that the new Property Rights Element will be reviewed by the Planning Commission in September, and that an ordinance will be brought forward to the City Council as soon as practicable in order to reduce and/or avoid unnecessary delays.

II. Proposed Comprehensive Plan Amendments:

The following is a proposed comprehensive plan amendment. Items which are proposed for deletion are in **~~Strike-Through~~**, items proposed for addition are in **Single Underline**.

INTRODUCTION

A. PURPOSE OF ELEMENT

Under current law, local governments create and adopt local comprehensive plans to control and direct land use and development within a county or municipality. First adopted in 1975 and extensively expanded in 1985, Florida’s comprehensive land planning laws were significantly revised in 2011, becoming the Community Planning Act (CPA). The CPA directs how local governments create and adopt their local comprehensive plans. The CPA requires that all governmental entities in the state recognize and respect judicially acknowledged or constitutionally protected private property rights and exercise their authority without unduly restricting private property rights, leaving property owners free from actions by others that would harm their property or constitute an inordinate burden on property rights under the Harris Act. However, there was no requirement to specifically

include language in a local government's comprehensive plan to address private property rights.

On April 1, 2021, the Florida House passed CS/CS/CS/HB 59 (Harris Act) with the bill subsequently passing the Florida Senate on April 8, 2021. Governor DeSantis signed the legislation into law on June 29, 2021 (Chapter 2021-195, Laws of Florida). Statutory provisions in Chapter 163, Florida Statutes, related to comprehensive plans, were amended to require each local government to adopt a Property Rights Element into their comprehensive plan. Inclusion of the Property Rights Element is intended to protect private property rights and to ensure they are considered in local decision-making. The new law adds Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021, each local government is required to adopt a Property Rights Element by the earlier of: (1) the adoption of its next proposed plan amendment that is initiated after July 1, 2021, or (2) the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes.

II. GOALS, OBJECTIVES AND POLICIES

- A. GOAL: Acknowledge the Florida Constitution and its protection of private property rights and ensure that private property rights are considered in local decision-making.

Objective 1:

The City shall ensure that private property rights are considered in local decision-making.

Policy a)

Subject to applicable federal, state and local laws including without limitation Florida Statutes and the City's Code of Ordinances, the following rights shall be considered in local decision making:

- (1) The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- (2) The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person.
- (3) The right of the property owner to privacy and to exclude others from their property for the protection of the owner's possessions and property.
- (4) The right of a property owner to dispose of his or her property through lineal transfer, sale, or gift

Policy b)

All development applications, including comprehensive plan amendments, shall be made available for public review and an aggrieved or adversely affected person shall be provided equal opportunity for participation in all associated hearings consistent with the requirements of the City's Code of Ordinances and applicable law.

III. Consistency with the Strategic Regional Policy Plan and Chapter 163.3184 F.S.:

Overall, the proposed Comprehensive Plan text amendment is consistent with the Treasure Coast Regional Planning Council's Strategic Regional Policy Plan and Chapter 163, F.S.

IV. Staff Recommendation:

The Land Development Staff met on September 23, 2021 to discuss the proposed amendment. No objections were received.

Approval of CPA-21-02 through the adoption of Ordinance 2021-14.

LOCAL PLANNING AGENCY ACTION – October 20, 2021

The Local Planning Agency on a motion made by Commissioner Neustein and seconded by Commissioner Roberts, by a vote of five (5) to zero (0) recommended approval of Comprehensive Plan Amendment CPA-21-02 as presented by staff

CITY COUNCIL ACTION First Reading – November 1, 2021

CITY COUNCIL ACTION Adoption Hearing –

ORDINANCE NO. 2021-14

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, MORE SPECIFICALLY TO ADOPT A PROPERTY RIGHTS ELEMENT, IN ITS ENTIRETY AS CONTAINED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Greenacres City Council, as the governing body, pursuant to the authority vested in Chapter 163, Chapter 166 and Chapter 177, Florida Statutes, is authorized and empowered to consider changes to its Comprehensive Plan (Plan); and

WHEREAS, the City Council of the City of Greenacres, pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, and in accordance with all of its terms and provisions, has prepared and adopted a Plan which has been certified by the State of Florida Division of Community Development; and

WHEREAS, House Bill 59 (2021) was approved by the Governor requiring local governments to include a private Property Rights Element in their Plan; and

WHEREAS, the Local Planning Agency for the City of Greenacres has held a duly advertised public hearing on October 20, 2021, and has recommended approval of petition CPA-21-02, to add a new Property Rights Element to the City of Greenacres Comprehensive Plan; and

WHEREAS, the City Council of the City of Greenacres has conducted duly advertised public hearings to receive comments on the Property Rights Element text amendment proposed by CPA-21-02 and has considered all comments received concerning the proposed amendments to the Plan as required by state law and local ordinance; and

WHEREAS, the City Council finds that the proposed amendment is consistent with the City's Comprehensive Plan and is in the best interest of the citizens of the City of Greenacres.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

Section 1. The Property Rights Element of the City of Greenacres is hereby added as outlined in Exhibit A, , which is attached hereto and incorporated herein by reference.

Section 2. Authorization to Make Changes.

That the Planning, Building and Engineering Department is further authorized to make the necessary changes to the Comprehensive Plan to reflect the above-stated changes.

Section 3. Repeal of Conflicting Ordinances.

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Severability.

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. Transmittal to the DEO.

The Development and Neighborhood Services Department shall transmit copies of the amendment and Ordinance to the Department of Economic Opportunity (DEO).

Section 6. Inclusion in the Comprehensive Plan.

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Comprehensive Plan of the City of Greenacres, Florida; that the section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

Section 7. Effective Date.

In accordance with Section 163.3184(3) and (5), Florida Statutes, the provisions of this Ordinance shall become effective 31 days after the State Land Planning Agency has determined that the amendment package is complete and provided that no challenge petition has been properly filed with the State Division of Administrative Hearings within 30 days of adoption.

(Remainder of page left blank)

Ordinance No. 2021-14 | Property Rights Element
Page No. 4

Passed on the first reading this 1st day of November, 2021.

PASSED AND ADOPTED on the second reading this DD day of January, 2022.

Voted:

Joel Flores, Mayor

John Tharp, Deputy Mayor

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Jonathan Pearce, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Kara Irwin-Ferris, AICP, Development & Neighborhood Services Director

SUBJECT: **Ordinance 2021-15, CPA-21-02**
CIE Update

BACKGROUND

The Florida legislature mandated that local governments plan for the availability of public facilities and services to support development concurrent with the impact of such development. Consequently, the Capital Improvements Element (CIE) has become the “cornerstone” of achieving this mandate. The goals, objectives and policies set forth in the Capital Improvement Element are the general ends the City of Greenacres wants to achieve; the objectives that need to be accomplished to achieve them; and the positions, programs and level of service standards which need to be adopted in order to achieve the objectives.

Previously, § 163.3177, F.S. required that cities annually update their CIE and Five-Year Schedule of Capital Improvements. However, Chapter 163.3177 was modified in two important ways upon passing of the 2011 Community Planning Act. First, Section 163.3117(3)(a)(4) previously required that the capital improvements element cover a 5-year period and identified whether projects were funded or unfunded and be accompanied by a priority. This section of Florida Statutes no longer requires the demonstration of financial feasibility. Secondly, Section 163.3177(3)(b) modifies the requirements for local governments to annually review the capital improvements element. The City is no longer required to transmit the adopted amendment to the state land planning agency, adopt a long-term concurrency management system, or to address financial feasibility.

However, State Statutes still obligates the City to yearly update its capital projects schedule(s) including those being funded by outside agencies which may impact the City; just not as a Comprehensive Plan Amendment. Therefore, this is the yearly update to the Capital Improvements Element (CIE) of the City’s Comprehensive Plan to maintain consistency between the City’s most recently adopted budget and the Comprehensive Plan. The Amendments include deleting and replacing the following outdated Tables:

1. City of Greenacres Capital Improvement Projects – Table 1A
2. Palm Beach County Roadway Project – Table 1B
3. Palm Beach County Water Projects – Table 1C
4. Palm Beach County School Projects - Table 8

The Local Planning Agency reviewed this text amendment on October 20, 2021, and recommended approval by a vote of 5-0.

ANALYSIS

The text amendment will authorize an update to the Capital Improvement Element within the City's Comprehensive Plan as required by state statute.

Overall, this amendment is compatible with the Treasure Coast Regional Planning Council's Strategic Policy Plan and Chapter 163, Florida Statutes.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2021-15 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of CPA-21-02 through the adoption of Ordinance 2021-15.

CPA-21-02 (Ordinance 2021-15)

Revised: October 20, 2021

Exhibit "A"

Date: September 15, 2021



LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item: Ordinance 2021-15: AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, MORE SPECIFICALLY TO UPDATE THE 5 YEAR CAPITAL IMPROVEMENTS PLAN OF THE CITY OF GREENACRES AS OUTLINED IN THE CAPITAL IMPROVEMENT ELEMENT, AS CONTAINED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

First Reading: A City-initiated request for a text amendment that will update the Capital Improvement Element within the Comprehensive Plan.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator	Reviewed By: Director of Planning & Engineering _____ Kara L. Irwin-Ferris, AICP _____ Glen J. Torcivia City Attorney
Approved By: City Manager _____ Andrea McCue	Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____
Attachments: <ul style="list-style-type: none"> • Ordinance 2021-15 • Exhibit "A" 	City Council Action: <input type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____

I. Executive Summary

The Florida legislature mandated that local governments plan for the availability of public facilities and services to support development concurrent with the impact of such development. Consequently, the Capital Improvements Element (CIE) has become the “cornerstone” of achieving this mandate. The goals, objectives and policies set forth in the Capital Improvement Element are the general ends the City of Greenacres wants to achieve; the objectives that need to be accomplished to achieve them; and the positions, programs and level of service standards which need to be adopted in order to achieve the objectives.

Previously, § 163.3177, F.S. required that cities annually update their CIE and Five-Year Schedule of Capital Improvements. However, Chapter 163.3177 was modified in two important ways upon passing of the 2011 Community Planning Act. First, Section 163.3117(3)(a)(4) previously required that the capital improvements element cover a 5-year period and identified whether projects were funded or unfunded and be accompanied by a priority. This section of Florida Statutes no longer requires the demonstration of financial feasibility. Secondly, Section 163.3177(3)(b) modifies the requirements for local governments to annually review the capital improvements element. The City is no longer required to transmit the adopted amendment to the state land planning agency, adopt a long-term concurrency management system, or to address financial feasibility.

However, State Statutes still obligates the City to yearly update its capital projects schedule(s) including those being funded by outside agencies which may impact the City; just not as a Comprehensive Plan Amendment. Therefore, this is the yearly update to the Capital Improvements Element (CIE) of the City’s Comprehensive Plan to maintain consistency between the City’s most recently adopted budget and the Comprehensive Plan. The Amendments include deleting and replacing the following outdated Tables:

1. City of Greenacres Capital Improvement Projects – Table 1A
2. Palm Beach County Roadway Project – Table 1B
3. Palm Beach County Water Projects – Table 1C
4. Palm Beach County School Projects - Table 8

II. Proposed Comprehensive Plan Amendments:

The following is a proposed comprehensive plan amendment. Items which are proposed for deletion are in **Strike-Through**, items proposed for addition are in **Single Underline**.

Text Amendment #1:

II. INFORMATION, INVENTORY AND ANALYSIS:

C. CAPITAL IMPROVEMENTS NEEDS

Capital Improvements where necessary and appropriate have been identified throughout the relevant elements of this plan. Table No. 1A depicts required City capital improvements from the Recreation and Open Space Element, Infrastructure Element (Drainage and Facilities), and Transportation Element necessary to maintain the adopted Level of Service.

Table No. 1A indicates the project by description, the target year wherein the

project should commence to maintain service levels and an estimate of the total project costs. All projects have been grouped by the element requiring the capital improvement. Footnotes describe the funding source.

The projects listed in Table No. 1A do not represent the entire capital improvements program for the City. The table merely reflects those improvements necessary to maintain the adopted Level of Service for services the City is fully or partly responsible for as shown elsewhere in the Comprehensive Plan.

Table No. 1A: City Of Greenacres Capital Improvements (2021 - 2027)						
	2021	2022	2023	2024	2025	2026
Recreation						
No projects	0	0	0	0	0	0
Stormwater Management and Sewer Extension						
Gladiator Lake ¹	0	1,300,000	0	0	0	0
Original Section Drainage Improvement ¹	0	275,119	128,654	272,708	0	0
Swain Blvd Sewer ¹	0	0	435,000	3,325,000	0	0
Transportation						
Bowman Street Improvements ²	0	150,000	0	0	0	0
TOTAL:	0	1,725,119	563,654	3,597,708	0	0

1. The stormwater and drainage enhancements are intended to increase the capacity of these older drainage systems to improve performance and flood protection. Total project costs for FY 2018 through FY 2023 are \$5,611,481. Grant funds of \$433,036.00 are anticipated to be provided through Community Development Block Grants over the same period. The Swain Blvd Sewer improvements will provide sewer infrastructure and therefore capacity to the Original Section of the City, which currently only has septic systems.
2. The Bowman Street improvements will improve a portion of the Bowman Street to City street standards where it connects to South Military Trail, an Urban Principal Arterial (UPA) roadway.

Table No. 1A: City Of Greenacres Capital Improvements (2021 - 2026)						
	2021	2022	2023	2024	2025	2026
Recreation						
Youth Program Building Construction ⁵	0	500,000	7,500,000	0	0	0
Stormwater Management and Sewer Extension						
Gladiator Lake ¹	1,825,000	1,822,589	0	0	0	0
Original Section Drainage Improvement ¹	294,956	412,608				
Swain Blvd Sewer ¹	0					
Public Works Generator ³	\$240,000 ³					
Transportation						
Bowman Street Improvements ²	0	175,000	0	0	0	0
Fire Services						
Construction or new Fire Station ⁴		500,000	7,500,000			
TOTAL:	2,359,956	3,410,197	15,000,000		0	0

1. The stormwater and drainage enhancements are intended to increase the capacity of these older drainage systems to improve performance and flood protection. Total project costs for FY 2015 through FY 2022 are \$6,207,952. Grant funds of \$2,978,272 are anticipated to be provided through Community Development Block Grants during 2021 and 2022. The Swain Blvd Sewer improvements will provide sewer infrastructure and therefore capacity to the Original Section of the City, which currently only has septic systems.
2. The Bowman Street improvements will improve a portion of the Bowman Street to City street standards where it connects to South Military Trail, an Urban Principal Arterial (UPA) roadway.
3. The purchase of the generator will provide versatility, functionality and cost efficiency that is required to maintain the City's storm sewer system and its current level of service.
4. To maintain the 911 Fire Call Level of Service a new Fire Station will need to be built. The total project costs are \$8,000,000 which all costs are expected to be paid for by the Federal Government through the American Rescue Plan.
5. To maintain the Youth Services Level of Service a new building will need to be built. The total project costs are \$8,000,000 which all costs are expected to be paid for by the Federal Government through the American Rescue Plan.

Table No. 1B depicts improvements to the County and State roadway network proposed as part of the Palm Beach County's "Five Year Road Program" and shows projects within or adjacent to the City of Greenacres. The Table is based on the Program as of June 2021 ~~December 19, 2017~~. The Program is funded through a combination of gasoline taxes, interest, bonds, impact fees, and miscellaneous revenue, all of which are collected and controlled by Palm Beach County.

Table No. 1B: Palm Beach County Road Program (2018 - 2021)					
Description	2018	2019	2020	2021	2022
<u>Intersection of L.W. Road and Jog Road</u>	630,000	0	0	0	0
<u>Total Greenacres Area Projects</u>	630,000	0	0	0	0
<u>Total Program Revenue</u>	69,317,324	0	0	0	0
<u>Total Program Costs</u>	69,050,000	0	0	0	0

Table No. 1B: Palm Beach County Road Program (2021 - 2025)					
Description	2021	2022	2023	2024	2025
<u>Cresthaven Blvd from Jog Road to Military Trail – buffered bike lanes</u>	0	0	<u>\$760,000</u> design	0	<u>\$5,000,000</u> construction
<u>Melaleuca Lane Jog Road Intersection Improvements</u>	<u>\$500,000</u> ROW Acq.	0	<u>\$2,300,000</u> construction		
<u>Sherwood Forest Blvd from Lake Worth Rd to north of 10th Ave North</u>	<u>\$400,000</u> Design/ROW			<u>\$3,500,000</u> construction	
<u>Total Greenacres Area Projects</u>	<u>\$900,000</u>	0	<u>\$3,060,000</u>	<u>\$3,500,000</u>	<u>\$5,000,000</u>
<u>Total Program Revenue</u>	<u>12,460,000</u>	0	0	0	0

Table 1C depicts improvements shown in the Palm Beach County Water Utilities Department's "Water Supply Work Plan" (Capital Improvement Plan Detail) and includes projects throughout their interconnected system. The table is based on the Capital Improvement Plan Detail as of October 21, 2017. All of the projects depicted in Table 1C are 100% funded by Water Utility User Fees.

Table No. 1C: Palm Beach County Water Utilities Department Capital Improvements (2018-2022)					
Description	2018	2019	2020	2021	2022
Water Treatment Plant 2	5,000,000	0	0	12,675,000	84,700,000
Water Treatment Plant 3	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Water Treatment Plant 8	4,000,000	0	1,000,000	4,000,000	0
Water Treatment Plant 9	1,750,000	9,515,000	0	0	0
Water Treatment Plant 11	2,600,000	2,000,000	2,000,000	2,000,000	2,000,000
System wide Wellfield Rehabilitation and Replacement	7,250,000	8,750,000	8,500,000	0	0
TOTAL:	22,600,000	22,265,000	13,500,000	20,675,000	88,7000,000

Table 1C depicts improvements shown in the Palm Beach County's Capital Improvement Plan, as amended from time to time, and includes projects throughout their interconnected system. All of the projects depicted in Table 1C are 100% funded by Water Utility User Fees.

Table No. 1C: Palm Beach County Water Utilities Department Capital Improvements (2021-2025)					
Description	2021	2022	2023	2024	2025
Water Treatment Plant 2	0	100,000	0	0	0
Water Treatment Plant 3	0	2,000,000	2,000,000	2,000,000	2,000,000
Water Treatment Plant 8	1,600,000	0	0	0	0
Water Treatment Plant 11	1,000,000	2,000,000	2,000,000	2,000,000	2,000,000
System wide Wellfield Rehabilitation and Replacement	12,600,000	0	3,000,000	3,000,000	3,000,000
TOTAL:	15,200,000	4,100,000	7,000,000	7,000,000	7,000,000

Table 8, below in the Goals, Objectives and Policies Section, depicts the School District of Palm Beach County's Capital Improvement program to maintain the adopted level of service.

Text Amendment #2 to Table 8 on Pages CIE-26 through CIE-35 (9 pages):

Replace existing Table 8 with revised Table 8 attached as "Exhibit A" (13 pages)

III. Data and Analysis

The Capital Improvement Element (CIE) is a requirement of the 1985 Growth Management Legislation which revised Florida Statutes Chapter 163, the Local Government Comprehensive Planning and Land Development Regulation Act. The purpose of the Capital Improvement Element is to evaluate the need for facilities identified in the other Comprehensive Plan Elements, to estimate the cost of improvements for which the City of Greenacres has fiscal responsibility, to analyze the fiscal capability of the City to finance and construct improvements, to adopt financial policies to guide the funding of improvements and to schedule the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required, based on needs identified in other plan elements. According to State Statute, the CIE has been updated annually to reflect the current budget of the City, Palm Beach County, and the Palm Beach County School Board.

The subject CIE update is intended to reflect the current fiscal information from the adopted City FY 2021 budget pertaining to the City's Capital Improvement Program between the years 2021 through 2026. This specifically includes a six (6) year schedule of capital improvements (current fiscal year plus five future years). Also incorporated in the update are the most recent adopted Palm Beach County Road Plan and the Palm Beach County's Capital Improvement Plan. In addition, this update also includes the latest proposed Capital Improvement Program of the Palm Beach County School District in keeping with Objective 1, Policy a) of the City's Comprehensive Plan Intergovernmental Coordination Element.

IV. Consistency with the Strategic Regional Policy Plan and Chapter 163.3184 F.S.:

Overall, the proposed Comprehensive Plan text amendment is consistent with the Treasure Coast Regional Planning Council's Strategic Regional Policy Plan and Chapter 163, F.S.

V. Staff Recommendation:

The Land Development Staff met on September 23, 2021 to discuss the proposed amendment. No objections were received.

Approval of CPA-21-02 through the adoption of Ordinance 2021-15.

LOCAL PLANNING AGENCY ACTION – October 20, 2021

The Local Planning Agency on a motion made by Commissioner Edmundson and seconded by Commissioner Roberts, by a vote of five (5) to zero (0) recommended approval of Comprehensive Plan Amendment CPA-21-02 as presented by staff

CITY COUNCIL ACTION First Reading – November 1, 2021

CITY COUNCIL ACTION Adoption Hearing – January 2022

ORDINANCE NO. 2021-15

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, MORE SPECIFICALLY TO UPDATE THE 5 YEAR CAPITAL IMPROVEMENTS PLAN OF THE CITY OF GREENACRES AS OUTLINED IN THE CAPITAL IMPROVEMENT ELEMENT, AS CONTAINED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Greenacres City Council, as the governing body, pursuant to the authority vested in Chapter 163, Chapter 166 and Chapter 177, Florida Statutes, is authorized and empowered to consider changes to its Comprehensive Plan (Plan); and

WHEREAS, the City Council of the City of Greenacres, pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, and in accordance with all of its terms and provisions, has prepared and adopted a Plan which has been certified by the State of Florida Division of Community Development; and

WHEREAS, Section 163.3177(3)(a)5.(b), Florida Statutes, requires local governments, except where specifically exempted, to review on an annual basis and modify as necessary the Capital Improvements Element and 5-Year Capital Improvements Plan; and

WHEREAS, the City Council has determined that it is in the best interest of the public health, safety and general welfare of the residents of the City to amend the Capital Improvements Element and 5-Year Capital Improvements Plan consistent with the requirements of Section 166.041, Florida Statutes; and

WHEREAS, in exercise of its authority the City Council has determined it necessary to adopt this amendment to the Plan, which is attached hereto as Exhibit "A" and by this reference made a part hereof, to insure the Plan is in full compliance with the laws of the State of Florida; and

Ordinance No. 2021-15 | Capital Improvements Element

Page No. 2

WHEREAS, the Local Planning Agency for the City of Greenacres has held a duly advertised public hearing on October 20, 2021, and has recommended approval of petition CPA-21-02, to amend the Capital Improvements Element to the City of Greenacres Comprehensive Plan; and

WHEREAS, the City Council of the City of Greenacres has conducted duly advertised public hearings to receive comments on the Capital Improvements Element text amendment proposed by CPA-21-02 and has considered all comments received concerning the proposed amendments to the Plan as required by state law and local ordinance; and

WHEREAS, the City Council finds that the proposed amendment is consistent with the City's Comprehensive Plan; and is in the best interest of the citizens of the City of Greenacres.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

Section 1. The Capital Improvements Element of the City of Greenacres is amended specifically for the annual update of the 5 Year Capital Improvements Plan. Said amendment is set forth in Exhibit "A" attached hereto and by this reference made a part hereof.

Section 2. Authorization to Make Changes.

That the Development and Neighborhood Services Department is further authorized to make the necessary changes to the Comprehensive Plan to reflect the above-stated changes.

Section 3. Repeal of Conflicting Ordinances.

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Severability.

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such

Ordinance No. 2021-15 | Capital Improvements Element

Page No. 3

holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. Inclusion in the Comprehensive Plan.

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Comprehensive Plan of the City of Greenacres, Florida; that the section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

Section 6. Effective Date.

The provisions of this Ordinance shall become effective five (5) days after it adopted.

Ordinance No. 2021-15 | Capital Improvements Element

Page No. 4

Passed on the first reading this 1st day of November, 2021.

PASSED AND ADOPTED on the second reading this ____ day of December, 2021.

Voted:

Joel Flores, Mayor

John Tharp, Deputy Mayor

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Jonathan Pearce, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Kara Irwin-Ferris, AICP, Development & Neighborhood Services Director

SUBJECT: **Ordinance 2021-16, ZTA-21-01**
Creation of New Board – Planning and Zoning Board of Appeals

BACKGROUND

The City of Greenacres in 1966 created the Planning Commission which also serves as the Local Planning Agency and a separate board known as the Zoning Board of Adjustments and Appeals (Zoning Board) which hears variances and appeals. The Planning Commission is responsible for hearing, considering and making recommendations on land and development activity within the City and the Zoning Board is responsible for hearing and deciding appeals concerning interpretations of the zoning regulations and hearing and deciding variances. Each Board consists of seven (7) volunteers and two (2) alternate members.

This Zoning Text Amendment is proposing to create a new Board called the Planning and Zoning Board of Appeals which will be responsible for all duties presently handled by the Planning Commission and the Zoning Board. Historically, state law requires municipalities to have separate boards to handle the functions currently handled by the Planning Commission and the Zoning Board. In 1985, these state laws were repealed and municipalities could combine the separate boards if desired. Currently, the following municipalities have Planning Commissions which also function as the Zoning Board of Adjustment and Appeals: Boca Raton, Coral Springs, Davie, Hallandale Beach, Jupiter, Lake Park, Lake Worth Beach, Miramar, North Palm Beach, North Lauderdale, Palm Beach Gardens, Parkland, Palm Springs, Royal Palm Beach, Sunrise, Tamarac, and Vero Beach (just to name a few).

ANALYSIS

By merging the responsibilities of the City's Planning Commission and Zoning Board, City Staff is being more responsive to the needs of residents and businesses by increasing efficiency and decreasing redundancy in logistics, paperwork and staff time involved in two separate boards. A joint Planning Commission and Zoning Board would:

1. Streamline the process for all development issues;
2. Reduce confusion as to which board hears which issues;
3. Increase frequency of one regular board meeting making zoning decisions more uniform and consistent; and
4. Reduce staff time, costs and logistics associated with two boards versus one board.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2021-16 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of ZTA-21-01 through the adoption of Ordinance 2021-16.

ZTA-21-01 (Ordinance 2021-16)
Exhibit "A"
Date: September 21, 2021

Revised: October 20, 2021



LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

First Reading: A City-initiated request for a text amendment that will create a new Board entitled the Planning and Zoning Board of Appeals which combines the powers and responsibilities of the existing Planning Commission and Zoning Board of Adjustments and Appeals and adds Variance section.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator	Reviewed By: Director of Planning & Engineering _____ Kara L. Irwin-Ferris, AICP _____ Glen J. Torcivia City Attorney
Approved By: City Manager _____ Andrea McCue	Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____
Attachments: <ul style="list-style-type: none"> Ordinance 2021-16 	City Council Action: <input type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____

I. Executive Summary

The City of Greenacres in 1966 created the Planning Commission which also serves as the Local Planning Agency and a separate board known as the Zoning Board of Adjustments and Appeals (Zoning Board) which hears variances and appeals. The Planning Commission is responsible for

hearing, considering and making recommendations on land and development activity within the City and the Zoning Board is responsible for hearing and deciding appeals concerning interpretations of the zoning regulations and hearing and deciding variances. Each Board consists of seven (7) volunteers and two (2) alternate members.

Historically, state law requires municipalities to have separate boards to handle the functions currently handled by the Planning Commission and the Zoning Board. In 1985, these state laws were repealed and municipalities could combine the separate boards if desired. Currently, the following municipalities have Planning Commissions which also function as the Zoning Board of Adjustment and Appeals: Boca Raton, Coral Springs, Davie, Hallandale Beach, Jupiter, Lake Park, Lake Worth Beach, Miramar, North Palm Beach, North Lauderdale, Palm Beach Gardens, Parkland, Palm Springs, Royal Palm Beach, Sunrise, Tamarac, and Vero Beach (just to name a few).

By merging the responsibilities of the City's Planning Commission and Zoning Board, City Staff is being more responsive to the needs of residents and businesses by increasing efficiency and decreasing redundancy in logistics, paperwork and staff time involved in two separate boards. A joint Planning Commission and Zoning Board would:

1. Streamline the process for all development issues;
2. Reduce confusion as to which board hears which issues;
3. Increase frequency of one regular board meeting making zoning decisions more uniform and consistent; and
4. Reduce staff time, costs and logistics associated with two boards versus one board.

In addition, over the last few years, the City of Greenacres has had trouble in obtaining volunteers for the Planning Commission and Zoning Board. Further, at times, obtaining a quorum for one or both boards have been challenging since the regularly scheduled meetings are often cancelled.

The number of cancelled meetings during the year:¹

Commission or Board	2021	2020	2019
Planning Commission ²	9 out of 11	10 out of 13 meetings	11 out of 14 meetings
Zoning Board ³	0 out of 2	3 out of 3 meetings	2 out of 3 meetings

1. As listed in the City's records under Minutes and Agendas for the years noted above.
2. Per Code of Ordinance, the Planning Commission meets twice a month.
3. Per Code of Ordinance, the Zoning Board of Adjustments and Appeals meets as needed.

Currently, there are four vacancies on the Zoning Board (2 full members and 2 alternates) and two vacancies on the Planning Commission (2 alternates) with one member who serves on both Boards.

The City Clerk has made repeated efforts to find members to fill these vacancies. The Clerk has used social media, newspapers and the City website. To date, no applications were received.

The proposed changes are as follows:

1. A new Board would be created called the Planning and Zoning Board of Appeals.

- a. The new Board would take on the responsibilities of the Planning Commission and Zoning Board.
 - b. The new Board will consist of five full members and two alternates.
 - c. Existing members of both Boards would resign but be able to apply for the new Board. (It is foreseeable that the new combined board may be comprised totally of sitting members of the Planning Commission and Zoning Board.)
 - d. The new Board members would serve staggered terms at the beginning so there is always an existing Board member sitting. Thereafter, they would serve 3 years with the ability to reapply.
 - e. Creates quorum
 - f. Clarifies there are no Board Member term limits
 - g. Reduce the number of meetings to once a month with the ability to add meetings if necessary
2. A new section would be created for Variances
- a. States variances run with the land
 - b. Requires all ADA variance requests to follow ADA requirements before variance is requested.
 - c. Notes burden on property owner to prove variance appropriate
 - d. Notes that there is no precedence for a variance
 - e. Limits ability to refile variance for one year.
3. A new section would be created for Administrative Approval of Variances
- a. Provides certain minor situations when City Staff can approve a variance rather than the new Board
 - b. Notice of the intent to approve is provided to the city council and mailed to property owners within 300 feet of the subject property.
 - c. Letters of no objection by abutting property owners is required.
 - d. If determined by City Manager, the petition can be referred to the PZAB.

II. Proposed Comprehensive Plan Amendments:

The following is a proposed Zoning Text Amendment. Items which are proposed for deletion are in **Strike-Through**, items proposed for addition are in **Single Underline**.

~~DIVISION 3. -- PLANNING COMMISSION/LOCAL PLANNING AGENCY^[3]~~

~~Sec. 16-81. -- Creation.~~

~~(a) There is hereby established a planning commission which shall consist of seven (7) members, all of whom shall be appointed by the mayor upon advice and consent of the city council. The basic term of office for members of the commission shall be three (3) years. Vacancies shall be filled by the mayor upon advice and consent of the city council for the unexpired term of any member whose seat has become vacant. All members of the planning commission shall be residents of the city except as authorized by Article VIII Section 5 of the City Charter in order to obtain members with technical and professional expertise from within Palm Beach County to serve on the Commission, and shall serve without compensation except for reimbursement of out of pocket expenses, if any.~~

~~(b) In addition to the regular commission members, the mayor shall appoint upon the advice and consent of city council two (2) additional members designated as planning commission alternate #1 and alternate #2. The alternate members shall serve in that order for succession and voting purposes at meetings of the commission when such alternate member is substituting for an absent regular commission member. In the event of all seven (7) regular members being present at a meeting, the alternate members may take part in the discussion, but shall not cast a vote. In the case of vacancies as indicated in (a) above, the mayor may elect to fill such vacancies with the designated alternates and appoint new alternates upon the advice and consent of city council.~~

~~(c) The absence of a member for three (3) consecutive meetings, without an excuse approved by the chairman of the planning commission, and noted in the minutes, shall be deemed cause for removal by the city council. In the event of a vacancy on the planning commission, such vacancy shall be filled within a period of thirty (30) days from the occurrence of such vacancy in the manner provided herein.~~

~~(d) No member of the planning commission shall be an elected official of the state, county, or city, or a state, county or municipal officer, or an employee of the City of Greenacres. No two (2) members of the commission shall come from or represent the same business, profession, or occupation.~~

~~(e) Pursuant to, and in accordance with, F.S. § 163.3174, and the Local Government Comprehensive Planning and Land Development Regulations Act, the planning commission is hereby designated and established as the local planning agency for the incorporated territory of the city.~~

~~(Code 1966, § 32-91(a); Ord. No. 2011-07, § 4, 6-6-11)~~

~~Sec. 16-82. -- Conflict of interest.~~

~~(a) Members of the planning commission shall be subject to removal from office by the city council for nonfeasance, malfeasance, misfeasance, or for other good cause shown to the city council.~~

~~(b) No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and strengthen the faith and confidence of the citizens of the city, the members of the planning commission are directed as follows:~~

~~(1) Not to accept any gift, favor, or service that might reasonably tend to improperly influence the member in the discharge of official duties.~~

~~(2) To make known by written disclosure any interests which such members shall have in pending application or other matters prior to a hearing thereof. In the event the member is not aware of his interest or a conflict becomes known during a hearing thereof, the member shall immediately disclose his interest and shall abstain from voting on such matter.~~

~~(3) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.~~

~~(4) To refrain from accepting or receiving any compensation from any source which might impair his independence of judgment in the performance of his public duties.~~

~~(5) To refrain from participation in any matter in which such member shall have a personal investment which will create a substantial conflict between his private interests and the public interests.~~

~~(6) Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the city council.~~

~~(Code 1966, § 32-91(b))~~

~~Sec. 16-83. Officers, rules of procedures.~~

~~(a) The planning commission shall elect annually a chairman and vice chairman from among its regular members, and the chairman and vice chairman shall have the same voting rights as any other regular member.~~

~~(b) The planning commission shall be governed by Roberts' Rules of Order, latest edition, in all of its procedural matters.~~

~~(c) Meetings of the planning commission shall be regularly scheduled on a monthly basis on the first and third Wednesday of the month and at such other times as the commission chairman may determine to be necessary. The chairman, or in his absence, the vice chairman, or in his absence the longest serving regular member, shall conduct the meeting. All meetings shall be open to the public. The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record and be filed in the office of the city clerk.~~

~~(Code 1966, § 32-91(c); Ord. No. 98-01, § 2, 7-20-98; Ord. No. 2011-07, § 4, 6-6-11)~~

~~Sec. 16-84. Authority, functions, powers and duties.~~

~~The planning commission shall have the authority and duty to:~~

~~(a) Hear, consider, and make recommendations to the city council to approve, approve with conditions, or deny applications for:~~

~~(1) Annexations.~~

~~(2) Rezoning.~~

~~(3) Special exceptions.~~

~~(4) Site and development plans.~~

~~(5) Zoning text amendments.~~

~~(b) Serve as the local planning agency for the City of Greenacres to hear, consider and make recommendations to the city council for text amendments to the Comprehensive Plan and site specific future land use amendments to the future land use map of the Comprehensive Plan.~~

~~(c) Hear, consider, and make recommendations to the city council with regard to community appearance as part of site and development plan petitions to:~~

~~(1) Balance carefully the natural environment with manmade systems which preserve, protect and conserve the natural environment;~~

~~(2) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of a desirable urban environment;~~

~~(3) Minimize incompatible surroundings and visual blight which prevent orderly community development and reduce property values;~~

~~(4) Encourage and promote development which features amenities and excellence in the form of variations of siting, types of structures and adaptation to and conservation of native vegetation and other environmental design features;~~

~~(5) Foster civic pride and community spirit by maximizing the positive impact of developments;~~

~~(6) Inspire creative approaches to the use of land and related physical developments;~~

~~(7) Encourage the realization and conservation of a desirable aesthetic urban environment through simple and cost-effective design elements;~~

~~(8) Foster the development of a positive visual character for the city by promoting a high degree of compatibility between land uses;~~

~~(9) Promote orderly growth, development and placement of all land uses so as to encourage a balanced natural, physical, and economic environment and advance the quality of life for city residents.~~

~~(d) Hear, consider and make recommendations to the city council with regard to the principles of crime prevention through environmental design (CPTED) as part of site and development plan petitions.~~

~~(e) Consider amendments to previously approved special exceptions and site and development plans.~~

~~(f) Conduct public hearings as may be required to gather information necessary for the maintenance of the Comprehensive Plan and such additional public hearings as required to perform their duties.~~

~~(g) Formulate and propose general recommendations to the city council regarding matters within the realm of community appearance and the scope of this chapter.~~

~~(h) Establish principles and policies for guiding action in the development of the area.~~

~~(i) Acquire and maintain information and materials as necessary to gain an understanding of past trends, present conditions and forces at work to cause changes in these conditions.~~

~~(j) Perform such other duties and assignments as are authorized by the city council.~~

~~(Code 1966, § 32-91(d); Ord. No. 98-01, § 3, 7-20-98; Ord. No. 2011-07, § 4, 6-6-11)~~

~~DIVISION 4. ZONING BOARD OF ADJUSTMENTS AND APPEALS^[4]~~

~~Footnotes:~~

~~—(4)—~~

~~**Cross reference**—Boards, committees, commissions, § 2-46 et seq.~~

~~Sec. 16-101. Creation.~~

~~(a) There is hereby established a zoning board of adjustments and appeals, which shall consist of seven (7) members, all of whom shall be appointed by the mayor, with the advice and consent of the city council. The basic term of office for members of the board shall be three (3) years. Vacancies shall be filled by the mayor with the advice and consent of the city council for the unexpired term of any member whose seat has become vacant. All members of the zoning board of adjustments and appeals shall be residents of the city and shall serve without compensation.~~

~~(b) The absence of a member for three (3) consecutive meetings, without an excuse approved by the chairman of the board of adjustments and appeals, and noted in the minutes, shall be deemed cause for removal by the city council. In the event of a vacancy on the board of adjustments and appeals, such vacancy shall be filled within a period of thirty (30) days from the occurrence of such vacancy in the manner provided herein.~~

~~(c) No member of the board of adjustments and appeals shall be an elected official of the state, county, or city, or a public, state, county or municipal officer, or an employee of the City of Greenacres. No two (2) members of the board of adjustments and appeals shall come from or represent the same business, profession or occupation or job.~~

~~(Code 1966, § 32-95(a); Ord. No. 2011-07, § 5, 6-6-11)~~

~~Sec. 16-102. -- Conflict of interest.~~

~~(a) Members of the zoning board of adjustments and appeals shall be subject to removal from office by the city council for nonfeasance, malfeasance, misfeasance, or for other good cause.~~

~~(b) No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and strengthen the faith and confidence of the citizens of the city, the members of the zoning board of adjustments and appeals are directed as follows:~~

~~(1) Not to accept any gift, favor, or service that might reasonably tend to improperly influence the member in the discharge of official duties.~~

~~(2) To make known by written disclosure any interests which such member shall have in a pending application prior to the hearing thereof. In the event the member is not aware of his interest or a conflict becomes known during the hearing thereof, the member shall immediately disclose his interest and shall abstain from voting on such matter.~~

~~(3) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.~~

~~(4) To refrain from accepting or receiving any compensation from any source which might impair his independence of judgment in the performance of his public duties.~~

~~(5) To refrain from participating in any matter in which such member shall have a personal investment which will create a substantial conflict between his private interests and the public interests.~~

~~(6) Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the city council.~~

~~(Code 1966, § 32-95(b); Ord. No. 2011-07, § 5, 6-6-11)~~

~~Sec. 16-103. -- Officers and rules of procedure.~~

~~(a) The zoning board of adjustments and appeals shall elect annually a chairman and vice-chairman from among its members. The chairman and vice-chairman shall be voting members of the board. The city council shall appoint a secretary who shall record and transcribe all minutes for the zoning board of adjustments and appeals.~~

~~(b) The zoning board of adjustments and appeals shall be governed by Roberts' Rules of Order, latest edition, in all of its procedural matters.~~

~~(c) The city council shall establish a schedule of fees to be charged by the zoning board of adjustments and appeals on the hearing of appellate matters. Fees collected under this provision shall be deposited in the city general fund.~~

~~(———d) Meetings of the zoning board of adjustments and appeals shall be held at the call of the chairman and at such other times as the zoning board of adjustments and appeals may determine. The chairman, or in his absence, the vice chairman, or in his absence the longest serving member, shall conduct the meeting, administer oaths and may compel the attendance of witnesses. All meetings shall be open to the public. The board of adjustments and appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the city clerk who shall maintain the records.~~

~~(Code 1966, § 32-95(c); Ord. No. 2011-07, § 5, 6-6-11)~~

~~Sec. 16-104. Appeals.~~

~~(a) Appeals to the zoning board of adjustments and appeals concerning interpretation or administration of Chapter 12 and Chapter 16 of the City Code may be made by any person aggrieved or by any officer or bureau of the city council affected by any decision of the administrative official. Such appeal shall be made within a reasonable time, not to exceed sixty (60) days from the date of the action being appealed by filing with the planning and engineering department a notice of appeal specifying the grounds thereof. All notices of appeal shall be made by filing an application on forms provided by the planning and engineering department. The planning and engineering department shall transmit to the board of adjustment and appeals the applicant's notice of appeal as well as all papers constituting the record upon which the action appealed was based.~~

~~(b) No application shall be considered or construed to be filed until the required fee has been paid.~~

~~(c) The zoning board of adjustments and appeals shall fix a reasonable time for the hearing of the appeal not to exceed forty five (45) days from the date of filing. The zoning board of adjustments and appeals shall give public notice following the procedures set forth in section 16-33 for public hearings.~~

~~(d) At the hearing, any party may appear in person, by an attorney at law authorized to practice in the state, or by an agent who has received from the petitioner and submitted to the board, written authorization for his appearance.~~

~~(e) When an appeal is taken to the zoning board of adjustments and appeals, all work and proceedings shall stop on the project or premises in question unless the official whose decision is under appeal shall certify in writing that a stay would cause imminent peril to life or property. In such case, work and proceedings shall not stop unless the zoning board of adjustments and appeals or a court of competent jurisdiction issues a temporary restraining order after application to the board or court and notice to the official regarding whom the appeal is made and on due cause shown.~~

~~(Code 1966, § 32-95(d); Ord. No. 2011-07, § 5, 6-6-11; Ord. No. 2012-16, § 3, 10-15-12)~~

~~Sec. 16-105. – Powers, duties, authority and functions.~~

~~(a) To hear and decide appeals in accordance with section 16-104 where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance or regulation.~~

~~(b) In exercising its powers, the zoning board of adjustments and appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the administrative official, in the enforcement of any zoning resolution or regulation adopted pursuant to this chapter and make such order, recommendation, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.~~

~~(c) Grant, grant with conditions, or deny variances from the provision of this chapter and from Chapter 12, Subdivision and Land Development Regulations.~~

~~(d) Variances and exceptions granted by this board shall become void if not exercised within six (6) months of the date granted. Prior to the expiration of such six-month period, the applicant may make a request to the zoning board of adjustments and appeals by letter for a six-month extension. Further extensions of time shall require a new application to be processed in the manner described herein.~~

~~(e) The zoning board of adjustments and appeals shall not be empowered or authorized to grant variances to permit a use in a zone or a district in which such use is not allowed by this chapter.~~

~~(Code 1966, § 32-95(e); Ord. No. 2011-07, § 5, 6-6-11; Ord. No. 2012-16, § 3, 10-15-12)~~

~~Sec. 16-106. – Variances.~~

~~(a) The zoning board of adjustments and appeals shall have the power to authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. In order to authorize any variance in the terms of this chapter, the board of adjustments and appeals must and shall find:~~

~~(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.~~

~~(2) That the special conditions and circumstances do not result from the actions of the applicant.~~

~~(3) That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to the other lands, buildings, or structures in the same zoning district.~~

~~(4) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.~~

~~(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.~~

~~(6) No nonconforming use of neighboring lands, structures or buildings in the same or other districts and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.~~

~~(b) In granting any variance, the zoning board of adjustments and appeals shall prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. The zoning board of adjustments and appeals may also prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.~~

~~(c) Financial hardship is not to be considered alone as sufficient evidence of a hardship in the granting of a variance.~~

~~(d) Applications to the zoning board of adjustments and appeals for variances and/or relief from the provisions of this chapter may be made by the property owner or the owner's authorized agent. All requests for variances shall be made by filing an application on forms provided by the planning and engineering department by noon on the fifteenth of the month or previous regular business day.~~

~~(e) No application shall be considered or construed to be filed until the required fee has been paid.~~

~~(f) Requested variances shall be reviewed by the land development staff and a land development staff report and recommendation prepared and forwarded to the zoning board of adjustments and appeals at least four (4) days prior to the scheduled hearing.~~

~~(g) The zoning board of adjustments and appeals shall fix a reasonable time for the hearing of the variance request not to exceed forty five (45) days from the date of satisfaction of all comments and questions of the land development staff. The zoning board of adjustments and appeals shall give public notice following the procedures set forth in section 16-33 for public hearings.~~

~~(h) At the hearing, any party may appear in person, by an attorney at law authorized to practice in the state, or by an agent who has received from the petitioner and submitted to the board, written authorization for his appearance.~~

(Code 1966, § 32-96; Ord. No. 2011-07, § 5, 6-6-11)

~~Sec. 16-107. -- Review of decisions; venue.~~

~~(a) No person aggrieved by any decision of the zoning board of adjustments and appeals may apply to the court for relief unless the applicant has first exhausted the remedies provided for herein and has taken all available steps provided by this chapter. The decision of the board may be reviewed by the filing of a petition for a writ of certiorari in the circuit court for the fifteenth judicial circuit in and for the county, in accordance with the procedure and within the time provided by court rule for the review of the rulings of any commission or board; and such time shall commence to run from the date of the decision sought to be reviewed.~~

~~(b) No change of venue from the area in which the premises affected is located shall be had in any cause arising under the provisions of this section.~~

~~(c) Costs shall not be allowed against the board of adjustments and appeals.~~

~~(Code 1966, § 32-97; Ord. No. 2011-07, § 5, 6-6-11)~~

DIVISION 3. - PLANNING AND ZONING BOARD OF APPEALS/LOCAL PLANNING AGENCY

Sec. 16-81. - Creation.

(a) There is hereby established a planning and zoning board of appeals (PZAB) which shall consist of five (5) members, all of whom shall be appointed by the mayor upon advice and consent of the city council. During the month of January 2022, five members shall be appointed to the following terms:

- i. One member to a one-year term
- ii. Two members to a two-year term
- iii. Two members to a three-year term

Thereafter, as each term shall expire, all appointments or reappointments shall be for a term of three years. Members can be reappointed to the PZBA for an indefinite number of terms; the reappointments shall be by the mayor upon advice and consent of the city council. Vacancies that arise during the term shall be filled by the mayor upon advice and consent of the city council for the unexpired term of any member whose seat has become vacant. In the case of vacancies, the mayor may elect to fill such vacancies with the designated alternates and appoint new alternates upon the advice and consent of city council. All members of the PZAB shall be residents of the city except as authorized by Article VIII Section 5 of the City Charter in order to obtain members with technical and professional expertise from within Palm Beach County to serve on the PZAB. All members of the PZAB shall serve without compensation except for reimbursement of out-of-pocket expenses, if any.

(b) In addition to the regular PZAB members, the mayor shall appoint upon the advice and consent of city council two (2) alternate members designated as PZAB alternate #1 and alternate #2. The alternate members shall serve in that order for succession and voting purposes at meetings of the PZAB when such alternate member is substituting for an absent regular PZAB member. In the event that all five (5) regular members and the two (2) alternate members are present at a meeting, the alternate members may take part in the discussion, but shall not cast a vote

(c) The absence of a member for three (3) consecutive meetings, without an excuse approved by the chair of the PZAB, and noted in the minutes, shall be deemed cause for removal by the city council. In the event of a vacancy on the PZAB such vacancy shall be filled within a period of thirty (30) days from the occurrence of such vacancy in the manner provided herein.

(d) No member of the PZBA shall be an elected official of the state, county, or city, or a state, county or municipal officer, or an employee of the city.

(d) Pursuant to, and in accordance with section 163.3174 Florida Statutes (and the Community Planning Act), the PZAB is hereby designated and established as the local planning agency for the incorporated territory of the city.

Sec. 16-82. - Conflict of interest.

(a) Members of all of the PZAB shall be subject to removal from office by the city council for nonfeasance, malfeasance, misfeasance, or for other good cause shown to the city council.

(b) No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of the member's duties in the public interest. To implement such policy and strengthen the faith and confidence of the citizens of the city, the members of the PZAB are directed as follows:

(1) Not to accept any gift, favor, or service that might reasonably tend to improperly influence the member in the discharge of official duties.

(2) To make known by written disclosure any interests which such members shall have in pending application or other matters prior to a hearing thereof. In the event the member is not aware of the member's interest or a conflict becomes known during a hearing thereof, the member shall immediately disclose the member's interest and shall abstain from voting on such matter.

(3) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.

(4) To refrain from accepting or receiving any compensation from any source which might impair his independence of judgment in the performance of his public duties.

(5) To refrain from participation in any matter in which such member shall have a personal investment which will create a substantial conflict between the member's private interests and the public interests.

(6) Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the city council.

Sec. 16-83. - Officers, rules of procedures.

(a) The PZAB shall elect annually a chair and vice-chair from among its regular members, and the chair and vice-chair shall have the same voting rights as any other regular member.

(b) The PZAB shall be governed by Roberts' Rules of Order, latest edition, in all of its procedural matters. The presence of at least three (3) PZAB members (inclusive of alternate members) shall constitute a quorum.

(c) Meetings of the PZAB shall be regularly scheduled on a monthly basis on the third Wednesday of the month and at such other times as the PZAB chair or majority of the members may determine to be necessary. The chair, or in the chair's absence, the vice-chair, or in the vice-chair's absence the longest serving regular member, shall conduct the meeting. All meetings shall be open to the public. The PZAB shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record and be filed in the office of the city clerk.

Sec. 16-84. - Authority, functions, powers and duties.

The PZAB shall have the authority and duty to:

(a) Hear, consider, and make recommendations to the city council to approve, approve with conditions, or deny applications for:

(1) Annexations.

(2) Rezoning.

(3) Special exceptions.

(4) Site and development plans.

(5) Zoning text amendments.

(b) Serve as the local planning agency for the city to hear, consider and make recommendations to the city council for text amendments to the Comprehensive Plan and site-specific future land use amendments to the future land use map of the Comprehensive Plan.

(c) Serve as a design review body to hear, consider, and make recommendations to the city council with regard to community appearance as part of site and development plan petitions to:

(1) Balance carefully the natural environment with manmade systems which preserve, protect and conserve the natural environment;

(2) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of a desirable urban environment;

(3) Minimize incompatible surroundings and visual blight which prevent orderly community development and reduce property values;

(4) Encourage and promote development which features amenities and excellence in the form of variations of siting, types of structures and adaptation to and conservation of native vegetation and other environmental design features;

(5) Foster civic pride and community spirit by maximizing the positive impact of developments;

(6) Inspire creative approaches to the use of land and related physical developments;

(7) Encourage the realization and conservation of a desirable aesthetic urban environment through simple and cost-effective design elements;

(8) Foster the development of a positive visual character for the city by promoting a high degree of compatibility between land uses;

(9) Promote orderly growth, development and placement of all land uses so as to encourage a balanced natural, physical, and economic environment and advance the quality of life for city residents.

d) Hear, consider and make recommendations to the city council with regard to the principles of crime prevention through environmental design (CPTED) as part of site and development plan petitions.

(e) Consider amendments to previously approved special exceptions and site and development plans.

(f) Conduct public hearings as may be required to gather information necessary for the maintenance of the Comprehensive Plan and such additional public hearings as required to perform their duties.

(g) Formulate and propose general recommendations to the city council regarding matters within the realm of community appearance and the scope of this chapter.

(h) Establish principles and policies for guiding action in the development of the area.

(i) Acquire and maintain information and materials as necessary to gain an understanding of past trends, present conditions and forces at work to cause changes in these conditions.

(j) Perform such other duties and assignments as are authorized by the city council.

(k) Hear and decide appeals in accordance with section 16-85 where it is alleged there is an error in any interpretation or administration of Chapter 12 and 16 of the City Code by the administrative official.

(l) In accordance with Section 16-103 , grant, grant with conditions or deny variances from the provisions of Chapter 12 and Chapter 16 of the City Code.

Sec. 16-85. - Appeals.

(a) Appeals to the PZAB concerning interpretation or administration of Chapter 12 and Chapter 16 of the City Code may be made by any person aggrieved or by any officer or department of the City affected by any decision of the administrative official. Such appeal shall be made within a reasonable time, not to exceed fifteen (15) days from the date of the decision being rendered by filing a notice of appeal with the development and neighborhood services department. The notice of appeal shall be made by filing a written application on forms provided by the development and neighborhood services department and paying the applicable fee. The notice of appeal must contain the following information:

(1) A written description of the decision by the administrative official that is being appealed;

(2) A brief statement of facts and issues involved in the appeal;

(3) A brief statement of the alleged error(s) made by the administrative official in rendering the administrative official's decision;

(4) Any exhibits or materials relevant to the issues forming the basis of the appeal, such as vegetative surveys, environmental assessments and relevant permits issued by other governmental agencies;

(5) The name, address and telephone number of the property owner;

(6) A legal description of the property;

(7) A boundary survey of the property, completed within twelve (12) months of the appeal; and

(8) Such other information as may reasonably be requested by the development and neighborhood services department.

(b) The development and neighborhood services department shall transmit to the PZAB the applicant's notice of appeal as well as all documents constituting the record upon which the administrative official's decision was based.

(c) No notice of appeal shall be considered or construed to be filed until the required fee has been paid.

(d) The development and neighborhood services department shall fix a reasonable time for hearing the appeal which shall not to exceed forty-five (45) days from the date the notice of appeal is deemed as filed. The development and neighborhood services department shall give public notice of the appeal hearing following the procedures set forth in section 16-33 for public hearings.

(e) At the hearing, the party filing the appeal may appear in person, by an attorney-at-law authorized to practice in the state, or by an agent who received written authorization from the party filing the appeal which is submitted to the PZAB no later than the commencement of the hear.

(f) When an appeal is made to the PZAB, all work and proceedings shall stop on the project, premises and/or property in question unless the administrative official whose decision is under appeal certifies in writing that a stay would cause imminent peril to life or property. In such case, work and proceedings shall not stop unless a court of competent jurisdiction issues a temporary restraining order.

(g) In exercising its powers, the PZAB, in conformity with the provisions of Chapter 12 and Chapter 16, revers or affirm, wholly or partly, or may modify the order requirements, decision or determination made by the administrative official and make such order, recommendation, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken,

DIVISION 4. -VARIANCE

Sec. 16-101. Purpose

(a) The purpose of this section is to provide for relief from certain provisions in Chapter 12 and Chapter 16 of the City's Code when the strict administration of such regulations prevents an important need and the reasonable use of the property for which a variance is sought. In so doing, the following rules apply:

(1) Use variances are not permitted.

(2) All variances run with the land.

(3) All variance requests to the requirements of the Florida Americans with Disabilities Accessibility Implementation Act must be preceded through the procedures required under such act.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Practical difficulty means use of all or a portion of the property at issue cannot occur with reasonable physical accommodation that is economically reasonable.

Unnecessary hardship means a practical difficulty which exists due to an unintended effect of the land development regulation.

Use variance means an exception to the uses permitted in a particular zoning district by right, special exception or conditional use.

Section 16-102 Application requirements

(a) Application by a property owner for a variance shall include the following:

(1) Completed application form signed by the property owner including reasons identifying why a variance is warranted. (Note The burden of proof is the obligation of the applicant. Justification for compliance with the criteria for a variance must be fully documented and proven by the applicant. Each variance must stand on its own merits. Past variances will not be grounds for approval of future variances.).

(2) Agent's authorization or power of attorney if the applicant is other than the property owner.

(3) Warranty deed.

(4) Survey including a legal description of the property and all easements of record, referenced by Official Records Book and page, prepared by a surveyor registered in the State of Florida.

(5) List of property owners within a three hundred-foot radius and mailing envelopes as necessary to meet the requirements of [section 16-33](#) for two (2) public hearings.

(6) One set of stamped plain envelopes with the typed names of owners within a 300' radius of the boundary lines of the subject property. No return address.

(b) All requests for variances shall be made by filing an application on forms provided by the neighborhood and development services department by noon on the fifteenth of the month or previous regular business day.

(c) No application shall be considered or construed to be filed until the required fee has been paid.

Section 16-103 Standards of Review

(a) The PZAB shall have the power to authorize upon appeal such variance from the terms of Chapter 12 and Chapter 16 as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of Chapter 12 and Chapter 16 will result in unnecessary and undue hardship. In order to authorize any variance in the terms of Chapter 12 and Chapter 16, PZAB must and shall find:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(2) That the special conditions and circumstances do not result from the actions of the applicant.

(3) That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to the other lands, buildings, or structures in the same zoning district.

(4) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(6) No nonconforming use of neighboring lands, structures or buildings in the same or other districts and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(b) In granting any variance, the PZAB shall prescribe appropriate conditions and safeguards in conformity with Chapter 12 and Chapter 16 and as the PZAB determines are reasonably necessary in keeping with the above stated six (6) criteria. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of City's Code. The PZAB may also prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both. If no such limit is stated, section 16-105 shall apply.

(c) Financial hardship is not to be considered alone as sufficient evidence of a hardship in the granting of a variance.

(d) Requested variances shall be reviewed by the development and neighborhood services department and a development and neighborhood services department staff report and recommendation shall be prepared and forwarded to the PZBA at least four (4) days prior to the scheduled hearing.

(e) The development and neighborhood services department shall fix a reasonable time for the hearing of the variance request not to exceed forty-five (45) days from the date the application is deemed filed and the applicant has satisfied all comments and questions of the development and neighborhood services department staff. The development and neighborhood services department shall give public notice of the variance following the procedures set forth in section 16-33 for public hearings.

(f) At the hearing, the applicant may appear in person, by an attorney-at-law authorized to practice in the state, or by an agent who has received written authorization from the applicant which is submitted to the PZAB no later than the commencement of the hearing.

Sec. 16-104. - Review of decisions; venue.

(a) No person aggrieved by any decision of the PZAB may apply to the court for relief unless the person aggrieved has first exhausted the remedies provided for herein and has taken all available steps provided by the City Code. A decision of the PZAB may be reviewed by filing a petition for a

writ of certiorari in the circuit court for the fifteenth judicial circuit in and for the county, within thirty (30) days from the date of the decision sought to be reviewed.

(b) Costs shall not be allowed against the PZAB.

Sec. 16-105. - Timeframe.

(a) Variances granted by the PZAB shall become void if not exercised within six (6) months of the date granted. It shall be the obligation of the owner to file written notice with the neighborhood and development services department that the proposed work has begun. Prior to the expiration of such six-month period, the applicant may make a written request to the development and neighborhood services department for a six-month extension. Further extensions of time shall require a new application to be processed in the manner described herein.

(b) Variance requests which have been denied may not be resubmitted for a period of one year. An application for reconsideration will be filed with the neighborhood and development services department along with the appropriate documentation and fees. The city council shall consider the following in granting a waiver of the one year waiting period:

(1) Whether conditions affecting such property materially changed.

(2) Whether there has been an error in substantive or procedural law before the planning and zoning board of appeals.

(3) Whether competent and substantial new evidence is available which was not presented to the planning and zoning board of appeals.

(4) Whether a modified plan is presented.

(5) Whether the particular facts and circumstances otherwise warrant another hearing before the planning and zoning board of appeals.

Sec. 16-106. - Administrative variances

(a) Administrative variances may be approved by the city manager or designee pursuant to this section. An administrative variance may be considered only for:

(1) An adjustment up to ten percent for nonresidential development.

(2) An adjustment of a lot(s) within an area where at least 50 percent of the lots within approximately 300 feet, have already been developed or platted.

(3) An adjustment of no more than ninety percent of a setback required by the underlying district regulations.

(4) An adjustment of no more than ten percent of the lot coverage for a principal and/or accessory structure as required by the underlying district regulations.

(5) An adjustment of spacing between structures on the same lot may be reduced; provided, however, in no event shall such spacing be less than five feet.

(6) An adjustment for shared parking when minimum is not met; provided, however, in no event shall such adjustment be less than ten percent of the required parking.

(7) An adjustment to screening, type/mixing of materials, reduced landscape heights due to availability.

(8) An adjustment for non-residential properties to provide fences and landscaping in lieu of walls.

(9) An adjustment for the construction of an addition or an accessory structure within a single-family or two-family residential lot, where the minimum yard requirements were made more restrictive since the principal residence was lawfully constructed.

(b) At any time prior to the final decision, the city manager or designee shall have the authority to refer the decision to the PZAB.

(c) In addition to any other application requirements of this section, an application for administrative variance shall include letters of no objection from all abutting property owners and the governing homeowners' association, if applicable. If such letters of no objection cannot be obtained, then the applicant may apply for a variance to the PZAB.

(d) In consultation with the development and neighborhood services department staff, the city manager or designee shall consider applications for administrative variance according to the criteria set forth above and the following standards:

(1) The variance is necessary because of practical difficulty peculiar to the land, structure or building involved and which is not applicable to other lands, structures and buildings in the same zoning district.

(2) The variance is the minimum variance necessary to alleviate the practical difficulty.

(3) The variance will be in harmony with the general intent and purpose of the zoning code and will not be injurious to the area involved or otherwise detrimental to the public welfare.

(e) The city manager or designee shall set forth his or her findings and conclusions on the application in a "notice of intent to approve" or a "notice of intent to deny" and provide such notice to the applicant in writing. A "notice of intent to approve" may include conditions necessary for the mitigation of any external impacts of the administrative variance and/or are necessary to accomplish the goals, objectives and policies of the Comprehensive Plan and this chapter, including but not limited to, limitations on size, bulk, location, requirements for lighting and provision of adequate ingress and egress.

(f) Any "notice of intent to approve" shall be provided to the city council and mailed to surrounding property owners within three hundred (300) feet of the subject property.

(g) No sooner than ten (10) but no later than twenty (20) days after the mailing of the "notice of intent to approve," the city manager or designee shall consider any public comments or additional information submitted in relation to the application and render a final decision, setting out in writing the reasons for such approval or denial, and any conditions of approval. If any applicant is aggrieved by a final decision rendered by the city manager or designee, such applicant may appeal such decision to the PZAB as authorized by this chapter.

(h) Unless otherwise provided in the final decision, an administrative variance approval shall become null and void if a development application for the development contemplated in the administrative variance application is not issued within one (1) year of the final decision or if a building permit has not been issued or the building permit has expired in accordance with the plans and conditions upon which the administrative variance was granted and is not renewed pursuant to applicable provisions regarding renewal of building permits.

III. Zoning Text Amendment Criteria:

A. *The need and justification for these changes:*

The principal intent of these proposed text amendments to the Zoning Code is to more responsive to the needs of residents and businesses by decreasing bureaucracy and paperwork while increasing efficiency.

B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City codes.

IV. Staff Recommendation:

The Land Development Staff met on September 23, 2021 to discuss the proposed amendment. No objections were received.

Approval of ZTA-21-01 through the adoption of Ordinance 2021-16.

PLANNING COMMISSION ACTION – October 20, 2021

The Planning Commission on a motion made by Commissioner Edmundson and seconded by Commissioner Roberts, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment ZTA-21-01 as presented by staff

CITY COUNCIL ACTION First Reading – November 1, 2021

CITY COUNCIL ACTION Adoption Hearing –

ORDINANCE NO. 2021-16

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, CREATING A NEW MULTIPURPOSE DEVELOPMENT REVIEW AND APPEALS BOARD TO BE CALLED THE “PLANNING AND ZONING BOARD OF APPEALS” AT SECTION 16-81 THROUGH SECTION 16-85 OF CHAPTER 16, ZONING REGULATIONS, ARTICLE II, ADMINISTRATION, DIVISION 3 OF THE CITY’S CODE OF ORDINANCES; REPEALING THE EXISTING SECTIONS 16-81 THROUGH 16-84 OF CHAPTER 16, ZONING REGULATIONS, ARTICLE II, ADMINISTRATION, DIVISION 3, PLANNING COMMISSION/LOCAL PLANNING AGENCY AND REPEALING THE EXISTING SECTIONS 16-101 THROUGH 16-107 OF CHAPTER 16, ZONING REGULATIONS, ARTICLE II ADMINISTRATION, DIVISION 4, ZONING BOARD OF ADJUSTMENTS AND APPEALS, CREATING A NEW DIVISION 4 TO BE ENTITLED “VARIANCES”, AT CHAPTER 16, ZONING REGULATION, ARTICLE II, ADMINISTRATION, TO INCLUDE SECTIONS 16-101 THROUGH 16-105 AND CREATING A NEW ADMINISTRATIVE VARIANCE PROCESS AT SECTION 16-106; PROVIDING FOR RELATED REVISIONS THROUGHOUT THE CITY’S CODE OF ORDINANCES TO REPLACE THE EXISTING BOARDS’ NAME WITH THE NAME OF THE NEW PLANNING AND ZONING BOARD OF APPEALS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres, Florida (the “City”) is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Chapter 16, Division 3, Section 16-81 through Section 16- 84 and Division 4, Section 16-101 through Section 16-107 set forth the organization, jurisdiction, procedures and duties of the City’s two (2) development related boards: the Planning Commission/Local Planning Agency and the Zoning Board of Adjustments and Appeals (“ZBAA”); and

WHEREAS, the City has seen a steady increase in demands on staff time and City resources to schedule, prepare for, notice, and conduct hearings before the City’s Planning Commission/Local Planning Agency and the ZBAA; and

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WHEREAS, due to COVID and other factors, some hearings before the City's Planning Commission/Local Planning Agency and the ZBAA had to be rescheduled due to quorum issues; and

WHEREAS, to more efficiently utilize staff time and City resources necessary to hold hearings before the City's Planning Commission/Local Planning Agency and ZBAA and to address quorum issues , the City Council desires to create a new multipurpose development review and appeals board to be called the "Planning and Zoning Board of Appeals" to handle the responsibilities and duties of the Planning Commission/Local Planning Agency and the ZBAA; and

WHEREAS, it is the determination of the City Council that the creation of the Planning and Zoning Board of Appeals, and the elimination of Planning Commission/Local Planning Agency and the ZBAA, will reduce the City resources necessary to conduct all development related hearings and appeals and eliminate quorum issues; ; and

WHEREAS, it is further the determination of the City Council that the creation of the Planning and Zoning Board of Appeals will create greater consistency and uniformity in development related decisions for the City; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AS FOLLOWS:

SECTION 1. Creation of Planning and Zoning Board of Appeals. The City's Code of Ordinances, at Chapter 16, Zoning Regulations, Article II, Administration, is hereby amended as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout type~~):

~~DIVISION 3. -- PLANNING COMMISSION/LOCAL PLANNING AGENCY~~^[3]

~~Sec. 16-81. -- Creation.~~

~~(a) There is hereby established a planning commission which shall consist of seven (7) members, all of whom shall be appointed by the mayor upon advice and consent of the city council. The basic term of office for members of the commission shall be three (3) years. Vacancies shall be filled by the mayor upon advice and consent of the city council for the unexpired term of any member whose seat has become vacant. All members of the planning commission shall be residents of the city except as authorized by Article VIII Section 5 of the City Charter in order to obtain members with~~

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~~technical and professional expertise from within Palm Beach County to serve on the Commission, and shall serve without compensation except for reimbursement of out-of-pocket expenses, if any.~~

~~(b) In addition to the regular commission members, the mayor shall appoint upon the advice and consent of city council two (2) additional members designated as planning commission alternate #1 and alternate #2. The alternate members shall serve in that order for succession and voting purposes at meetings of the commission when such alternate member is substituting for an absent regular commission member. In the event of all seven (7) regular members being present at a meeting, the alternate members may take part in the discussion, but shall not cast a vote. In the case of vacancies as indicated in (a) above, the mayor may elect to fill such vacancies with the designated alternates and appoint new alternates upon the advice and consent of city council.~~

~~(c) The absence of a member for three (3) consecutive meetings, without an excuse approved by the chairman of the planning commission, and noted in the minutes, shall be deemed cause for removal by the city council. In the event of a vacancy on the planning commission, such vacancy shall be filled within a period of thirty (30) days from the occurrence of such vacancy in the manner provided herein.~~

~~(d) No member of the planning commission shall be an elected official of the state, county, or city, or a state, county or municipal officer, or an employee of the City of Greenacres. No two (2) members of the commission shall come from or represent the same business, profession, or occupation.~~

~~(e) Pursuant to, and in accordance with, F.S. § 163.3174, and the Local Government Comprehensive Planning and Land Development Regulations Act, the planning commission is hereby designated and established as the local planning agency for the incorporated territory of the city.~~

~~(Code 1966, § 32-91(a); Ord. No. 2011-07, § 4, 6-6-11)~~

~~Sec. 16-82. -- Conflict of interest.~~

~~(a) Members of the planning commission shall be subject to removal from office by the city council for nonfeasance, malfeasance, misfeasance, or for other good cause shown to the city council.~~

~~(b) No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and strengthen the faith and confidence of the citizens of the city, the members of the planning commission are directed as follows:~~

~~(1) Not to accept any gift, favor, or service that might reasonably tend to improperly influence the member in the discharge of official duties.~~

~~(2) To make known by written disclosure any interests which such members shall have in pending application or other matters prior to a hearing thereof. In the event the member is not aware of his interest or a conflict becomes known during a hearing thereof, the member shall immediately disclose his interest and shall abstain from voting on such matter.~~

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~~(3) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.~~

~~(4) To refrain from accepting or receiving any compensation from any source which might impair his independence of judgment in the performance of his public duties.~~

~~(5) To refrain from participation in any matter in which such member shall have a personal investment which will create a substantial conflict between his private interests and the public interests.~~

~~(6) Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the city council.~~

~~(Code 1966, § 32-91(b))~~

~~Sec. 16-83. -- Officers, rules of procedures.~~

~~(a) The planning commission shall elect annually a chairman and vice chairman from among its regular members, and the chairman and vice chairman shall have the same voting rights as any other regular member.~~

~~(b) The planning commission shall be governed by Roberts' Rules of Order, latest edition, in all of its procedural matters.~~

~~(c) Meetings of the planning commission shall be regularly scheduled on a monthly basis on the first and third Wednesday of the month and at such other times as the commission chairman may determine to be necessary. The chairman, or in his absence, the vice chairman, or in his absence the longest serving regular member, shall conduct the meeting. All meetings shall be open to the public. The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record and be filed in the office of the city clerk.~~

~~(Code 1966, § 32-91(c); Ord. No. 98-01, § 2, 7-20-98; Ord. No. 2011-07, § 4, 6-6-11)~~

~~Sec. 16-84. -- Authority, functions, powers and duties.~~

~~The planning commission shall have the authority and duty to:~~

~~(a) Hear, consider, and make recommendations to the city council to approve, approve with conditions, or deny applications for:~~

~~(1) Annexations.~~

~~(2) Rezoning.~~

~~(3) Special exceptions.~~

~~(4) Site and development plans.~~

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~~(5) Zoning text amendments.~~

~~(b) Serve as the local planning agency for the City of Greenacres to hear, consider and make recommendations to the city council for text amendments to the Comprehensive Plan and site-specific future land use amendments to the future land use map of the Comprehensive Plan.~~

~~(c) Hear, consider, and make recommendations to the city council with regard to community appearance as part of site and development plan petitions to:~~

~~(1) Balance carefully the natural environment with manmade systems which preserve, protect and conserve the natural environment;~~

~~(2) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of a desirable urban environment;~~

~~(3) Minimize incompatible surroundings and visual blight which prevent orderly community development and reduce property values;~~

~~(4) Encourage and promote development which features amenities and excellence in the form of variations of siting, types of structures and adaptation to and conservation of native vegetation and other environmental design features;~~

~~(5) Foster civic pride and community spirit by maximizing the positive impact of developments;~~

~~(6) Inspire creative approaches to the use of land and related physical developments;~~

~~(7) Encourage the realization and conservation of a desirable aesthetic urban environment through simple and cost-effective design elements;~~

~~(8) Foster the development of a positive visual character for the city by promoting a high degree of compatibility between land uses;~~

~~(9) Promote orderly growth, development and placement of all land uses so as to encourage a balanced natural, physical, and economic environment and advance the quality of life for city residents.~~

~~(d) Hear, consider and make recommendations to the city council with regard to the principles of crime prevention through environmental design (CPTED) as part of site and development plan petitions.~~

~~(e) Consider amendments to previously approved special exceptions and site and development plans.~~

~~(f) Conduct public hearings as may be required to gather information necessary for the maintenance of the Comprehensive Plan and such additional public hearings as required to perform their duties.~~

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~~(g) Formulate and propose general recommendations to the city council regarding matters within the realm of community appearance and the scope of this chapter.~~

~~(h) Establish principles and policies for guiding action in the development of the area.~~

~~(i) Acquire and maintain information and materials as necessary to gain an understanding of past trends, present conditions and forces at work to cause changes in these conditions.~~

~~(j) Perform such other duties and assignments as are authorized by the city council.~~

~~(Code 1966, § 32-91(d); Ord. No. 98-01, § 3, 7-20-98; Ord. No. 2011-07, § 4, 6-6-11)~~

~~DIVISION 4. -- ZONING BOARD OF ADJUSTMENTS AND APPEALS~~^[4]**~~Footnotes:~~**

~~---(4)---~~

~~Cross reference~~—~~Boards, committees, commissions, § 2-46 et seq.~~

~~Sec. 16-101. -- Creation.~~

~~(a) There is hereby established a zoning board of adjustments and appeals, which shall consist of seven (7) members, all of whom shall be appointed by the mayor, with the advice and consent of the city council. The basic term of office for members of the board shall be three (3) years. Vacancies shall be filled by the mayor with the advice and consent of the city council for the unexpired term of any member whose seat has become vacant. All members of the zoning board of adjustments and appeals shall be residents of the city and shall serve without compensation.~~

~~(b) The absence of a member for three (3) consecutive meetings, without an excuse approved by the chairman of the board of adjustments and appeals, and noted in the minutes, shall be deemed cause for removal by the city council. In the event of a vacancy on the board of adjustments and appeals, such vacancy shall be filled within a period of thirty (30) days from the occurrence of such vacancy in the manner provided herein.~~

~~(c) No member of the board of adjustments and appeals shall be an elected official of the state, county, or city, or a public, state, county or municipal officer, or an employee of the City of Greenacres. No two (2) members of the board of adjustments and appeals shall come from or represent the same business, profession or occupation or job.~~

~~(Code 1966, § 32-95(a); Ord. No. 2011-07, § 5, 6-6-11)~~

~~Sec. 16-102. -- Conflict of interest.~~

~~(a) Members of the zoning board of adjustments and appeals shall be subject to removal from office by the city council for nonfeasance, malfeasance, misfeasance, or for other good cause.~~

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~~(b) No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and strengthen the faith and confidence of the citizens of the city, the members of the zoning board of adjustments and appeals are directed as follows:~~

~~(1) Not to accept any gift, favor, or service that might reasonably tend to improperly influence the member in the discharge of official duties.~~

~~(2) To make known by written disclosure any interests which such member shall have in a pending application prior to the hearing thereof. In the event the member is not aware of his interest or a conflict becomes known during the hearing thereof, the member shall immediately disclose his interest and shall abstain from voting on such matter.~~

~~(3) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.~~

~~(4) To refrain from accepting or receiving any compensation from any source which might impair his independence of judgment in the performance of his public duties.~~

~~(5) To refrain from participating in any matter in which such member shall have a personal investment which will create a substantial conflict between his private interests and the public interests.~~

~~(6) Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the city council.~~

~~(Code 1966, § 32-95(b); Ord. No. 2011-07, § 5, 6-6-11)~~

~~Sec. 16-103. -- Officers and rules of procedure.~~

~~(a) The zoning board of adjustments and appeals shall elect annually a chairman and vice-chairman from among its members. The chairman and vice chairman shall be voting members of the board. The city council shall appoint a secretary who shall record and transcribe all minutes for the zoning board of adjustments and appeals.~~

~~(b) The zoning board of adjustments and appeals shall be governed by Roberts' Rules of Order, latest edition, in all of its procedural matters.~~

~~(c) The city council shall establish a schedule of fees to be charged by the zoning board of adjustments and appeals on the hearing of appellate matters. Fees collected under this provision shall be deposited in the city general fund.~~

~~(d) Meetings of the zoning board of adjustments and appeals shall be held at the call of the chairman and at such other times as the zoning board of adjustments and appeals may determine. The chairman, or in his absence, the vice chairman, or in his absence the longest serving member, shall conduct the meeting, administer oaths and may compel the attendance of witnesses. All meetings shall be open to the public. The board of adjustments and appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote,~~

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indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the city clerk who shall maintain the records.

(Code 1966, § 32-95(c); Ord. No. 2011-07, § 5, 6-6-11)

Sec. 16-104. -- Appeals.

(a) Appeals to the zoning board of adjustments and appeals concerning interpretation or administration of [Chapter 12](#) and [Chapter 16](#) of the City Code may be made by any person aggrieved or by any officer or bureau of the city council affected by any decision of the administrative official. Such appeal shall be made within a reasonable time, not to exceed sixty (60) days from the date of the action being appealed by filing with the planning and engineering department a notice of appeal specifying the grounds thereof. All notices of appeal shall be made by filing an application on forms provided by the planning and engineering department. The planning and engineering department shall transmit to the board of adjustment and appeals the applicant's notice of appeal as well as all papers constituting the record upon which the action appealed was based.

(b) No application shall be considered or construed to be filed until the required fee has been paid.

(c) The zoning board of adjustments and appeals shall fix a reasonable time for the hearing of the appeal not to exceed forty-five (45) days from the date of filing. The zoning board of adjustments and appeals shall give public notice following the procedures set forth in [section 16-33](#) for public hearings.

(d) At the hearing, any party may appear in person, by an attorney-at-law authorized to practice in the state, or by an agent who has received from the petitioner and submitted to the board, written authorization for his appearance.

(e) When an appeal is taken to the zoning board of adjustments and appeals, all work and proceedings shall stop on the project or premises in question unless the official whose decision is under appeal shall certify in writing that a stay would cause imminent peril to life or property. In such case, work and proceedings shall not stop unless the zoning board of adjustments and appeals or a court of competent jurisdiction issues a temporary restraining order after application to the board or court and notice to the official regarding whom the appeal is made and on due cause shown.

(Code 1966, § 32-95(d); Ord. No. 2011-07, § 5, 6-6-11; Ord. No. 2012-16, § 3, 10-15-12)

Sec. 16-105. -- Powers, duties, authority and functions.

(a) To hear and decide appeals in accordance with [section 16-104](#) where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance or regulation.

(b) In exercising its powers, the zoning board of adjustments and appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the administrative official, in the enforcement of any zoning resolution or regulation adopted pursuant to this chapter and make such order, recommendation,

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~~decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.~~

~~(c) Grant, grant with conditions, or deny variances from the provision of this chapter and from [Chapter 12](#), Subdivision and Land Development Regulations.~~

~~(d) Variances and exceptions granted by this board shall become void if not exercised within six (6) months of the date granted. Prior to the expiration of such six-month period, the applicant may make a request to the zoning board of adjustments and appeals by letter for a six-month extension. Further extensions of time shall require a new application to be processed in the manner described herein.~~

~~(e) The zoning board of adjustments and appeals shall not be empowered or authorized to grant variances to permit a use in a zone or a district in which such use is not allowed by this chapter.~~

~~(Code 1966, § 32-95(e); Ord. No. 2011-07, § 5, 6-6-11; Ord. No. 2012-16, § 3, 10-15-12)~~

Sec. 16-106. - Variances.

~~(a) The zoning board of adjustments and appeals shall have the power to authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. In order to authorize any variance in the terms of this chapter, the board of adjustments and appeals must and shall find:~~

~~(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.~~

~~(2) That the special conditions and circumstances do not result from the actions of the applicant.~~

~~(3) That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to the other lands, buildings, or structures in the same zoning district.~~

~~(4) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.~~

~~(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.~~

~~(6) No nonconforming use of neighboring lands, structures or buildings in the same or other districts and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.~~

~~(b) In granting any variance, the zoning board of adjustments and appeals shall prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. The zoning board of adjustments and appeals may also prescribe a~~

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~~reasonable time limit within which the action for which the variance is required shall be begun or completed or both.~~

~~(c) Financial hardship is not to be considered alone as sufficient evidence of a hardship in the granting of a variance.~~

~~(d) Applications to the zoning board of adjustments and appeals for variances and/or relief from the provisions of this chapter may be made by the property owner or the owner's authorized agent. All requests for variances shall be made by filing an application on forms provided by the planning and engineering department by noon on the fifteenth of the month or previous regular business day.~~

~~(e) No application shall be considered or construed to be filed until the required fee has been paid.~~

~~(f) Requested variances shall be reviewed by the land development staff and a land development staff report and recommendation prepared and forwarded to the zoning board of adjustments and appeals at least four (4) days prior to the scheduled hearing.~~

~~(g) The zoning board of adjustments and appeals shall fix a reasonable time for the hearing of the variance request not to exceed forty-five (45) days from the date of satisfaction of all comments and questions of the land development staff. The zoning board of adjustments and appeals shall give public notice following the procedures set forth in [section 16-33](#) for public hearings.~~

~~(h) At the hearing, any party may appear in person, by an attorney-at-law authorized to practice in the state, or by an agent who has received from the petitioner and submitted to the board, written authorization for his appearance.~~

(Code 1966, § 32-96; Ord. No. 2011-07, § 5, 6-6-11)

~~Sec. 16-107. -- Review of decisions; venue.~~

~~(a) No person aggrieved by any decision of the zoning board of adjustments and appeals may apply to the court for relief unless the applicant has first exhausted the remedies provided for herein and has taken all available steps provided by this chapter. The decision of the board may be reviewed by the filing of a petition for a writ of certiorari in the circuit court for the fifteenth judicial circuit in and for the county, in accordance with the procedure and within the time provided by court rule for the review of the rulings of any commission or board; and such time shall commence to run from the date of the decision sought to be reviewed.~~

~~(b) No change of venue from the area in which the premises affected is located shall be had in any cause arising under the provisions of this section.~~

~~(c) Costs shall not be allowed against the board of adjustments and appeals.~~

(Code 1966, § 32-97; Ord. No. 2011-07, § 5, 6-6-11)

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DIVISION 3. - PLANNING AND ZONING BOARD OF APPEALS/LOCAL PLANNING AGENCY**Sec. 16-81. - Creation.**

(a) There is hereby established a planning and zoning board of appeals (PZAB) which shall consist of five (5) members, all of whom shall be appointed by the mayor upon advice and consent of the city council. During the month of January 2022, five members shall be appointed to the following terms:

- i. One member to a one-year term
- ii. Two members to a two-year term
- iii. Two members to a three-year term

Thereafter, as each term shall expire, all appointments or reappointments shall be for a term of three years. Members can be reappointed to the PZBA for an indefinite number of terms; the reappointments shall be by the mayor upon advice and consent of the city council. Vacancies that arise during the term shall be filled by the mayor upon advice and consent of the city council for the unexpired term of any member whose seat has become vacant. In the case of vacancies, the mayor may elect to fill such vacancies with the designated alternates and appoint new alternates upon the advice and consent of city council. All members of the PZAB shall be residents of the city except as authorized by Article VIII Section 5 of the City Charter in order to obtain members with technical and professional expertise from within Palm Beach County to serve on the PZAB. All members of the PZAB shall serve without compensation except for reimbursement of out-of-pocket expenses, if any.

(b) In addition to the regular PZAB members, the mayor shall appoint upon the advice and consent of city council two (2) alternate members designated as PZAB alternate #1 and alternate #2. The alternate members shall serve in that order for succession and voting purposes at meetings of the PZAB when such alternate member is substituting for an absent regular PZAB member. In the event that all five (5) regular members and the two (2) alternate members are present at a meeting, the alternate members may take part in the discussion, but shall not cast a vote

(c) The absence of a member for three (3) consecutive meetings, without an excuse approved by the chair of the PZAB, and noted in the minutes, shall be deemed cause for removal by the city council. In the event of a vacancy on the PZAB such vacancy shall be filled within a period of thirty (30) days from the occurrence of such vacancy in the manner provided herein.

(d) No member of the PZBA shall be an elected official of the state, county, or city, or a state, county or municipal officer, or an employee of the city.

(d) Pursuant to, and in accordance with section 163.3174 Florida Statutes (and the Community Planning Act), the PZAB is hereby designated and established as the local planning agency for the incorporated territory of the city.

Sec. 16-82. - Conflict of interest.

(a) Members of all of the PZAB shall be subject to removal from office by the city council for nonfeasance, malfeasance, misfeasance, or for other good cause shown to the city council.

(b) No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of the member's duties in the public interest. To implement such policy

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and strengthen the faith and confidence of the citizens of the city, the members of the PZAB are directed as follows:

(1) Not to accept any gift, favor, or service that might reasonably tend to improperly influence the member in the discharge of official duties.

(2) To make known by written disclosure any interests which such members shall have in pending application or other matters prior to a hearing thereof. In the event the member is not aware of the member's interest or a conflict becomes known during a hearing thereof, the member shall immediately disclose the member's interest and shall abstain from voting on such matter.

(3) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.

(4) To refrain from accepting or receiving any compensation from any source which might impair his independence of judgment in the performance of his public duties.

(5) To refrain from participation in any matter in which such member shall have a personal investment which will create a substantial conflict between the member's private interests and the public interests.

(6) Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the city council.

Sec. 16-83. - Officers, rules of procedures.

(a) The PZAB shall elect annually a chair and vice-chair from among its regular members, and the chair and vice-chair shall have the same voting rights as any other regular member.

(b) The PZAB shall be governed by Roberts' Rules of Order, latest edition, in all of its procedural matters. The presence of at least three (3) PZAB members (inclusive of alternate members) shall constitute a quorum.

(c) Meetings of the PZAB shall be regularly scheduled on a monthly basis on the third Wednesday of the month and at such other times as the PZAB chair or majority of the members may determine to be necessary. The chair, or in the chair's absence, the vice-chair, or in the vice-chair's absence the longest serving regular member, shall conduct the meeting. All meetings shall be open to the public. The PZAB shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record and be filed in the office of the city clerk.

Sec. 16-84. - Authority, functions, powers and duties.

The PZAB shall have the authority and duty to:

(a) Hear, consider, and make recommendations to the city council to approve, approve with conditions, or deny applications for:

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(1) Annexations.(2) Rezoning.(3) Special exceptions.(4) Site and development plans.(5) Zoning text amendments.

(b) Serve as the local planning agency for the city to hear, consider and make recommendations to the city council for text amendments to the Comprehensive Plan and site-specific future land use amendments to the future land use map of the Comprehensive Plan.

(c) Serve as a design review body to hear, consider, and make recommendations to the city council with regard to community appearance as part of site and development plan petitions to:

(1) Balance carefully the natural environment with manmade systems which preserve, protect and conserve the natural environment;

(2) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of a desirable urban environment;

(3) Minimize incompatible surroundings and visual blight which prevent orderly community development and reduce property values;

(4) Encourage and promote development which features amenities and excellence in the form of variations of siting, types of structures and adaptation to and conservation of native vegetation and other environmental design features;

(5) Foster civic pride and community spirit by maximizing the positive impact of developments;

(6) Inspire creative approaches to the use of land and related physical developments;

(7) Encourage the realization and conservation of a desirable aesthetic urban environment through simple and cost-effective design elements;

(8) Foster the development of a positive visual character for the city by promoting a high degree of compatibility between land uses;

(9) Promote orderly growth, development and placement of all land uses so as to encourage a balanced natural, physical, and economic environment and advance the quality of life for city residents.

d) Hear, consider and make recommendations to the city council with regard to the principles of crime prevention through environmental design (CPTED) as part of site and development plan petitions.

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(e) Consider amendments to previously approved special exceptions and site and development plans.

(f) Conduct public hearings as may be required to gather information necessary for the maintenance of the Comprehensive Plan and such additional public hearings as required to perform their duties.

(g) Formulate and propose general recommendations to the city council regarding matters within the realm of community appearance and the scope of this chapter.

(h) Establish principles and policies for guiding action in the development of the area.

(i) Acquire and maintain information and materials as necessary to gain an understanding of past trends, present conditions and forces at work to cause changes in these conditions.

(j) Perform such other duties and assignments as are authorized by the city council.

(k) Hear and decide appeals in accordance with section 16-85 where it is alleged there is an error in any interpretation or administration of Chapter 12 and 16 of the City Code by the administrative official.

(l) In accordance with Section 16- , grant, grant with conditions or deny variances from the provisions of Chapter 12 and Chapter 16 of the City Code.

Sec. 16-85. - Appeals.

(a) Appeals to the PZAB concerning interpretation or administration of Chapter 12 and Chapter 16 of the City Code may be made by any person aggrieved or by any officer or department of the City affected by any decision of the administrative official. Such appeal shall be made within a reasonable time, not to exceed fifteen (15) days from the date of the decision being rendered by filing a notice of appeal with the development and neighborhood services department. The notice of appeal shall be made by filing a written application on forms provided by the development and neighborhood services department and paying the applicable fee. The notice of appeal must contain the following information:

(1) A written description of the decision by the administrative official that is being appealed;

(2) A brief statement of facts and issues involved in the appeal;

(3) A brief statement of the alleged error(s) made by the administrative official in rendering the administrative official's decision;

(4) Any exhibits or materials relevant to the issues forming the basis of the appeal, such as vegetative surveys, environmental assessments and relevant permits issued by other governmental agencies;

(5) The name, address and telephone number of the property owner;

(6) A legal description of the property;

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(7) A boundary survey of the property, completed within twelve (12) months of the appeal;
and

(8) Such other information as may reasonably be requested by the development and neighborhood services department.

(b) The development and neighborhood services department shall transmit to the PZAB the applicant's notice of appeal as well as all documents constituting the record upon which the administrative official's decision was based.

(c) No notice of appeal shall be considered or construed to be filed until the required fee has been paid.

(d) The development and neighborhood services department shall fix a reasonable time for hearing the appeal which shall not to exceed forty-five (45) days from the date the notice of appeal is deemed as filed. The development and neighborhood services department shall give public notice of the appeal hearing following the procedures set forth in section 16-33 for public hearings.

(e) At the hearing, the party filing the appeal may appear in person, by an attorney-at-law authorized to practice in the state, or by an agent who received written authorization from the party filing the appeal which is submitted to the PZAB no later than the commencement of the hear.

(f) When an appeal is made to the PZAB, all work and proceedings shall stop on the project, premises and/or property in question unless the administrative official whose decision is under appeal certifies in writing that a stay would cause imminent peril to life or property. In such case, work and proceedings shall not stop unless a court of competent jurisdiction issues a temporary restraining order.

(g) In exercising its powers, the PZAB, inconformity with the provisions of Chapter 12 and Chapter 16, revers or affirm, wholly or partly, or may modify the order requirements, decision or determination made by the administrative official and make such order, recommendation, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken,

DIVISION 4. -VARIANCE**Sec. 16-101. Purpose**

(a) The purpose of this section is to provide for relief from certain provisions in Chapter 12 and Chapter 16 of the City's Code when the strict administration of such regulations prevents an important need and the reasonable use of the property for which a variance is sought. In so doing, the following rules apply:

(1) Use variances are not permitted.

(2) All variances run with the land.

(3) All variance requests to the requirements of the Florida Americans with Disabilities Accessibility Implementation Act must be preceded through the procedures required under such act.

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(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Practical difficulty means use of all or a portion of the property at issue cannot occur with reasonable physical accommodation that is economically reasonable.

Unnecessary hardship means a practical difficulty which exists due to an unintended effect of the land development regulation.

Use variance means an exception to the uses permitted in a particular zoning district by right, special exception or conditional use.

Section 16-102 Application requirements

(a) Application by a property owner for a variance shall include the following:

(1) Completed application form signed by the property owner including reasons identifying why a variance is warranted. (Note The burden of proof is the obligation of the applicant. Justification for compliance with the criteria for a variance must be fully documented and proven by the applicant. Each variance must stand on its own merits. Past variances will not be grounds for approval of future variances.).

(2) Agent's authorization or power of attorney if the applicant is other than the property owner.

(3) Warranty deed.

(4) Survey including a legal description of the property and all easements of record, referenced by Official Records Book and page, prepared by a surveyor registered in the State of Florida.

(5) List of property owners within a three hundred-foot radius and mailing envelopes as necessary to meet the requirements of [section 16-33](#) for two (2) public hearings.

(6) One set of stamped plain envelopes with the typed names of owners within a 300' radius of the boundary lines of the subject property. No return address.

(b) All requests for variances shall be made by filing an application on forms provided by the neighborhood and development services department by noon on the fifteenth of the month or previous regular business day.

(c) No application shall be considered or construed to be filed until the required fee has been paid.

Section 16-103 Standards of Review

(a) The PZAB shall have the power to authorize upon appeal such variance from the terms of Chapter 12 and Chapter 16 as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of Chapter 12 and Chapter 16 will result in

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unnecessary and undue hardship. In order to authorize any variance in the terms of Chapter 12 and Chapter 16, PZAB must and shall find:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(2) That the special conditions and circumstances do not result from the actions of the applicant.

(3) That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to the other lands, buildings, or structures in the same zoning district.

(4) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(6) No nonconforming use of neighboring lands, structures or buildings in the same or other districts and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(b) In granting any variance, the PZAB shall prescribe appropriate conditions and safeguards in conformity with Chapter 12 and Chapter 16 and as the PZAB determines are reasonably necessary in keeping with the above stated six (6) criteria. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of City's Code. The PZAB may also prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both. If no such limit is stated, section 16-105 shall apply.

(c) Financial hardship is not to be considered alone as sufficient evidence of a hardship in the granting of a variance.

(d) Requested variances shall be reviewed by the development and neighborhood services department and a development and neighborhood services department staff report and recommendation shall be prepared and forwarded to the PZBA at least four (4) days prior to the scheduled hearing.

(e) The development and neighborhood services department shall fix a reasonable time for the hearing of the variance request not to exceed forty-five (45) days from the date the application is deemed filed and the applicant has satisfied all comments and questions of the development and neighborhood services department staff. The development and neighborhood services department shall give public notice of the variance following the procedures set forth in section 16-33 for public hearings.

(f) At the hearing, the applicant may appear in person, by an attorney-at-law authorized to practice in the state, or by an agent who has received written authorization from the applicant which is submitted to the PZAB no later than the commencement of the hearing.

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Sec. 16-104. - Review of decisions; venue.

(a) No person aggrieved by any decision of the PZAB may apply to the court for relief unless the person aggrieved has first exhausted the remedies provided for herein and has taken all available steps provided by the City Code. A decision of the PZAB may be reviewed by filing a petition for a writ of certiorari in the circuit court for the fifteenth judicial circuit in and for the county, within thirty (30) days from the date of the decision sought to be reviewed.

(b) Costs shall not be allowed against the PZAB.

Sec. 16-105. - Timeframe.

(a) Variances granted by the PZAB shall become void if not exercised within six (6) months of the date granted. It shall be the obligation of the owner to file written notice with the neighborhood and development services department that the proposed work has begun. Prior to the expiration of such six-month period, the applicant may make a written request to the development and neighborhood services department for a six-month extension. Further extensions of time shall require a new application to be processed in the manner described herein.

(b) Variance requests which have been denied may not be resubmitted for a period of one year. An application for reconsideration will be filed with the neighborhood and development services department along with the appropriate documentation and fees. The city council shall consider the following in granting a waiver of the one year waiting period:

(1) Whether conditions affecting such property materially changed.

(2) Whether there has been an error in substantive or procedural law before the planning and zoning board of appeals.

(3) Whether competent and substantial new evidence is available which was not presented to the planning and zoning board of appeals.

(4) Whether a modified plan is presented.

(5) Whether the particular facts and circumstances otherwise warrant another hearing before the planning and zoning board of appeals.

Sec. 16-106. - Administrative variances

(a) Administrative variances may be approved by the city manager or designee pursuant to this section. An administrative variance may be considered only for:

(1) An adjustment up to ten percent for nonresidential development.

(2) An adjustment of a lot(s) within an area where at least 50 percent of the lots within approximately 300 feet, have already been developed or platted.

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(3) An adjustment of no more than ninety percent of a setback required by the underlying district regulations.

(4) An adjustment of no more than ten percent of the lot coverage for a principal and/or accessory structure as required by the underlying district regulations.

(5) An adjustment of spacing between structures on the same lot may be reduced; provided, however, in no event shall such spacing be less than five feet.

(6) An adjustment for shared parking when minimum is not met; provided, however, in no event shall such adjustment be less than ten percent of the required parking.

(7) An adjustment to screening, type/mixing of materials, reduced landscape heights due to availability.

(8) An adjustment for non-residential properties to provide fences and landscaping in lieu of walls.

(9) An adjustment for the construction of an addition or an accessory structure within a single-family or two-family residential lot, where the minimum yard requirements were made more restrictive since the principal residence was lawfully constructed.

(b) At any time prior to the final decision, the city manager or designee shall have the authority to refer the decision to the PZAB.

(c) In addition to any other application requirements of this section, an application for administrative variance shall include letters of no objection from all abutting property owners and the governing homeowners' association, if applicable. If such letters of no objection cannot be obtained, then the applicant may apply for a variance to the PZAB.

(d) In consultation with the development and neighborhood services department staff, the city manager or designee shall consider applications for administrative variance according to the criteria set forth above and the following standards:

(1) The variance is necessary because of practical difficulty peculiar to the land, structure or building involved and which is not applicable to other lands, structures and buildings in the same zoning district.

(2) The variance is the minimum variance necessary to alleviate the practical difficulty.

(3) The variance will be in harmony with the general intent and purpose of the zoning code and will not be injurious to the area involved or otherwise detrimental to the public welfare.

(e) The city manager or designee shall set forth his or her findings and conclusions on the application in a "notice of intent to approve" or a "notice of intent to deny" and provide such notice to the applicant in writing. A "notice of intent to approve" may include conditions necessary for the mitigation of any external impacts of the administrative variance and/or are necessary to accomplish the goals, objectives and policies of the Comprehensive Plan and this chapter, including but not limited to, limitations on size, bulk, location, requirements for lighting and provision of adequate ingress and egress.

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(f) Any "notice of intent to approve" shall be provided to the city council and mailed to surrounding property owners within three hundred (300) feet of the subject property.

(g) No sooner than ten (10) but no later than twenty (20) days after the mailing of the "notice of intent to approve," the city manager or designee shall consider any public comments or additional information submitted in relation to the application and render a final decision, setting out in writing the reasons for such approval or denial, and any conditions of approval. If any applicant is aggrieved by a final decision rendered by the city manager or designee, such applicant may appeal such decision to the PZAB as authorized by this chapter.

(h) Unless otherwise provided in the final decision, an administrative variance approval shall become null and void if a development application for the development contemplated in the administrative variance application is not issued within one (1) year of the final decision or if a building permit has not been issued or the building permit has expired in accordance with the plans and conditions upon which the administrative variance was granted and is not renewed pursuant to applicable provisions regarding renewal of building permits.

* * * * *

Section 2. . Amending Related Code Sections. With the deletion of the Planning Commission and the Zoning Board of Adjustments and Appeals and the creation of the Planning and Zoning Board of Appeals through this ordinance, the City Code needs to be revised in many sections to recognize the changes in the boards' names. Accordingly, where the City Code currently refers to the "the Planning Commission" and/or the "Zoning Board of Adjustments and Appeals", those sections shall be amended by deletion of the board's or boards' names and the insertion of the "Planning and Zoning Board of Appeals".

Section 3. Repeal of Conflicting Ordinances

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions this Ordinance are hereby repealed.

Section 4. Severability.

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as

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if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. Inclusion in Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

Section 6. Effective Date.

The provisions of this Ordinance shall become effective five (5) days after it is adopted.

(Rest of page intentionally left blank)

Passed on the first reading this 1st day of November, 2021.

PASSED AND ADOPTED on the second reading this day of December, 2021.

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Jonathan Pearce, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney



ITEM SUMMARY

MEETING DATE: November 1, 2021

FROM: Kara Irwin-Ferris, AICP, Development & Neighborhood Services Director

SUBJECT: **Ordinance 2021-17, CPA-21-03**
Water Supply Plan

BACKGROUND

In accordance with Section 163.3177(6)(c), Florida Statutes (F.S.), each local government within the region must revise its Water Supply Facilities Work Plan within eighteen (18) months after the approval of the Lower East Coast (LEC) Water Supply Plan Update by the South Florida Water Management District (SFWMD) Governing Board. The SFWMD Governing Board approved the LEC Water Supply Plan Update on November 8, 2018.

The proposed amendment to the Comprehensive Plan would revise the City's 10 year Water Supply Facilities Work Plan in accordance with the Palm Beach County's Water Supply Facilities Work Plan as required by Section 163.3177(6)(c), F.S.

The Local Planning Agency reviewed this text amendment on October 20, 2021, and recommended approval by a vote of 5-0.

ANALYSIS

Overall, this amendment is compatible with the Treasure Coast Regional Planning Council's Strategic Policy Plan and Chapter 163, Florida Statutes.

FINANCIAL INFORMATION

N/A

LEGAL

Ordinance 2021-17 was prepared in accordance with all applicable state statutes and City Code Requirements.

STAFF RECOMMENDATION

Approval of CPA-21-03 through the adoption of Ordinance 2021-17.

CPA-21-03 (Ordinance 2021-17)

Revised: October 20, 2021

Exhibit "A"

Date: September 15, 2021



LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

Ordinance 2021-17: Water Supply Plan Update

First Reading: A City-initiated request for a text amendment to update the City's Water Supply Plan by amending the Intergovernmental and Public Facilities Elements within the City of Greenacres Comprehensive Plan as required by Florida Statutes.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator	Reviewed By: Director of Planning & Engineering _____ Kara L. Irwin-Ferris, AICP _____ Glen J. Torcivia City Attorney
Approved By: City Manager _____ Andrea McCue	Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____

Attachments: <ul style="list-style-type: none"> • Ordinance 2021-17 • Exhibit "A", "B" and "C" 	City Council Action: <input type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____
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I. Executive Summary

The purpose of water supply planning is to develop strategies to meet future water demands of urban and agricultural uses while meeting the needs of the environment. This process identifies areas where historically used sources of water will not be adequate to meet future demands, and evaluates several water source options to meet those demands. § 163.3177(6)(c) F.S. requires the City of Greenacres (City) to revise its Comprehensive Plan within eighteen months after the water management district approves a regional water supply plan or its update. The South Florida Water Management District (SFWMD) adopted its most recent update to the Lower East Coast Water Supply Plan in November, 2018.

Although the City of Greenacres has no operational responsibility in providing potable water to City residents since this service is provided by Palm Beach County Water Utilities (PBCWU), by state statute, the City is still required to adopt a Water Supply Plan. Since PBCWU is the City's water provider, the City can adopt the PBCWU Water Supply Plan as its own Water Supply Plan. The City did so when the PBCWU Water Supply Plan was first adopted in 2008. But with the 2018 updates to the Lower East Coast Water Supply Plan, PBCWU and the City must update their Water Supply Plan. PBCWU has already accomplished this update and the City is now following suit. Since references to the Water Supply Plan are contained in two City Comprehensive Plan Elements both the Intergovernmental and Public Facilities Elements must be amended.

II. Proposed Comprehensive Plan Amendments:

Attached are the proposed comprehensive plan text amendments. Exhibit "A" are amendments to the Public Infrastructure Portable Water Element (Chapter 2d). Exhibit "B" are amendments to the Public Infrastructure Element Goals and Objectives (Chapter 2f). Exhibit "C" are amendments to the Intergovernmental Element (Chapter 7). Items which are proposed for deletion are in **~~Strike-Through~~**, items proposed for addition are in **Single Underline**.

III. Consistency with the Strategic Regional Policy Plan and Chapter 163.3184 F.S.:

Overall, the proposed Comprehensive Plan text amendments are consistent with the Treasure Coast Regional Planning Council's Strategic Regional Policy Plan and Chapter 163, F.S.

IV. Staff Recommendation:

The Land Development Staff met on September 23, 2021 to discuss the proposed amendment. No objections were received.

Approval of CPA-21-03 through the adoption of Ordinance 2021-17.

LOCAL PLANNING AGENCY ACTION – October 20, 2021

The Local Planning Agency on a motion made by Commissioner Roberts and seconded by Commissioner Hayes, by a vote of five (5) to zero (0) recommended approval of Comprehensive Plan Amendment CPA-21-03 as presented by staff

CITY COUNCIL ACTION First Reading – November 1, 2021

CITY COUNCIL ACTION Adoption Hearing –

ORDINANCE NO. 2021-17

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, MORE SPECIFICALLY TO UPDATE THE CITY OF GREENACRES 10 YEAR WATER SUPPLY FACILITIES WORK PLAN AS ADOPTED BY REFERENCE IN THE INTERGOVERNMENTAL AND PUBLIC FACILITIES ELEMENTS, AS CONTAINED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Greenacres City Council, as the governing body, pursuant to the authority vested in Chapter 163, Chapter 166 and Chapter 177, Florida Statutes, is authorized and empowered to consider changes to its Comprehensive Plan (Plan); and

WHEREAS, the City Council of the City of Greenacres, pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, and in accordance with all of its terms and provisions, has prepared and adopted a Plan which has been certified by the State of Florida Division of Community Development; and

WHEREAS, the 2005 Legislature revised the Growth Management Act, along with Chapter 373, F.S., to improve the coordination of water supply planning and land use planning between local governments and the five water management districts in the State of Florida (the "State"); and

WHEREAS, in furtherance of the water supply planning process created thereby, all five water management districts are required to periodically evaluate whether adequate sources of water exist to supply all existing and future reasonable-beneficial uses and, in the event that existing sources of water supply were determined to not be adequate, to prepare regional water supply plans, ("RWSP"), which identified how water supply needs could be met for a 20-year planning period and are to be updated every five years; and

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WHEREAS, , the Community Planning Act also requires that local comprehensive plans be coordinated with the appropriate water management district's RWSP developed pursuant to Section 373.709, F.S., and that all local comprehensive plan amendments be based on the availability of adequate water supplies and associated public facilities to meet projected growth demands, pursuant to Section 163.3177(4)(a), F.S., and Section 163.3177(6)(a), F.S., respectively; and

WHEREAS, Section 163.3177(6)(c), F.S., provides that local governments subject to a RWSP amend their local comprehensive plans to adopt a 10-year water supply work plan ("Work Plan") for building public, private, and regional water supply facilities, including development of alternative water supplies, which are necessary to serve existing and new development; said work plan to be updated within 18 months after the governing board of a water management district updates its RSWP; and

WHEREAS, although the City of Greenacres has no operational responsibility in providing potable water to City residents since this service is provided by Palm Beach County Water Utilities (PBCWU), by state statute, the City is still required to adopt a Water Supply Plan; and

WHEREAS, since PBCWU is the City's water provider, the City can adopt the PBCWU Water Supply Plan as its own Water Supply Plan; and

WHEREAS, in compliance with the Growth Management Act as amended in 2005 and in response to the 2006 Update to the Lower East Coast Regional Water Supply Plan (LECRWSP), the City by reference adopted PBCWU's 10-Year Water Facilities Work Plan in 2008, which was later updated in March 2015, in response to the 2013 Update of the LECRWSP; and

WHEREAS, the South Florida Water Management District amended its RWSP again in 2018 so the City's must amend its Plan to be in compliance with the new RWSP; and

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WHEREAS, PBCWU has already amended its Water Supply Plan to be in compliance with the South Florida Water Management District 2018 document; and

WHEREAS, the Local Planning Agency for the City of Greenacres has held a duly advertised public hearing on October 20, 2021, and has recommended approval of petition CPA-21-03 to amend the City's Intergovernmental and Infrastructure Comprehensive Elements so the City's Water Supply Plan is in compliance with state statute (attached as Exhibits "A", "B" and "C"); and

WHEREAS, the City Council of the City of Greenacres has conducted duly advertised public hearings to receive comments on the Intergovernmental and Infrastructure Element text amendments proposed by CPA-21-03 and has considered all comments received concerning the proposed amendments to the Plan as required by state law and local ordinance; and

WHEREAS, the City Council finds that the proposed amendment is consistent with the City's Comprehensive Plan; and is in the best interest of the citizens of the City of Greenacres.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The Intergovernmental and Infrastructure Comprehensive Plan Elements of the City of Greenacres are hereby amended as outlined in the attached Exhibits, which are attached hereto and incorporated herein by reference (additions are indicated by underscoring and deletions are indicated by ~~strikeout type~~)

Section 2. Authorization to Make Changes.

That the Planning and Engineering Department is further authorized to make the necessary changes to the Comprehensive Plan to reflect the above-stated changes.

Section 3. Repeal of Conflicting Ordinances.

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Severability.

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. Transmittal to the DEO.

The Planning and Engineering Department shall transmit copies of the amendment and Ordinance to the Department of Economic Opportunity (DEO).

Section 6. Inclusion in the Comprehensive Plan.

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Comprehensive Plan of the City of Greenacres, Florida; that the section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

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Section 7. Effective Date.

In accordance with Section 163.3184(3) and (5), Florida Statutes, the provisions of this Ordinance shall become effective 31 days after the State Land Planning Agency has determined that the amendment package is complete and provided that no challenge petition has been properly filed with the State Division of Administrative Hearings within 30 days of adoption.

(Reminder of page left blank)

Ordinance No. 2021-17 | Water Supply Plan

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Passed on the first reading this 1st day of November, 2021.

PASSED AND ADOPTED on the second reading this DD day of Month, 2021.

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharp, Deputy Mayor

Voted:
Peter Noble, Council Member, *District II*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Jonathan Pearce, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney