

CITY OF WESTLAKE



AGENDA

City Council Regular Meeting

Tuesday, October 04, 2022 at 6:00 PM

Westlake Council Chambers
4005 Seminole Pratt Whitney Road
Westlake, Florida 33470

CITY COUNCIL:

JohnPaul O'Connor, Mayor
Greg Langowski, Vice Mayor
Pilar Valle Ron, Council Member – Seat 1
Julian Martinez, Council Member – Seat 2
Charlotte Leonard, Council Member – Seat 3

CITY STAFF:

Ken Cassel, City Manager
Zoie P. Burgess, CMC, City Clerk
Donald J. Doody, Esq., City Attorney
Nilsa Zacarias, AICP, Planning and Zoning Director
Suzanne Dombrowski, P.E., ENV SP, City Engineer

[TENTATIVE: SUBJECT TO REVISION]

This is a Public Meeting and members of the public may attend in-person; however, the option to attend and participate via Communications Media Technology is available via the Cisco WebEx Platform and may be accessed as follows:

1. Join the Webex meeting from your computer, tablet or smartphone at the following link:
<https://cityofwestlake.my.webex.com/>

Meeting ID: 2632 888 9851

Password: hello

2. Participants may also dial in using your phone with any of the following number(s):

United States Toll: +1-408-418-9388

Meeting ID: 2632 888 9851

For participants attending the meeting via WebEx, public comments will be accepted via an electronic comment card, at least 24 hours prior to the public meeting and also acknowledged during the meeting when participants utilize the “raise your hand” feature during the designated time.

Procedures for Public Comment are also provided via the City website:
<https://www.westlakegov.com/cityclerk/page/covid-19-public-meetings>

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

PUBLIC COMMENTS AND REQUESTS

This section of the agenda allows for comments from the public to speak. Each speaker will be given a total of three (3) minutes to comment. A public comment card should be completed and returned to the City Clerk. When you are called to speak, please go to the podium or unmute your device, and prior to addressing Council, state your name and address for the record.

CONSENT AGENDA

This section of the agenda consists of routine or administrative items that require final approval by the City Council and may be approved in its entirety by a single motion. There will be no discussion of these items unless a Council Member, requests such, in which event, the item will be removed from the Consent Agenda and considered on a future agenda.

- [A.](#) Monthly Financial Report - August
- [B.](#) Minutes_City Council Budget Workshop - 07.26.2022 - DRAFT
- [C.](#) Minutes_City Council Regular Meeting - 08.02.2022 DRAFT
- [D.](#) Minutes_City of Westlake and Seminole Improvement District Joint Meeting - 08.23.2022 DRAFT

PUBLIC HEARING

- [A.](#) **CPA-2022-01 (Second Reading):** Application of Minto PBLH, LLC proposing a small scale future land use map amendment to change the future land use designation on a 9.137-acre site from Civic to Downtown Mixed Use designation. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.

Submitted By: Planning and Zoning

ORDINANCE NO. 2022-10

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, SPECIFICALLY AMENDING A PORTION OF THE CITY OF WESTLAKE FUTURE LAND USE MAP AS A SMALL SCALE AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION FROM CIVIC CATEGORY TO DOWNTOWN MIXED USE CATEGORY ON PROPERTY DESIGNATED AS POD PC-2, MORE PARTICULARLY DESCRIBED HEREIN AND CONTAINING 9.137 ACRES MORE OR LESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

- [B.](#) **ZC-2022-01 (Second Reading):** Application of Minto PBLH, LLC requesting a zoning change from the Civic (C) zoning district to the Mixed Use (MU) zoning

district. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.

Submitted By: Planning and Zoning

ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, APPROVING THE REZONING OF THE PROPERTY CONSISTING OF APPROXIMATELY 9.137 GROSS ACRES IN SIZE, FOR THE PARCEL REFERRED TO AS POD PC-2 FROM CIVIC DISTRICT TO MIXED USE DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NEW BUSINESS

A. **FIRST READING:** Ordinance 2022-12 – Pedestrian Safety and Public Lodging

Submitted By: Planning and Zoning

ORDINANCE NO. 2022-12

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, CREATING CHAPTER _____ OF THE CITY'S CODE OF ORDINANCES ENTITLED "Pedestrian Safety and public lodging" BY SPECIFICALLY CREATING SECTIONS _____ THROUGH _____ DESIGNED TO protect pedestrians, PANHANDLERS, SOLICITERS, AND BEGGaRS in public streets and rights of way and prohibiting certain public lodging subject to outreach efforts; PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

B. ORDINANCE 2022-13 - Emergency Ordinance - Declaring a State of Emergency in the City of Westlake

ORDINANCE NO. 2022-13

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF WESTLAKE, FLORIDA; PURSUANT TO CHAPTER 166 OF THE FLORIDA STATUTES; THE CITY COUNCIL HEREBY DECLARES A STATE OF EMERGENCY IN THE CITY OF WESTLAKE GIVEN THE IMPACTS CREATED BY HURRICANE IAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

C. Consideration of Engagement Letter with Berger, Toombs, Elam, Gaines & Frank for the Fiscal Year 2022 Financial Audit

Presented By: Administration

CITY COUNCIL COMMENTS

- A. Councilwoman Charlotte Leonard
- B. Councilman Julian Martinez
- C. Councilwoman Pilar Valle Ron
- D. Vice Mayor Greg Langowski
- E. Mayor JohnPaul O'Connor

REPORT - STAFF

REPORT - CITY ATTORNEY

REPORT - CITY MANAGER

PUBLIC COMMENTS AND REQUESTS

This section of the agenda allows for comments from the public to speak. Each speaker will be given a total of three (3) minutes to comment. A public comment card should be completed and returned to the City Clerk. When you are called to speak, please go to the podium or unmute your device, and prior to addressing Council, state your name and address for the record.

ADJOURNMENT

Next Meeting (Subject to Change or be Cancelled): **October 11, 2022 - City Council Workshop**

NOTICE: If a person, firm or corporation decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, you will need a record of the proceedings, and you may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (The above notice is required by State Law. Anyone desiring a verbatim transcript shall have the responsibility, at his own cost, to arrange for the transcript). The City of Westlake does not prepare or provide such verbatim record.

In accordance with the Americans with Disabilities Act, persons who need an accommodation in order to attend or participate in this meeting should contact the City Clerk at (561) 530-5880 at least three (3) business days prior to the meeting in order to request such assistance.

AGENDA POSTED: September 29, 2022, REVISED October 3, 2022

File Attachments for Item:

A. Monthly Financial Report - August



MEMORANDUM

TO: Members of the City Council, City of Westlake
FROM: Steven Fowler, Accountant; Kadem Ramirez, Accounting Supervisor
CC: Ken Cassel, City Manager
DATE: September 23, 2022
SUBJECT: August Financial Report

Please find attached the August 2022 financial report. During your review, please keep in mind that the goal is for revenue to meet or exceed the year-to-date budget and for expenditures to be at or below the year-to-date budget. An overview of the City's funds is provided below. Should you have any questions or require additional information, please contact me at Steven.Fowler@inframark.com.

General Fund

- Total Revenues through August were approximately 91% of the annual budget, including collections of the FY2022 Ad Valorem Tax of approximately 98%. The annual budget includes revenue from a funding agreement with the Developer. The Developer is invoiced quarterly for any year-to-date excess of actual expenditures over actual revenue.
- Total Expenditures through August were approximately 71% of the annual budget.

Special Revenue Fund – Housing Assistance Program

- Total Revenues through August were approximately 291% of the annual budget, which was a result of a higher than anticipated rate of construction. A donation of \$1,500 per Single Family Residence building permit is paid into the Housing Assistance Program.

Special Revenue Fund – Comprehensive Planning Services

- Total Revenues through August were approximately 91% of the annual budget.
- Total Expenditures through August were approximately 88% of the annual budget.

City of Westlake

Financial Report

August 31, 2022



Table of Contents

<u>FINANCIAL STATEMENTS</u>	Page #
Balance Sheet	1 - 2
Statement of Revenues, Expenditures and Changes in Fund Balance	
General Fund	3 - 5
Special Revenue Fund (Housing Assistance Program)	6
Special Revenue Fund (Comprehensive Planning Services)	7
 <u>SUPPORTING SCHEDULES</u>	
Cash and Investment Report	8

City of Westlake

Financial Report

August 31, 2022



City of Westlake

Financial Statements

August 31, 2022

Balance Sheet
August 31, 2022

ACCOUNT DESCRIPTION	GENERAL FUND	SPECIAL REVENUE FUND - HOUSING ASSISTANCE PROGRAM	SPECIAL REVENUE FUND - COMPREHENSIVE PLANNING SVCS	TOTAL
ASSETS				
Current Assets				
Cash - Checking Account	\$ 1,677,262	\$ -	\$ -	\$ 1,677,262
Cash in Transit	-	250,000	-	250,000
Assessments Receivable	43,506	-	-	43,506
Due From Other Funds	-	-	1,946,954	1,946,954
Investments:				
Money Market Account	2,118,194	2,575,724	-	4,693,918
Deposits	666	-	-	666
Total Current Assets	3,839,628	2,825,724	1,946,954	8,612,306
Noncurrent Assets				
Mortgages Receivable	-	609,722	-	609,722
Total Noncurrent Assets	-	609,722	-	609,722
TOTAL ASSETS	\$ 3,839,628	\$ 3,435,446	\$ 1,946,954	\$ 9,222,028

Balance Sheet
August 31, 2022

ACCOUNT DESCRIPTION	GENERAL FUND	SPECIAL REVENUE FUND - HOUSING ASSISTANCE PROGRAM	SPECIAL REVENUE FUND - COMPREHENSIVE PLANNING SVCS	TOTAL
LIABILITIES				
Current Liabilities				
Accounts Payable	\$ 75,797	\$ -	\$ 156,643	\$ 232,440
Accrued Expenses	15,478	-	60,325	75,803
DBPR surcharge	4,316	-	-	4,316
DCA surcharge	6,159	-	-	6,159
Impact Fees	439,051	-	-	439,051
Unearned Revenue	44,133	-	-	44,133
Due To Other Districts	3,556	-	-	3,556
Deferred Revenue-Developer Submittals (Minto)	-	-	17,078	17,078
Due To Other Funds	1,946,954	-	-	1,946,954
Total Current Liabilities	2,535,444	-	234,046	2,769,490
Long-Term Liabilities				
Deferred Inflow of Resources	43,506	-	-	43,506
Total Long-Term Liabilities	43,506	-	-	43,506
TOTAL LIABILITIES	2,578,950	-	234,046	2,812,996
FUND BALANCES				
Nonspendable:				
Deposits	641	-	-	641
Restricted for:				
Special Revenue	-	3,435,446	1,712,908	5,148,354
Unassigned:	1,260,037	-	-	1,260,037
TOTAL FUND BALANCES	\$ 1,260,678	\$ 3,435,446	\$ 1,712,908	\$ 6,409,032
TOTAL LIABILITIES & FUND BALANCE	\$ 3,839,628	\$ 3,435,446	\$ 1,946,954	\$ 9,222,028

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2022

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>YEAR TO DATE BUDGET</u>	<u>YEAR TO DATE ACTUAL</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
<u>REVENUES</u>				
Interest - Investments	\$ -	\$ -	\$ 3,960	\$ 3,960
Ad Valorem Taxes	1,838,592	1,838,592	1,796,354	(42,238)
Ad Valorem Taxes - Discounts	(73,544)	(73,544)	(69,673)	3,871
Discretionary Sales Surtaxes	69,700	63,892	-	(63,892)
FPL Franchise	110,300	101,108	189,539	88,431
Solid Waste	-	-	11,824	11,824
Electricity	113,600	104,133	186,503	82,370
Water	41,500	38,042	48,590	10,548
Gas	34,600	31,717	50,649	18,932
Communication Services Taxes	36,200	33,183	42,316	9,133
Occupational Licenses	6,100	5,592	23,246	17,654
Building Permits - Admin Fee	62,100	56,925	87,818	30,893
Licenses, Fees & Permits	-	-	600	600
General Government	-	-	362,367	362,367
State Revenue Sharing Proceeds	17,200	15,767	13,814	(1,953)
Alcoholic Beverage License	-	-	575	575
Shared Rev - Other Local Units	-	-	975	975
Administrative Fees	245,400	221,450	9,740	(211,710)
Other Public Safety Chrgs/Fees	2,400	2,200	5,231	3,031
Garbage/Solid Waste Revenue	29,100	26,675	264,791	238,116
Penalties	-	-	9,000	9,000
Other Operating Revenues	5,400	4,950	12,914	7,964
Event Sponsors	-	-	78,350	78,350
Judgements and Fines	-	-	661	661
Interest - Tax Collector	-	-	161	161
Special Assmnts- Tax Collector	232,600	232,600	214,313	(18,287)
Special Assmnts- Discounts	(9,300)	(9,300)	(1,302)	7,998
Developer Contribution	930,152	667,203	-	(667,203)
Lien Search Fee	1,300	1,192	9,263	8,071
TOTAL REVENUES	3,693,400	3,362,377	3,352,579	(9,798)
<u>EXPENDITURES</u>				
<u>Legislative</u>				
Mayor/Council Stipend	110,400	101,200	89,443	11,757
FICA Taxes	8,400	7,700	6,842	858
ProfServ-Legislative Expense	24,000	22,000	-	22,000
Telephone, Cable & Internet Service	-	-	1,131	(1,131)
Public Officials Insurance	4,400	4,400	3,125	1,275
Misc-Election Fee	-	-	600	(600)
Misc-Event Expense	63,800	63,800	168,542	(104,742)
Council Expenses	15,000	13,750	17,591	(3,841)
Dues, Licenses, Subscriptions	1,400	1,400	1,529	(129)
Total Legislative	227,400	214,250	288,803	(74,553)

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2022

ACCOUNT DESCRIPTION	ANNUAL ADOPTED BUDGET	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	VARIANCE (\$) FAV(UNFAV)
<u>City Manager</u>				
Contracts-City Manager	251,900	230,908	190,120	40,788
Office Supplies	14,900	13,658	6,243	7,415
Dues, Licenses, Subscriptions	3,900	3,792	2,804	988
Cap Outlay - Equipment	-	-	1,855	(1,855)
Cap Outlay - Office Computers	-	-	6,306	(6,306)
Total City Manager	270,700	248,358	207,328	41,030
<u>City Clerk</u>				
ProfServ-Web Site Maintenance	10,600	10,217	7,872	2,345
Contracts-City Clerk	206,000	188,833	188,833	-
Postage and Freight	1,000	917	890	27
Printing	19,400	17,783	2,523	15,260
Legal Advertising	31,200	28,600	14,670	13,930
Dues, Licenses, Subscriptions	10,000	9,938	10,271	(333)
Total City Clerk	278,200	256,288	225,059	31,229
<u>Finance</u>				
Auditing Services	5,300	5,300	5,250	50
Contracts-Finance	95,500	87,542	73,945	13,597
Total Finance	100,800	92,842	79,195	13,647
<u>Legal Counsel</u>				
ProfServ-Legal Services	275,000	252,083	77,446	174,637
Total Legal Counsel	275,000	252,083	77,446	174,637
<u>Other Administrative Services</u>				
ProfServ-Info Technology	195,100	178,842	190,963	(12,121)
ProfServ-Compliance Service	25,000	22,917	-	22,917
Contracts-Admin. Service	257,000	235,583	186,185	49,398
Misc-Public Relations	75,000	68,750	24,100	44,650
Misc-Assessment Collection Cost	2,300	2,300	411	1,889
General Government	90,000	82,500	62,482	20,018
Emergency Comm. Program	25,000	22,917	-	22,917
Total Other Administrative Services	669,400	613,809	464,141	149,668
<u>Facility Services</u>				
Telephone, Cable & Internet Service	13,200	12,100	13,576	(1,476)
Lease - Copier	16,000	14,667	12,491	2,176
Lease - Building	86,700	79,475	500	78,975
Insurance (Liab,Auto,Property)	4,500	4,500	5,745	(1,245)
Miscellaneous Services	1,200	1,100	1,520	(420)
Cleaning Services	36,500	33,458	22,515	10,943
Principal-Capital Lease	8,500	7,754	7,646	108
Interest-Capital Lease	1,700	1,597	1,913	(316)
Total Facility Services	168,300	154,651	65,906	88,745

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2022

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>YEAR TO DATE BUDGET</u>	<u>YEAR TO DATE ACTUAL</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
<u>Community Services</u>				
Contracts-Solid Waste	248,600	227,883	430,996	(203,113)
Contracts-Sheriff	656,500	601,792	595,835	5,957
Electricity	98,600	90,383	103,597	(13,214)
R&M-Community Maintenance	27,500	25,208	25,208	-
Operating Supplies	6,100	4,575	30,815	(26,240)
Total Community Services	1,037,300	949,841	1,186,451	(236,610)
<u>Capital Expenditures & Projects</u>				
Capital Improvements	50,000	50,000	-	50,000
Total Capital Expenditures & Projects	50,000	50,000	-	50,000
<u>Other Fees and Charges</u>				
Misc-Contingency	151,400	138,783	24,719	114,064
Total Other Fees and Charges	151,400	138,783	24,719	114,064
<u>Reserves</u>				
1st Quarter Operating Reserves	264,900	242,825	-	242,825
Reserve - Buildings	200,000	183,333	-	183,333
Total Reserves	464,900	426,158	-	426,158
TOTAL EXPENDITURES & RESERVES	3,693,400	3,397,063	2,619,048	778,015
Excess (deficiency) of revenues				
Over (under) expenditures	-	(34,686)	733,531	768,217
Net change in fund balance	\$ -	\$ (34,686)	\$ 733,531	\$ 768,217
FUND BALANCE, BEGINNING (OCT 1, 2021)	555,296	555,296	555,296	
FUND BALANCE, ENDING	\$ 555,296	\$ 520,610	\$ 1,288,827	

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2022

ACCOUNT DESCRIPTION	ANNUAL ADOPTED BUDGET	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	VARIANCE (\$) FAV(UNFAV)
<u>REVENUES</u>				
Interest - Investments	\$ 3,800	\$ 3,483	\$ 5,840	\$ 2,357
Donations	300,000	275,000	879,528	604,528
TOTAL REVENUES	303,800	278,483	885,368	606,885
<u>EXPENDITURES</u>				
<u>Public Assistance</u>				
Misc-Admin Fee (%)	21,000	19,250	9,740	9,510
Assistance Program	282,800	259,233	-	259,233
Bank Fees	-	-	6	(6)
Total Public Assistance	303,800	278,483	9,746	268,737
TOTAL EXPENDITURES	303,800	278,483	9,746	268,737
Excess (deficiency) of revenues Over (under) expenditures	-	-	875,622	875,622
<u>OTHER FINANCING SOURCES (USES)</u>				
Interest Income	-	-	12	12
TOTAL FINANCING SOURCES (USES)	-	-	12	12
Net change in fund balance	\$ -	\$ -	\$ 875,634	\$ 875,634
FUND BALANCE, BEGINNING (OCT 1, 2021)	2,559,812	2,559,812	2,559,812	
FUND BALANCE, ENDING	\$ 2,559,812	\$ 2,559,812	\$ 3,435,446	

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2022

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>YEAR TO DATE BUDGET</u>	<u>YEAR TO DATE ACTUAL</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
<u>REVENUES</u>				
Building Permits	\$ 1,561,100	\$ 1,431,008	\$ 1,563,606	\$ 132,598
Reinspection Fees	24,600	22,550	2,550	(20,000)
Building Permits - Surcharge	3,500	3,208	5,956	2,748
Other Building Permit Fees	30,000	27,500	71,210	43,710
Building Permits - Admin Fee	87,900	80,575	130,042	49,467
Engineering Permits	374,600	343,383	374,294	30,911
Planning & Zoning Permits	301,700	276,558	39,039	(237,519)
Developer Contribution	25,000	18,750	-	(18,750)
TOTAL REVENUES	2,408,400	2,203,532	2,186,697	(16,835)
<u>EXPENDITURES</u>				
<u>Comprehensive Planning</u>				
ProfServ-Engineering	352,600	323,217	294,886	28,331
ProfServ-Info Technology	170,900	156,658	88,283	68,375
ProfServ-Legal Services	-	-	59,253	(59,253)
ProfServ-Planning/Zoning Board	301,700	276,558	252,540	24,018
ProfServ-Consultants	22,000	20,167	-	20,167
ProfServ-Building Permits	1,258,200	1,153,350	1,295,574	(142,224)
Outside Legal Services	-	-	875	(875)
Telephone, Cable & Internet Service	1,100	1,008	4,356	(3,348)
Lease - Copier	5,100	4,675	5,099	(424)
Lease - Building	43,400	39,783	-	39,783
Printing	1,800	1,650	598	1,052
Miscellaneous Services	-	-	1,308	(1,308)
Misc-Admin Fee (%)	224,400	205,700	103,783	101,917
Office Supplies	2,200	2,017	4,458	(2,441)
Cleaning Services	-	-	14,400	(14,400)
Capital Improvements	25,000	25,000	-	25,000
Total Comprehensive Planning	2,408,400	2,209,783	2,125,413	84,370
TOTAL EXPENDITURES	2,408,400	2,209,783	2,125,413	84,370
Excess (deficiency) of revenues				
Over (under) expenditures	-	(6,251)	61,284	67,535
Net change in fund balance	\$ -	\$ (6,251)	\$ 61,284	\$ 67,535
FUND BALANCE, BEGINNING (OCT 1, 2021)	1,651,624	1,651,623	1,651,624	
FUND BALANCE, ENDING	\$ 1,651,624	\$ 1,645,372	\$ 1,712,908	

City of Westlake

Supporting Schedules

August 31, 2022

Cash and Investment Report

August 31, 2022

GENERAL FUND

<u>Account Name</u>	<u>Bank Name</u>	<u>Investment Type</u>	<u>Yield</u>	<u>Balance</u>
Checking Account - Operating	BankUnited	Checking Account	n/a	\$1,677,262
Money Market	BankUnited	MMA	0.40%	\$2,118,194
		Subtotal		\$3,795,456

SPECIAL REVENUE FUND

Money Market	BankUnited	MMA	0.40%	\$2,575,724
		Subtotal		\$2,575,724
		Total		\$6,371,180

File Attachments for Item:

B. Minutes_City Council Budget Workshop - 07.26.2022 - DRAFT

CITY OF WESTLAKE



MINUTES

City Council Budget Workshop
Tuesday, July 26, 2022, at 6:00 PM

Westlake Council Chambers
4005 Seminole Pratt Whitney Road
Westlake, Florida 33470

CITY COUNCIL:

JohnPaul O'Connor, Mayor
Greg Langowski, Vice Mayor
Pilar Valle Ron, Council Member – Seat 1
Julian Martinez, Council Member – Seat 2
Charlotte Leonard, Council Member – Seat 3

CITY STAFF:

Ken Cassel, City Manager
Zoie P. Burgess, CMC, City Clerk
Donald J. Doody, Esq., City Attorney
Nilsa Zacarias, AICP, Planning and Zoning Director
Suzanne Dombrowski, P.E., ENV SP, City Engineer

A City Council Budget Workshop meeting of the City Council of the City of Westlake was held on Tuesday, July 26, 2022, at 6:00 PM., at the Westlake Community Center, 4005 Seminole Pratt Whitney Road. Members of the public also participated in the meeting through electronic means and accessed as follows:

1. Join the Webex meeting from your computer, tablet, or smartphone at the following link:
<https://cityofwestlake.my.webex.com/>

Meeting ID: 2631 113 8770
Password: hello

2. Participants may also dial in using your phone with any of the following number(s):

United States Toll: +1-408-418-9388
Meeting ID: 2631 113 8770

For participants attending the meeting via WebEx, public comments will be accepted via an electronic comment card, at least 24 hours prior to the public meeting and also acknowledged during the meeting when participants utilize the "raise your hand" feature during the designated time.

Procedures for Public Comment are also provided via the City website:
<https://www.westlakegov.com/cityclerk/page/covid-19-public-meetings>

As a preliminary matter, Ms. Ramirez noted that Mayor JohnPaul O'Connor, Vice Mayor Greg Langowski Councilwoman Pilar Valle Ron, Councilman Julian Martinez, and Councilwoman Charlotte Leonard were present physically constituting a quorum.

Ms. Ramirez provided further instruction regarding public comments, noting that comments will be acknowledged by the mayor and accepted at the appropriate times as indicated in the Agenda and those who wish to speak may use the "virtual" hand raise feature. Ms. Ramirez provided the disclaimer that the meeting is being recorded by both voice and video, reminding the audience that microphones are live.

Ms. Ramirez further explained that microphones will be muted; audience members have the ability to unmute themselves and anyone that has called in should mute their device. Ms. Ramirez noted that anyone causing a disruption or being inappropriate will be removed from the meeting.

Ms. Ramirez reminded Council Members physically present to utilize microphones.

CALL TO ORDER

Mayor O'Connor called the City Council Budget Workshop meeting of Tuesday, July 26, 2022, to order at 6:01 PM.

ROLL CALL

Present and constituting a quorum:

Councilwoman Charlotte Leonard
Councilman Julian Martinez
Councilwoman Pilar Valle Ron
Vice Mayor Greg Langowski
Mayor JohnPaul O'Connor

PLEDGE OF ALLEGIANCE

Mayor O'Connor led the Pledge of Allegiance.

WORKSHOP AGENDA

A. FY 2023 Proposed Budget Discussion

Mr. Cassel presented a PowerPoint presentation outlining the proposed City Budget. Mr. Cassel started with the background of the City of Westlake and its incorporation. Mr. Cassel further explained the organizational structure and the City-Seminole Improvement District relationship noting that both organizations provide equal, yet different functions, but function together as one. He discussed how the city contracts with seven different contractors for all its functions:

- Inframark – Administrative Services (City Manager, City Clerk, Administrative Staff, Accountants, Accounts Payable, Accounts Receivable, Assessments)
- Goren, Chernoff, Doody & Ezra – Legal Services
- NZ Consultants – Planning and Zoning services
- Chen-Moore Engineering – Engineering Services (Plat, Landscaping, Engineering, and Traffic reviews)
- Nova Engineering – Building Department Services (Building Official, Reviewers, Inspectors, Permit Clerks, Code Compliance)
- PBSO – Police services – 1 Full Time Equivalent (5 officers), All other services that may be needed and necessary.
- Waste Management – Solid Waste Services under a PBC SWA bid process

Mr. Cassel discussed prior budgets that were put in place for the city and how the budget continues to grow as the city gets larger. Mr. Cassel also discussed the fees that were received from permitting, property taxes and contributions made from developers.

Mr. Cassel further explained the proposed millage rate, identifying a rate of 5.125 to be economically viable.

CITY COUNCIL COMMENTS

Council reviewed the Special Revenue Fund Detail – Comprehensive Planning Services Report and discussed total revenue and expenditures for the following:

- 2020 Total Revenue spent
- Public Service Tax Electricity, Taxes
- FPL Franchise fees
- Lien search fees
- Council Expenses
- Other Administrative services
- Public Relations
- City Events
- Council Expenses
- City Managers Budget
- Advertising
- Legal Services
- Street Lighting
- Operating Supplies - Solid Waste
- HAPPY Program – Special Revenue
- General Funds
- Telephone – Facility Services

-
- Insurance Liability – Covers General liability
 - Miscellaneous Services – Annual Property Tax for Copiers
 - Principal Capital Lease Payments – Lease on Software
 - Special Assessments
 - City Council Department
 - Inspector General Fees – Professional Service Compliance
 - Federal Grants – American Recovery Funds, Grants City has Participated in, Grants for Parks, Grant Writers
 - Unincorporated lands
 - GIS
 - Contingency

CITY ATTORNEY COMMENTS

No comment from City Attorney.

CITY MANAGER COMMENTS

Mr. Cassel discussed the future park that will be operated by Seminole Improvement District. Plans are in progress to use man-made and natural resources to be incorporated into the design of the park.

PUBLIC COMMENTS

This section of the agenda allows for comments from the public to speak. Each speaker will be given a total of three (3) minutes to comment. A public comment card should be completed and returned to the City Clerk. When you are called to speak, please go to the podium or unmute your device, and prior to addressing Council, state your name and address for the record.

Ms. Ramirez noted there were no public comment cards received prior to the meeting and gave the virtual audience a moment to comment. There being no comments, the next item followed.

ADJOURNMENT

There being no further business, Mayor O'Connor adjourned the meeting at 7:36 PM.

Zoie P. Burgess, City Clerk

JohnPaul O'Connor, Mayor

File Attachments for Item:

C. Minutes_City Council Regular Meeting - 08.02.2022 DRAFT

CITY OF WESTLAKE



MINUTES

City Council Regular Meeting

Tuesday, August 02, 2022, at 6:00 PM

Westlake Council Chambers
4005 Seminole Pratt Whitney Road
Westlake, Florida 33470

CITY COUNCIL:

JohnPaul O'Connor, Mayor
Greg Langowski, Vice Mayor
Pilar Valle Ron, Council Member – Seat 1
Julian Martinez, Council Member – Seat 2
Charlotte Leonard, Council Member – Seat 3

CITY STAFF:

Ken Cassel, City Manager
Zoie P. Burgess, CMC, City Clerk
Donald J. Doody, Esq., City Attorney
Nilsa Zacarias, Planning and Zoning Director
Suzanne Dombrowski, City Engineer

A regular meeting of the City Council of the City of Westlake was held on Tuesday, August 02, 2022, at 6:00 PM., at the Westlake Community Center, 4005 Seminole Pratt Whitney Road. Members of the public also participated in the meeting through electronic means and accessed as follows:

1. Webex meeting from a computer, tablet or smartphone at the following link:
<https://cityofwestlake.my.webex.com/>

Meeting ID: 2632 888 9851

Password: hello

2. Participants also dialed in using phone with the following number:

United States Toll: +1-408-418-9388

Meeting ID: 2632 888 9851

As a preliminary matter, Ms. Burgess noted that Mayor JohnPaul O'Connor, Vice Mayor Greg Langowski Councilwoman Pilar Valle Ron, and Councilman Julian Martinez were present physically constituting a quorum. Councilwoman Charlotte Leonard appeared via electronic media technology.

Ms. Burgess provided further instruction regarding public comments, noting that comments will be acknowledged by the mayor and accepted at the appropriate times as indicated in the agenda and those who wish to speak may use the "virtual" hand raise feature.

Ms. Burgess provided the disclaimer that the meeting is being recorded by both voice and video, reminding the audience microphones are live. Ms. Burgess further explained that microphones will be muted; audience members can unmute themselves and anyone that has called in should mute their device.

Ms. Burgess noted that anyone causing a disruption or being inappropriate will be removed from the meeting. Ms. Burgess reminded Council Members physically present to utilize microphones.

CALL TO ORDER

Mayor O'Connor called the City of Westlake Regular City Council meeting of August 02, 2022, to order at 6:01 p.m.

ROLL CALL

Councilwoman Charlotte Leonard (Via Electronic Media Technology)
Councilman Julian Martinez
Councilwoman Pilar Valle Ron
Vice Mayor Greg Langowski
Mayor John Paul O'Connor

Also present:

Kenneth Cassel, City Manager
Danielle Schwabe, Esq., City Attorney
Zoie P. Burgess, CMC City Clerk
Osniel Leon, Planning & Zoning

PLEDGE OF ALLEGIANCE

Mayor O'Connor led the Pledge of Allegiance.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Mayor O'Connor called for any additions, deletions, or modifications to the agenda.

Ms. Schwabe requested a motion to amend agenda under new business, item C, to add Resolution 2022-21, to appoint a new member to serve on the Education & Youth Advisory Board.

Motion by Vice Mayor Langowski to amend agenda, seconded by Councilwoman Valle Ron.

UPON ROLL CALL:

Councilman Martinez	YES
Councilwoman Valle Ron	YES
Vice Mayor Langowski	YES
Mayor O'Connor	YES

With all in favor, motion carried without dissent (4-0).

Ms. Schwabe called for a motion to approve the amended agenda.

Motion by Vice Mayor Langowski to approve amended agenda, seconded by Councilman Martinez.

UPON ROLL CALL:

Councilman Martinez	YES
Councilwoman Valle Ron	YES
Vice Mayor Langowski	YES
Mayor O'Connor	YES

With all in favor, motion carried without dissent (4-0).

PUBLIC COMMENTS AND REQUESTS

This section of the agenda allows for comments from the public to speak. Each speaker will be given a total of three (3) minutes to comment. A public comment card should be completed and returned to the City Clerk. When you are called to speak, please go to the podium, or unmute your device, and prior to addressing Council, state your name and address for the record.

Mayor O'Connor called for public comments.

Ms. Burgess noted there were no public comment cards received prior to the meeting and gave the virtual audience a moment to comment. There being no comments, the next item followed.

CONSENT AGENDA

This section of the agenda consists of routine or administrative items that require final approval by the City Council and may be approved in its entirety by a single motion. There will be no discussion of these items unless a Council Member, requests such, in which event, the item will be removed from the Consent Agenda and considered on a future agenda.

A. Financial Report – June

Mayor O’Connor identified consent agenda item and called for a motion to approve.

Motion by Vice Mayor Langowski to approve Consent agenda, seconded by Councilwoman Valle Ron.

UPON ROLL CALL:

Councilwoman Valle Ron	YES
Vice Mayor Langowski	YES
Mayor O’Connor	YES
Councilman Martinez	YES

With all in favor, motion carried without dissent (4-0).

PRESENTATIONS/PROCLAMATIONS

A. NONE

PUBLIC HEARING

A. NONE

NEW BUSINESS

A. **FIRST READING:** Ordinance 2022-08 – Non-Conforming Lots, Uses, and Structures.

Submitted By: Planning & Zoning

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY CREATING SECTION _____ ENTITLED “NON-CONFORMING LOTS, USES, AND STRUCTURES”; PROVIDING FOR REGULATIONS FOR LOTS, USES, AND STRUCTURES LAWFULLY EXISTING AT THE TIME OF AN AMENDMENT TO THE CITY’S CODE OF ORDINANCES AND THEREAFTER DEEMED NON-CONFORMING; PROVIDING FOR CODIFICATION; PROVIDING FOR A CONFLICTS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor O’Connor introduced item. City Attorney read Ordinance, by title only, into the record.

Mayor O’Connor called for staff presentations.

Mr. Leon presented a PowerPoint Presentation. Identifying the following:

1. Intent: Currently within the City or by virtue of amendments to this Code of Ordinances that may be later adopted, there may exist:
 - a. Lots;
 - b. Structures;
 - c. Uses of Land and Structures.

Mr. Leon further explained the non-conforming uses being declared in the Ordinance, as they are to be incompatible with permitted uses in the zoning districts involved. A Non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance.

Mr. Leon continued, explain further non-conforming single family lots of records, structures, use of structures or structures and premises in combination.

2. Non-Conforming Single-Family Lots of Record: Any lot or parcel, of record prior to adoption of an amendment to the City's Code of Ordinances, that does not thereafter meet the requirements of the City's Code for lot area or lot width, may nevertheless be utilized for single-family residence purposes only, provided that the lot area and lot width are within two-thirds of that required by the terms of the regulations.
3. Non-conforming Structures: Where a lawful structure exists at the effective date of adoption or amendment to the City's Code by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such non-conforming structure may be enlarged or altered in any way which increases its non-conformity, but any structure or portion hereof may be altered to decrease its non-conformity.
 - b. Should such non-conforming structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the current City's Code of Ordinances.
 - c. Should any such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
4. Non-Conforming Use of Structures or of Structures and Premises in Combination: If lawful use involving individual structures, or of structures and premises in combination, exists at the effective date of an amendment to the City's Code of Ordinances, that would not thereafter be allowed in the zoning district under the terms of the City's Code, the non-conforming use may be continued so long as it remains subject to the following provisions:
 - a. No existing structure devoted to a use not permitted in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located, except that the City Council shall have the discretion to allow reasonable alterations for the purpose of allowing the non-conforming use to modernize or redesign when it is deemed that such changes are in the interest of the City's health, morals, safety and/or welfare.
 - b. *Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zoning district, and the non-conforming use may not thereafter be resumed.*
 - c. *When a non-conforming use of a structure, or a structure and premises in combination, is discontinued or abandoned for one hundred eighty (180) calendar days from the time at which the license for said use expires (except when governmental action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located.*

d. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this sub-section is defined as damage to an extent of more than fifty (50) percent of the replacement cost at the time of the destruction.

e. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

Mr. Cassel noted that there is only one structure at this time that is affected by this ordinance.

Mayor O'Connor called for additional comments, there being none, Mayor O'Connor called for a motion.

Motion by Councilwoman Valle Ron to approve amendment to ordinance 2022-08, seconded by Councilman Martinez.

UPON ROLL CALL:

Vice Mayor Langowski	YES
Mayor O'Connor	YES
Councilman Martinez	YES
Councilwoman Valle Ron	YES

With all in favor, motion carried without dissent (4-0).

B. FIRST READING: Ordinance 2022-09 – Granting Florida Public Utilities a Non-Exclusive Franchise

Submitted By: Administration

ORDINANCE 2022-09

AN ORDINANCE GRANTING TO FLORIDA PUBLIC UTILITIES COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE FOR A PERIOD OF 30 YEARS TO SELL, DISTRIBUTE, TRANSPORT, AND TRANSMIT NATURAL, MANUFACTURED, OR MIXED GAS IN THE CITY OF WESTLAKE, FLORIDA; PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE UPON FINAL PASSAGE

Mayor O'Connor introduced item.

City Attorney read Ordinance into the record by title only.

Mr. Cassel discussed ordinance granting Florida Public Utilities the ability to provide services in the City of Westlake.

Mayor O'Connor called for additional comment. Council expressed their excitement for the implementation of this ordinance.

There being no additional comments, Mayor O'Connor called for a motion.

Motion by Councilman Martinez, seconded by Councilwoman Valle Ron.

UPON ROLL CALL:

Mayor O'Connor	YES
Councilman Martinez	YES
Councilwoman Valle Ron	YES
Vice Mayor Langowski	YES

With all in favor, motion carried without dissent (4-0).

C. Education and Youth Advisory Board - 1 Vacancy - Unexpired Term, Ending September 2023

Submitted By: City Clerk

Mayor O'Connor introduced item. He discussed two applications were received for the Education and Youth Advisory Board.

Ms. Burgess further explained that this member would finish out the term for previous board member Medvetz.

Mayor O'Connor called for council comments. Mr. Langowski expressed his gratitude towards Ms. Kaplan and her participation and attendance at past meetings.

Council discussion and vote to appoint Ms. Kaplan to the vacancy on the Education and Youth Advisory Board.

Mayor O'Connor called for additional comments, there being none, Mayor O'Connor called for a motion.

Motion by Vice Mayor Langowski to appoint Ms. Kaplan to board vacancy on the Education and Youth Advisory Board, seconded by Councilwoman Valle Ron.

UPON ROLL CALL:

Councilman Martinez	YES
Councilwoman Valle Ron	YES
Vice Mayor Langowski	YES
Mayor O'Connor	YES

With all in favor, motion carried without dissent (4-0).

RESOLUTION NO. 2022-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA, APPOINTING ANITA KAPLAN TO SERVE ON THE EDUCATION AND YOUTH ADVISORY BOARD;

PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Ms. Burgess requested City Attorney read into record Resolution 2022-21.

City Attorney read Resolution, by title only, into the record.

- D. Second addendum to professional services agreement between City of Westlake and Chen Moore & Associates

Submitted By: Administration

RESOLUTION NO. 2022-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY COUNCIL MEMBER TO EXECUTE A SECOND ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF WESTLAKE AND CHEN MOORE & ASSOCIATES, INC.; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor O'Connor introduced item.

City Attorney read Resolution, by title only, into the record.

Mr. Cassel identified that the resolution would extend the contract, as Chen Moore has provided excellent services.

Mayor O'Connor called for additional comments, there being none, Mayor O'Connor called for a motion.

Motion by Vice Mayor Langowski to approve Resolution 2022-19, approving a second addendum to professional services agreement between the City and Chen Moore & Associates, seconded by Councilman Martinez.

UPON ROLL CALL:

Councilwoman Valle Ron	YES
Vice Mayor Langowski	YES
Mayor O'Connor	YES
Councilman Martinez	YES

With all in favor, motion carried without dissent (4-0).

- E. Third Addendum to the Law Enforcement Service Agreement

Submitted By: Administration

RESOLUTION NO. 2022-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY COUNCIL MEMBER TO EXECUTE A THIRD ADDENDUM TO THE LAW ENFORCEMENT SERVICE AGREEMENT BETWEEN THE CITY OF WESTLAKE AND

RIC L. BRADSHAW, SHERIFF OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Mayor O'Connor introduced item.

City Attorney read Resolution, by title only, into the record.

Mr. Cassel discussed two additional officers would be added to the contract later in the year.

Council discussed their appreciation of the Palm Beach County Sheriff's Office and the services they have provided.

Mayor O'Connor called for additional comments, there being none, Mayor O'Connor called for a motion.

Motion by Vice Mayor Langowski to approve addendum to the Palm Beach Sheriff's Office agreement, seconded by Councilwoman Valle Ron.

UPON ROLL CALL:

Vice Mayor Langowski	YES
Mayor O'Connor	YES
Councilman Martinez	YES
Councilwoman Valle Ron	YES

With all in favor, motion carried without dissent (4-0).

F. Discussion - Westlake 5k Turkey Trot

Mr. Martinez discussed his proposal for a turkey trot on Thanksgiving morning to promote health and exercise.

Council discussed they are willing to assist Mr. Martinez to make this event successful and are available to provide services and reach out to sponsors.

Mr. Cassel informed council it would be best to form another Ad Hoc for the Turkey Trot.

Mr. O'Connor stated he would like to create a special events committee to help with all city events. Mr. Cassel needs clarification from the City Attorneys office as to creating a board specifically for special events and would discuss further.

CITY COUNCIL COMMENTS

A. Councilwoman Charlotte Leonard – Councilwoman Leonard expressed her agreement with appointing Ms. Kaplan to the Education and Youth Advisory Board. Ms. Leonard also stated her willingness to be part of the Ad Hoc committee.

B. Councilman Julian Martinez – Councilman Martinez stated he is looking forward to the Turkey Trot on Thanksgiving morning.

C. Councilwoman Pilar Valle Ron – Councilwoman Valle Ron stated she had no additional comments.

D. Vice Mayor Greg Langowski – Councilman Langowski discussed the reorganization of the Education and Youth Advisory Board and their upcoming initiatives.

E. Mayor JohnPaul O'Connor – Mayor O'Connor would like to stagger terms of the City Boards and discuss their absences. Mr. O'Connor also thanked his colleagues for their leadership and his excitement for the Turkey Trot presented by Councilman Martinez.

REPORT - STAFF

A. Palm Beach County Fire Rescue - Monthly Report: June

Submitted By: District Chief Phillip Olavarria

For Informational Purposes Only

Mayor O'Connor called for comments from the Palm Beach Sheriff's Office and asked them to explain monthly crime report issued to the City.

Officer Demarzo discussed the reports issued to the City. Officer Demarzo noted that traffic stops and business checks will be the main issues they deal with in the City of Westlake.

REPORT - CITY ATTORNEY

City Attorney thanked the Mayor and City Council for having her at the meeting.

REPORT - CITY MANAGER

Mr. Cassel informed Council that license plate readers have been placed entering and exiting the City boundaries. Mr. Cassel explained the cameras track the bad guy's movements and timeframes of location.

Mr. Cassel also requested verification for Tuesday, August 23 at 5:00 pm to hold a joint meeting with the Seminole Improvement District. Mr. Cassel explained the interlocal agreement would be discussed to see what is in the works for the next year and in the future and have a meet and greet of board members. Council agreed the time and date worked for the Joint meeting. Mr. Cassel also stated modifications and adjustments were almost complete on the budget from what was requested by Council and will be ready for the next City Council meeting.

Mr. Cassel noted that Councilwoman Valle Ron contacted Minto and coordinated with the schools to collect bookbags on behalf of the City and Minto.

Mr. Cassel discussed the purchase of the Daughters of the American Revolution books to be donated to the freshman class of the high school. Mr. Cassel also mentioned a copy was ordered for Council Members.

PUBLIC COMMENTS AND REQUESTS

This section of the agenda allows for comments from the public to speak. Each speaker will be given a total of three (3) minutes to comment. A public comment card should be completed and returned to the City Clerk. When you are called to speak, please go to the podium, or unmute your device, and prior to addressing Council, state your name and address for the record.

Mayor O'Connor called for public comments.

Ms. Burgess noted there were no public comment cards received prior to the meeting and gave the virtual audience a moment to comment. There being no comments, the next item followed.

ADJOURNMENT

There being no further business, Mayor O'Connor adjourned the meeting at 6:50 PM.

Zoie P. Burgess, City Clerk

JohnPaul O'Connor, Mayor

File Attachments for Item:

D. Minutes_City of Westlake and Seminole Improvement District Joint Meeting - 08.23.2022
DRAFT

CITY OF WESTLAKE



SEMINOLE IMPROVEMENT DISTRICT



AGENDA

City of Westlake and Seminole Improvement District Joint Meeting (Discussion Only)

Tuesday, August 23, 2022, at 5:00 PM

Westlake Council Chambers
4005 Seminole Pratt Whitney Road Westlake, Florida 33470

CITY COUNCIL:

JohnPaul O'Connor, Mayor
Greg Langowski, Vice Mayor
Pilar Valle Ron, Council Member – Seat 1
Julian Martinez, Council Member – Seat 2
Charlotte Leonard, Council Member – Seat 3

BOARD OF SUPERVISORS:

Scott Massey, President – Seat 2
Zane Beard, Vice President – Seat 3
Leolani Gevers, Secretary – Seat 1

CITY STAFF:

Ken Cassel, City Manager
Zoie P. Burgess, CMC, City Clerk
Donald J. Doody, Esq., City Attorney
Nilsa Zacarias, AICP, Planning and Zoning Director
Suzanne Dombrowski, P.E., ENV SP, City Engineer

DISTRICT STAFF:

Ken Cassel, District Manager
Sandra DeMarco, District Clerk
Terry Lewis, Esq., District Counsel
Ryan Wheeler, P.E., LEED AP

A City of Westlake and Seminole Improvement District Joint meeting of the City of Westlake was held on Tuesday, August 23, 2022, at 5:00 PM., at the Westlake Community Center, 4005 Seminole Pratt Whitney Road. Members of the public also participated in the meeting through electronic means and accessed as follows:

1. Webex meeting from a computer, tablet or smartphone at the following link:
<https://cityofwestlake.my.webex.com/>

Meeting ID: 2634 094 3646

Password: hello

2. Participants also dialed in using phone with the following number:

United States Toll: +1-408-418-9388

Meeting ID: 2634 094 3646

As a preliminary matter, Ms. Burgess noted that Mayor JohnPaul O'Connor, Vice Mayor Greg Langowski Councilwoman Pilar Valle Ron, and Councilwoman Charlotte Leonard were present physically. Councilman Julian Martinez appeared via electronic media technology.

Ms. Burgess provided further instruction regarding public comments, noting that comments will be acknowledged by the mayor and accepted at the appropriate times as indicated in the agenda and those who wish to speak may use the "virtual" hand raise feature.

Ms. Burgess provided the disclaimer that the meeting is being recorded by both voice and video, reminding the audience microphones are live.

Ms. Burgess further explained that microphones will be muted; audience members can unmute themselves and anyone that has called in should mute their device.

Ms. Burgess noted that anyone causing a disruption or being inappropriate will be removed from the meeting.

Ms. Burgess reminded Council Members physically present to utilize microphones.

CALL TO ORDER

Mayor O'Connor called the City of Westlake and Seminole Improvement District Joint meeting of Tuesday, August 23, 2022, to order at 5:02 p.m.

ROLL CALL - CITY OF WESTLAKE

Present and constituting a quorum:

Councilwoman Charlotte Leonard

Councilman Julian Martinez (appeared via electronic media technology)

Councilwoman Pilar Valle Ron

Vice Mayor Greg Langowski

Mayor John Paul O'Connor

ROLL CALL - SEMINOLE IMPROVEMENT DISTRICT

Present and constituting a quorum:

Secretary Leolani Gevers
Vice President Zane Beard
President Scott Massey

PLEDGE OF ALLEGIANCE

Mayor O'Connor led the Pledge of Allegiance.

JOINT MEETING AGENDA

A. Seminole Improvement District Operations

Presented By: Kenneth Cassel, District Manager

Mr. Cassel discussed the history of the City of Westlake displaying the map before 2013. Mr. Cassel discussed the changes that appeared throughout the years to when the city was formed. He presented different maps on the progression of the city and the HOA's as they appeared. He discussed how the city is tracking and coordinating with the GIS system.

B. Seminole Improvement District and City of Westlake Relationship

Presented By: Robert Diffenderfer, Esq., District Counsel - Lewis, Longman & Walker, P.A.

Mr. Diffenderfer provided a PowerPoint presentation highlighting the relationship between the City and Seminole Improvement District (SID) and how they interact with each other. Mr. Diffenderfer explained the role and history of the Seminole Improvement District and further identified the following:

- Independent Special District
 - o Enabling Act: Chapter 2000-431, Laws of Florida
- Infrastructure and Utilities Provider
 - o Water, wastewater, and reclaimed water
 - o Surface water
 - o Irrigation
 - o Roadways (including landscaping and lighting)
 - o Parking Facilities
 - o Outdoor Parks and Recreation
- Drafts and Administers Water Control Plan

What is the water control plan:

- Required by Chapter 298, Florida Statutes
- Outlines responsibilities, powers, programs, plans, facilities and services
- Describes current and future activities and infrastructure
- Touchstone for all SID activities
- Periodically amended

- Based in Engineer's Report
- Currently working under Eight Amended Water Control Plan
- Evolves as SID/Westlake grows

C. Seminole Improvement District Planning Horizon

Presented By: Kenneth Cassel, District Manager

Mr. Cassel discussed the water account process; residents can pay online and over the phone. Mr. Cassel explained the City is willing to work with the residents that have issues with payments and provide door hangers as a reminder for payment. Mr. Cassel stated a joint meeting will be held in April to discuss future projects and budget requests as this meeting was held a little late in the year.

Mr. O'Connor inquired on costs to the city in shutting off people's water service for nonpayment. Mr. O'Connor requested to have multiple joint meetings throughout the year between the city and SID.

D. Geographic Information Systems (GIS)

Presented By: Taylor Myers, Field Technician - Seminole Improvement District

Mr. Myers discussed how his team uses the Geographic information System (GIS) system to track work throughout the city as well as identify and monitor fire hydrants and identify sampling points. GIS tracks the water received, used, and sold. Mr. Myers discussed valves that are checked and displayed in the GIS system how it's tracked and can be easily accessed if needed.

Mr. O'Connor asked how the water is tested. Mr. Taylor explained the level of chlorine is measured and chlorine is added if needed. Mr. O'Connor asked if GIS was available for public use. Mr. Taylor explained it's for City and SID use only. Mr. O'Connor asked if the city has hard water or soft water. Mr. Massey explained the city has depositing soft water.

Mr. Cassel explained a few homes in the city have made complaints on the quality of their water. They explained to the residents the water purification system they installed was stripping the water of its safety agents.

Mr. DeLeon further explained the GIS system is being used for landscaping and irrigation. Mr. De Leon explained there are four contractors, three for landscaping and irrigation and one for mulch. Mr. De Leon explained they have walked out in the field and marked irrigation zones and color coded them in the GIS system and created a boundary. This will allow them to pull up the GIS system to show the irrigation zone in which an area is affected for landscaping. Maintenance tracking is also maintained in the GIS system and task work for others field workers.

E. Design & Development Offer

Presented By: John F. Carter, AICP, Senior Vice President - Minto Communities, LLC

Mr. Cassel discussed Minto's offer to pay for design services for the construction of SID facility.

Mr. Carter discussed the vision of creating a community center as a multipurpose room to become the heartbeat of the community in a beautiful park setting. Mr. Carter explained that it would not be a Minto driven project but instead a grant would be provided to Seminole Improvement District, they would hire Don Herring to engage in a series of community meetings to collect community census on how they would like a community park to be built. Input from the community with Mr. Ken can come up with a proposed idea for a future project to build the park.

Council discussed the future park and ideas

Mr. Massey discussed the back of the parkway will be dug out and be created into a moat. Mr. Massey discussed the park grounds can be cleared and start to be used for basic park uses such as kite flying and walking dogs.

F. Capital Improvement Project

Presented By: Ryan Wheeler, P.E., LEED AP, District Engineer - Caulfield & Wheeler, Inc.

Mr. Wheeler explained the upcoming project for the SID offices on the south side of the FPL station. He further explained that current operations out of City Hall will be moved to this facility, until another space is set for city offices.

G. General Discussion

Mr. Cassel identified that there will be two joint meetings for the following year to allow time for budgeting.

CITY COUNCIL COMMENTS

- A. Councilwoman Valle Ron – Councilwoman Valle Ron expressed her excitement for the future park and would like to have a holiday event at the park.
- B. Councilwoman Leonard – Councilwoman Leonard expressed her gratitude for the presentation and all the information that was provided in the meeting.
- C. Vice Mayor Langowski – Vice Mayor Langowski stated he is looking forward to having two joint meetings moving forward.
- D. Councilman O'Connor – Mayor O'Connor discussed his appreciation to the field techs and the organization that is created between the Seminole Improvement District and the City of Westlake.

DISTRICT BOARD COMMENTS

- A. President Massey - Mr. Massey mentioned he is willing to give anyone a ride around the city to show future projects and current projects that are in the works.
- B. Vice President Beard – Mr. Beard appreciates the relationship between the two organizations.
- C. Secretary Gevers – Ms. Gevers is looking forward to the future park.

CITY ATTORNEY COMMENTS

No comment.

DISTRICT ATTORNEY COMMENTS

No comment.

CITY MANAGER COMMENTS

No comment.

DISTRICT MANAGER COMMENTS

No comment.

PUBLIC COMMENTS

This section of the agenda allows for comments from the public to speak. Each speaker will be given a total of three (3) minutes to comment. A public comment card should be completed and returned to the City Clerk. When you are called to speak, please go to the podium or unmute your device, and prior to addressing Council, state your name and address for the record.

Mayor O'Connor called for public comments.

Ms. Burgess noted there were no public comment cards received prior to the meeting and gave the virtual audience a moment to comment. There being no comments, the next item followed.

ADJOURNMENT

There being no further business, Mayor O'Connor adjourned the meeting at 6:44 PM.

Zoie P. Burgess, City Clerk

JohnPaul O'Connor, Mayor

File Attachments for Item:

A. CPA-2022-01 (Second Reading): Application of Minto PBLH, LLC proposing a small scale future land use map amendment to change the future land use designation on a 9.137-acre site from Civic to Downtown Mixed Use designation. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.

Submitted By: Planning and Zoning

ORDINANCE NO. 2022-10

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, SPECIFICALLY AMENDING A PORTION OF THE CITY OF WESTLAKE FUTURE LAND USE MAP AS A SMALL SCALE AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION FROM CIVIC CATEGORY TO DOWNTOWN MIXED USE CATEGORY ON PROPERTY DESIGNATED AS POD PC-2, MORE PARTICULARLY DESCRIBED HEREIN AND CONTAINING 9.137 ACRES MORE OR LESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.



Meeting Agenda Item Coversheet

MEETING DATE:		10/4/22	Submitted By: Planning and Zoning	
SUBJECT: <i>This will be the name of the Item as it will appear on the Agenda</i>		CPA-2022-01 (Second Reading): Application of Minto PBLH, LLC proposing a small scale future land use map amendment to change the future land use designation on a 9.137-acre site from Civic to Downtown Mixed Use designation. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.		
STAFF RECOMMENDATION: (MOTION READY)		Motion to adopt CPA-2022-01 Future Land Use Map Amendment.		
SUMMARY and/or JUSTIFICATION:		The applicant is proposing a Small-Scale Future Land Use Map (FLUM) amendment to change the future land use designation on a 9.137 acre site from Civic to Downtown Mixed Use designation. The amendment will change the development potential on the site from civic use to a wide range of non-residential and residential uses.		
SELECT, if applicable		AGREEMENT:		BUDGET:
		STAFF REPORT:	X	PROCLAMATION:
		EXHIBIT(S):	X	OTHER:
IDENTIFY EACH ATTACHMENT. <i>For example, an agreement may have 2 exhibits, identify the agreement and Exhibit A and Exhibit B</i>		Agenda Item Sheet Final Staff Report Application Justification Statement Maps		
SELECT, if applicable		RESOLUTION:		ORDINANCE: 2022-10
IDENTIFY FULL RESOLUTION OR ORDINANCE TITLE <i>(if Item is <u>not</u> a Resolution or Ordinance, please erase all default text from this field's textbox and leave blank)</i> <u>Please keep text indented.</u>				
FISCAL IMPACT (if any):				\$



PETITION DESCRIPTION

PETITION NUMBER: CPA-2022-01 (Pod C-2) Ordinance 2022-10

OWNER: Minto PBLH, LLC

APPLICANT: Cotleur & Hearing

ADDRESS: Southeast corner of Persimmon Blvd E and Ilex Way

PCN: 77-40-43-12-00-000-1010

REQUEST: The applicant is proposing a small scale future land use map amendment to change the future land use designation on a 9.13-acre site from Civic to Downtown Mixed Use designation. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.

SUMMARY

The applicant is proposing a Small-Scale Future Land Use Map (FLUM) amendment to change the future land use designation on a 9.137 acre site from Civic to Downtown Mixed Use designation. The amendment will change the development potential on the site from civic use to a wide range of non-residential and residential uses. The applicant is also requesting a concurrent application to rezone the subject site from the Civic (C) district to the Mixed Use (MU) zoning district. No site plan has been submitted as part of this application. Once the City receives a site plan application for the subject site it will be reviewed for compliance with the development regulations under Chapter 3 Zoning Districts and Standards, and will need to be approved by the City Council.

This application is consistent with the provisions of Chapter 163.3184 and 163.3187 F.S concerning the processing of a Small-Scale Future Land Use Map (FLUM) amendment to the Comprehensive Plan, as well as providing all applicable data and analysis to support the amendment.

STAFF RECOMMENDATION

Based upon the facts and findings contained herein, the **Planning & Zoning Department** recommends approval of the subject application.

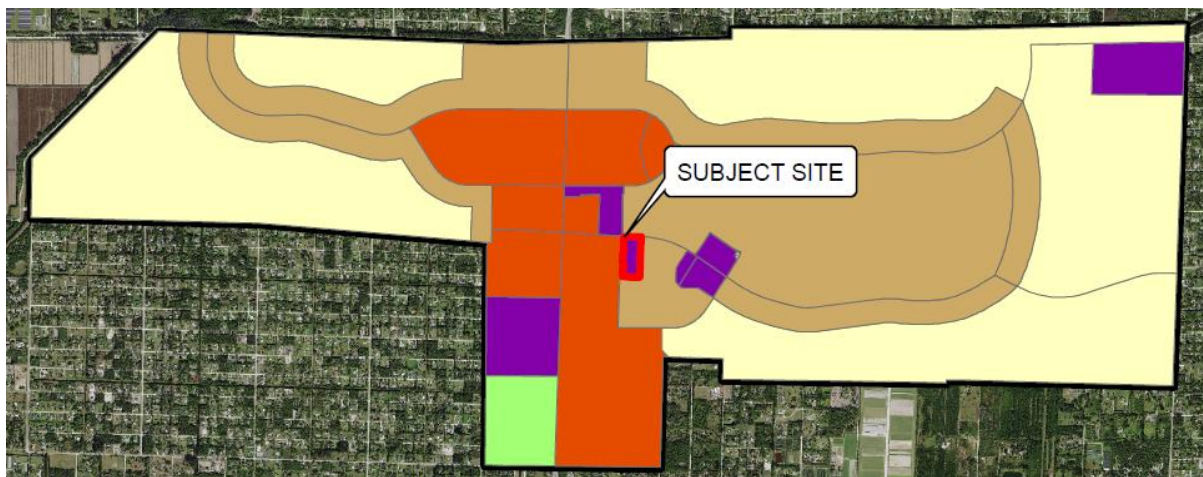
PETITION FACTS

- a. Total Gross Site Area: 9.137 acres
- b. Land Use and Zoning
 - Existing Land Use: Vacant
 - Existing Future Land Use: Civic
 - Proposed Future Land Use: Downtown Mixed Use
 - Existing Zoning: Civic (C)
 - Proposed Zoning: Mixed Use (MU)

	FUTURE LAND USE	ZONING
SUBJECT PROPERTY	Civic	Civic
NORTH	Residential-2	Residential-2
SOUTH	Residential-2	Residential-2
EAST	Residential-2	Residential-2
WEST	Mixed Use	Medical District



Current Land Use Map



BACKGROUND

On June 20, 2016, the City of Westlake became the 39th municipality in Palm Beach County. On March 12, 2018, Ordinance No. 2017-05 approved the adoption of the City of Westlake Comprehensive Plan and Future Land Use Map. On September 23, 2019, Ordinance No. 2019-09 established Chapter 3 “Zoning Districts and Standards” and adopting of the Zoning Map. The subject application is the first future land use map amendment processed by the City.

According to the F.S. 163.3187 Process for adoption of small scale comprehensive plan amendment.

(1) A small scale development amendment may be adopted under the following conditions:

(a) The proposed amendment involves a use of 50 acres or fewer and:

(b) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government’s comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section.

(c) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1).

(2) Small scale development amendments adopted pursuant to this section require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(11).

STAFF ANALYSIS

This small-scale future land use map amendment process is required in order to replace the existing future land use designation of Civic to the Downtown Mixed Use designation.

The current Civic designation included in the Comprehensive Plan includes the following policies and allowable uses:

Policy FLU 1.1.14 Civic Future Land Use Category

The Civic future land use category will provide areas for the uses provided for below. The Civic future land use category may be applied to publicly or privately owned lands.

a) Allowable Uses:

Civic uses

Religious uses

Meeting halls, exhibition and conference centers, and fairgrounds

Educational uses

Recreational uses

Conservation uses

Accessory uses

b) Non Residential Intensity:

A maximum of a 1.5 FAR

The subject application is requesting change to the Downtown Mixed Use category, which includes the following policies and allowable uses:

Policy FLU 1.1.15

The Downtown Mixed-Use future land use category accommodates an active, pedestrian-friendly area of commercial, residential, and civic uses that provide substantial opportunities for employment, shopping, civic, and recreation activities accessible by mass transit.

Allowable Uses:

Commercial uses

Residential uses may include:

- Single family attached dwellings
- Multi-family dwellings
- Accessory dwelling units

Light industrial uses

Institutional uses

Assisted living facilities

Continuing care facilities

All uses allowed in the Civic future land use category

Accessory uses

Commercial recreation uses

Residential Density:

The minimum gross density is 4 units per gross acre, and the maximum gross density is 16 dwelling units per gross acre. Bonus densities may be granted up to 8 additional units per acre for senior, workforce, and/or affordable housing consistent with Policy FLU 1.2.4.

Non Residential Intensity:

Maximum of a 3.0 FAR.

Mix of Uses:

The table below identifies the mix of uses applied to the total area of the Downtown Mixed-Use future land use category within the City. The mix of uses is not required on a parcel-by-parcel basis. Not all of the land uses have to be developed at the same time, nor is one land use a prerequisite to another land use.

<u>Allowed -Land Uses</u>	Minimum %	Maximum %
Residential`	5%	25%
Commercial and commercial recreation	10%	70%
Civic	2%	30%
Light industrial	5%	25%
Institutional and continuing care facilities	0%	10%

Compatibility:

The adjacent existing land uses shows that the proposed land use is compatible with the adjacent properties. To the north, south and east are single-family residences with City future land use designations of Residential-2 (R-2). To the west is Wellington Medical Center with City future land use designation of Downtown Mixed Use. The existing development and future land use designations of the surrounding properties show that the proposed Downtown Mixed Use designation is compatible with the surrounding area since the designation is a continuation of the FLU designation of the property to the west, as well as consistent with the developed character of the area.

Level of Service (LOS)

The subject future land use map change is small scale amendment, and in the future any proposed development plan shall comply with the following adopted level of services:

Portable Water

Policy INF 1.1.3

The potable water LOS standard for residential uses shall be 110 gallons per capita per day.

Policy INF 1.1.4

The potable water LOS standards for non-residential uses shall be 150 gallons per 1,000 sq. ft. per day with the following exceptions: schools shall have a LOS standard of 18 gpd per student; hotels shall have a LOS standard of 100 gpd per room; and parks shall have a LOS standard of 10 gpd per visitor.

Wastewater and Resuse Water

Policy INF 1.3.3

The wastewater LOS standard for residential uses shall be 100 gallons of wastewater per capita per day.

Policy INF 1.3.4

The wastewater LOS standard for non-residential uses shall be 150 gallons of wastewater per 1,000 sq. ft. per day with the following exceptions: schools shall have a LOS standard of 18 gpd per student; hotels shall have a LOS standard of 100 gpd per room; and parks have a LOS standard of 10 gpd per visitor.

Solid Waste

Policy INF 1.5.2

The solid waste LOS standard shall be 7.02 pounds of solid waste per person per day.

Drainage

Policy INF 1.6.6

The City shall coordinate with SID to maximize the use of existing drainage facilities.

Consistency with the Comprehensive Plan:

The proposed amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan.

Objective FLU 1.6: Ensure compatibility among various future land uses while promoting mixed use, economic development and multi-modal transportation.

Policy 1.6.1: Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

Policy: 1.6.2: All allowable uses within a future land use category are deemed compatible with one another for purposes of the Plan and the Land Development Regulations.

Policy HE 1.2.1

Allow for and support commercial and light industrial development, which will provide employment opportunities within the City to enable the purchase or rent of affordable housing.

Policy FLU 1.6.1

Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

Policy 1.6.5

Development abutting a different future land use category shall comply with the following minimum compatibility requirements. The City may adopt additional buffer requirements in the Land Development Regulations.

Policy 1.6.7

A public road, shared use path, or water feature at least 30 feet wide can be designated in lieu of a buffer.

Policy 1.6.8

Alternative compatibility techniques, including but not limited to one or a combination of the following: architectural features, building placement, setbacks, berms, and landscaping, that have the same effect as a buffer and promote mixed use and walkability, may be used in lieu of the compatibility requirements in Policies 1.6.5, 1.6.6 and 1.6.7.

Consistency with Chapter 163, Florida Statutes:

The amendment is consistent with the provisions of Chapter 163.3184 and 163.3187 F.S concerning the processing of a small-scale future land use amendment to the Comprehensive Plan, as well as providing all applicable data and analysis to support the amendment.

This small-scale future land use amendment to the Comprehensive Plan is compatible with adjacent land uses, adequately address concurrency issues, and is consistent with the City's Comprehensive Plan, and Chapter 163, F.S.

STAFF RECOMMENDATION

Please see page 1 for staff recommendation.

Reply To: tduhy@llw-law.com

August 1, 2022

Kenneth Cassel, City Manager
City of Westlake
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

Dear Mr. Cassel:

Please accept this letter as an application on behalf of Minto PBLH, LLC, for concurrent review of a small scale comprehensive plan amendment to the City of Westlake's Future Land Use Map and a rezoning for the Parcel known as Pod PC-2, which is more fully described in the attached Legal Description.¹ Pursuant to the requirements of *Chapter 2: Land Development Procedures, Article 2*, this comprehensive plan and rezoning application includes the following documents:

- Data and Analysis and Justification Statement for Comprehensive Plan Amendment and Rezoning
- City of Westlake Existing Zoning Map
- Applicant's Proposed Zoning Map
- Property Legal Description
- Abstracted Survey
- Owner's Affidavit
- Application Fee Detail
- Fee Authorization Form from Applicant
- Approved Site Plan for Adjacent Development
- GIS map series:
 - Aerial Location Exhibits (2)
 - Existing Future Land Use Map (2)
 - Applicant's Proposed Future Land Use Map

JACKSONVILLE

245 Riverside Ave., Suite 510
Jacksonville, Florida 32202
T: 904.353.6410
F: 904.353.7619

ST. PETERSBURG

100 Second Ave., South
Suite 501-S
St. Petersburg, Florida
33701
T: 727.245.0820
F: 727.290.4057

TALLAHASSEE

315 South Calhoun St., Suite
830
Tallahassee, Florida 32301
T: 850.222.5702
F: 850.224.9242

TAMPA

301 West Platt St.
Suite 364
Tampa, FL 33606
T: 813.775.2331

WEST PALM BEACH

515 North Flagler Dr., Suite 1500
West Palm Beach, Florida 33401
T: 561.640.0820
F: 561.640.8202

Kenneth Cassel, City Manager
City of Westlake
August 1, 2022
Page 2

- Existing Zoning Map (2)
- Proposed Zoning Map
- Planned Landscape Buffer Map

The Applicant will collaborate closely with City staff to bring this application to completion as quickly as possible. The Applicant and the entire development team are available to answer any questions staff might have and/or provide necessary information to supplement the information provided in the submittal. If the City requires any additional information to process the subject applications, please do not hesitate to contact me.

Very truly yours,



Tara W. Duhy
Executive Shareholder

TWD/lb

c: Donald J. Doody
John Carter
Don Hearing
Nilsa Zacarias

ⁱ The Planning and Zoning Director has advised that no application form exists for the requested approvals.

Reply To: tduhy@llw-law.com**MEMORANDUM**

TO: Ken Cassel

FROM: Tara W. Duhy, Esquire

DATE: August 1, 2022

SUBJECT: **Data and Analysis and Justification Statement**

I. Introduction

Minto PBLH, LLC, is requesting a small-scale comprehensive plan amendment to the City of Westlake's Comprehensive Plan Future Land Use Map ("FLUM") along with a rezoning for the parcel referred to as Pod PC-2, as more fully described in the Legal Description included as part of this application ("the Parcel"). Specifically, the Applicant is requesting that the future land use designation of the Parcel be amended from its current civic category to the downtown mixed use category and that the Parcel be rezoned from the civic district to the mixed use district. As will be discussed in greater detail below, these requests are consistent with the City's Comprehensive Plan ("Plan") and Land Development Regulations ("LDRs") as well as the Community Planning Act.

II. Procedural Summary

The two applications qualify for concurrent processing pursuant to Chapter 3, Article 2.3, Section 3 of the City's Land Development Regulations. A pre-application meeting was held with the City Manager and City attorney on July 15, 2022.

Small Scale Comprehensive Plan Amendment

The requested Amendment is consistent with Policy ADM 1.1.4 of the City's Plan and qualifies to be processed as a small-scale comprehensive plan amendment pursuant to Chapter 2, Article 2.2, Section 2(A) of the City's LDRs, which provides:

01784498-2

JACKSONVILLE
245 Riverside Ave.,
Suite 510
Jacksonville, Florida 32202
T: 904.353.6410
F: 904.353.7619

ST. PETERSBURG
100 Second Ave., South
Suite 501-S
St. Petersburg, Florida 33701
T: 727.245.0820
F: 727.290.4057

TALLAHASSEE
315 South Calhoun St.,
Suite 830
Tallahassee, Florida 32301
T: 850.222.5702
F: 850.224.9242

TAMPA
301 West Platt St.
Suite 364
Tampa, Florida 33606
T: 813.775.2331

WEST PALM BEACH
360 South Rosemary Ave.,
Suite 1100
West Palm Beach, FL 33401
T: 561.640.0820
F: 561.640.8202

(1) Comprehensive Plan amendment applications that meet the following criteria will be processed as Small-Scale Plan Amendments. In order to be processed as a Small-Scale Plan Amendment:

- (a) The proposed amendment relates to a parcel that is less than 10 acres in size;
- (b) The proposed amendment is only for a site-specific small scale development activity;
- (c) The parcel that is the subject of the proposed amendment is not located within an area of critical state concern;
- (d) The City must not have approved more than 120 acres of small scale amendments in the calendar year in which the application is submitted; and
- (e) Text amendments associated with the Small-Scale Plan Amendment to the Future Land Use Map ("Small Scale Map Amendment") are directly related to and will be adopted simultaneously with the Small-Scale Map Amendment

The Parcel is approximately 9.137 acres in size and the Applicant is only requesting an amendment to the FLUM for small scale development activity. The Parcel is not located within an area of critical state concern and the City has not approved any small-scale amendments in the current calendar year. Finally, while permitted, the Applicant is not seeking any text amendments related to the requested small-scale amendment. Therefore, the application is consistent with the City's LDRs. For the same reasons, the subject application is consistent with the requirements Section 163.3187, Florida Statutes.

Pursuant to Section 163.3187(2), Florida Statutes and Table 2.1 of Chapter 3 of the City's LDRs, a small-scale comprehensive plan amendment only requires one public hearing before the City Council, which shall be an adoption hearing as described in Section 163.3184(11), Florida Statutes.¹ "Small scale amendments may not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments may not become effective until the state land planning agency or Administrative Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance." Section 163.3187(5)(c), Florida Statutes.

Rezoning

The requested rezoning is contingent on approval of the requested small-scale amendment to the City's FLUM and is consistent with the City's Plan and LDR. Pursuant to the Table 2-1 of Chapter 3 of

¹ The City Code also requires that small-scale amendments be heard by the Land Planning Agency.

the City's LDRs, a Rezoning is subject to approval by the City Council and must be heard by the Land Planning Agency.

III. Comprehensive Plan Consistency and Compliance Analysis

Florida Statutes requires that "[c]omprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177." See Section 163.3187(4), Florida Statutes. Section 163.3184 also requires that comprehensive plan amendments be "consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248."

In addition, Policies FLU 1.1.1 and FLU 1.1.2 of the City's Plan requires that "[a]ll future development orders shall be consistent with the Plan," and "[a]mendments to the Plan, including the Future Land Use Map (FLU Map 2.1) shall be consistent with all Florida Statute Requirements."

Below, please find an analysis demonstrating that the requested small-scale amendment and related rezoning are compatible with the City's Plan and are in compliance with all applicable Florida Statutes.²

Consistency with Policy FLU 1.1.15, HE 1.2.1, and the data and analysis supporting the existing FLUM

The existing FLUM Category and Zoning District of the Parcel is civic. A future land use amendment and zoning change are requested to allow the potential development of additional non-residential uses to offset the existing development of a significant portion of the current downtown mixed use land area with civic uses. The City has approved the development of the Christ Fellowship Center located on the southern portion of Pod J along Seminole Pratt Whitney Road, consisting of approximately 68,000 square feet of civic uses on thirteen (13) acres. While civic uses are permissible within the downtown mixed use designation, Policy FLU 1.1.15(d) provides that the downtown mixed use area as a whole be developed with a minimum and maximum mix of residential, commercial, civic, light industrial and institutional uses. To maintain the balance called for in Policy 1.1.15, the subject amendment will offset the development of civic uses on thirteen acres of the existing downtown mixed use land area by adding commercial and other non-residential uses to the list of allowable uses on the subject Parcel.³

This request is supported by HE Policy 1.2.1, which provides:

Policy HE 1.2.1 Allow for and support commercial and light industrial development, which will provide employment

² Sections 163.3178 (Coastal management), 163.3191 (Evaluation and appraisal of comprehensive plan), 163.3245 (Sector Plans), and 163.3248 (Rural land stewardship areas) are not applicable to the subject request.

³ Residential uses are not permitted within the Civic category but are permitted within the downtown mixed use category. While the Applicant does not anticipate the Parcel developing with residential uses, the same justification applies – the amendment will not call for any development not already contemplated by the Plan.

opportunities within the City to enable the purchase or rent of affordable housing.

By approving the requested amendment, the City will maintain land area for commercial uses that support economic activities as originally conceived by the Plan, while still providing civic uses at a different location within the downtown.

Because 13 acres of current land designated with the downtown mixed use category have developed with civic uses, the proposed amendment, which will allow commercial and other non-residential development on the property, is consistent with the population projections, non-residential needs and public facilities analyses that support the existing Comprehensive Plan and Future Land Use Map. The proposed amendment will not call for any development above what is already contemplated by the Plan.

Compatibility – Policies FLU 1.6.1, 1.6.5, 1.6.7 and 1.6.8

Table 1 demonstrates future land use, zoning, and land use designations of the adjacent site parcels. The subject Parcel is separated from the existing Downtown Mixed Use District by Ilex Way.

Table 1: Adjacent Property Land Uses

TABLE 1 SURROUNDING LAND USES			
	FUTURE LAND USE	ZONING	LAND USE
NORTH	N/A	N/A	Roadway – Persimmon Blvd E
SOUTH	Residential 2	Residential 2 (R-2)	Single-Family Residential – Sky Cove South (Pod N)
EAST	Residential 2	Residential 2 (R-2)	Single-Family Residential – Sky Cove South (Pod N)
WEST	N/A	N/A	Roadway – Ilex Way

The Plan addresses Consistency requirement in Objective 1.6. The proposed amendment is consistent with this Objective and its supporting Policies. Specifically, Policy FLU 1.6.1 reads:

Policy FLU 1.6.1 Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

The Parcel is centrally located and surrounded by residential and mixed use districts. The proximity of Sky Cove South residents to the Parcel will allow for multi-modal transportation opportunities via

cycling and walking to the site, which may provide opportunities for work or shopping that are not currently available under the civic designation.

Policy FLU 1.6.5 Development abutting a different future land use category shall comply with the following minimum compatibility requirements. The City may adopt additional buffer requirements in the Land Development Regulations.

The proposed amendment is consistent with Policy FLU 1.6.5, which anticipates and addresses the development of different land uses adjacent to one another by requiring appropriate buffers and spacing. (See also Policies FLU 1.6.7 and 1.6.8, which provide alternative compatibility techniques). At the time a Site Plan is submitted for the Parcel, Policy 1.6.5 and implementing provisions of the City's LDRs will require the Parcel to achieve compatibility with adjacent existing residentially developed land. In addition, Sky Cove has a buffer averaging thirty-six feet (36') in depth along its western boundary and twenty to twenty-five feet (20'-25') along its northern boundary, adjacent to Parcel C-2. This condition further demonstrates the compatibility of the proposed land use amendment with the adjacent residential development.

Public Facilities – Policies FLUE 1.4.2, TE 1.2.3, TE 1.2.7, INF 1.1.5, INF 1.1.6, INF 1.3.5, INF 1.3.6, INF 1.5.7, INF 1.5.8, INF 1.6.5, and CIE 1.3.2

The proposed small-scale amendment to the FLUM and related rezoning are consistent with Policies FLUE 1.4.2, TE 1.2.3, TE 1.2.7, INF 1.1.5, INF 1.1.6, INF 1.3.5, INF 1.3.6, INF 1.5.7, INF 1.5.8, INF 1.6.5, and CIE 1.3.2 of the Comprehensive Plan which address public facilities within the City.

As mentioned above, the proposed amendment will not call for any development not already contemplated by the Plan. Thus, the underlying data and analysis for the existing Comprehensive Plan support the proposed amendment. Concurrency for drainage, potable water, wastewater, and solid waste will be addressed through the Site Planning process for any proposed use on the Property pursuant to Chapter 2, Article 2.2, Section 3. Thus, the subject amendment is consistent with the City's Comprehensive Plan relative to the provision of public facilities.

IV. Consistency with City LDRs

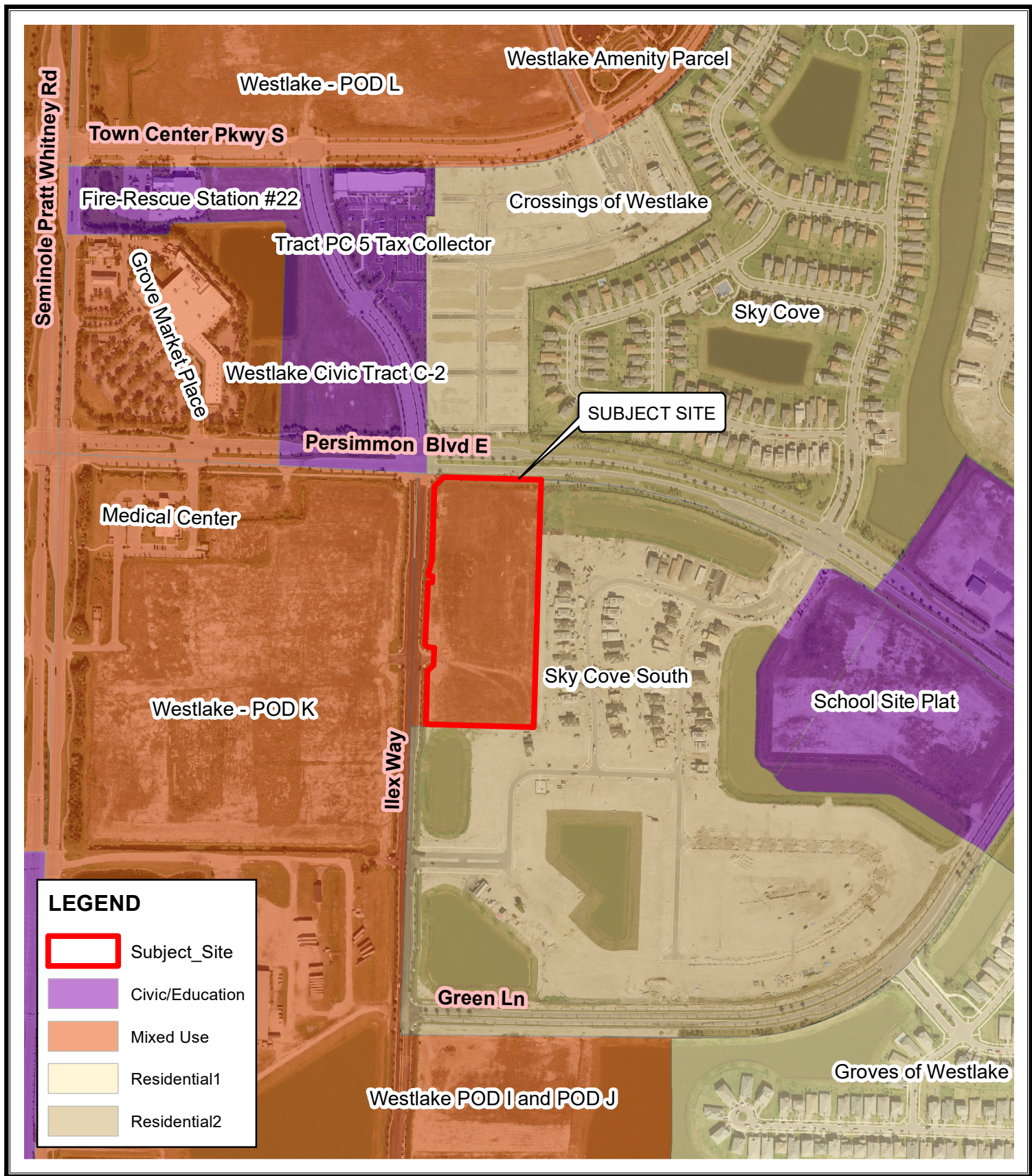
The Applicant proposes a mixed use zoning district within the downtown mixed use future land use designation, which is deemed consistent and pursuant to Chapter 3, Article 3.2, Section 1.

TABLE 3-1: FUTURE LAND USE CONSISTENCY TABLE

Future Land Use Category	Consistent Zoning Districts
Downtown Mixed Use	Mixed Use (MU) Town Center (TC) Medical District (M) Civic (C) Open Space and Recreation (OSR) Planned Development (PD)

V. Conclusion

The Applicant is requesting approval of the small-scale comprehensive plan amendment to the FLUM of the City's Plan as presented, along with the related rezoning, both of which are consistent with the City's Plan and LDRs as well as all applicable Florida Statutes.

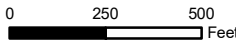


LEGEND

- Subject_Site
- Civic/Education
- Mixed Use
- Residential1
- Residential2



1 inch equals 500 feet



Map Document:
 (F:\Projects Active\13-0518.123 Minto Westlake Comp
 Plan Amendment\Maps and Graphics\ArcMap_Projects)
 AS 06/21/2022 -- 02:15:00 PM

Parcel PC-2
Proposed Future Land Use Map
 Westlake, Florida



1934 Commerce Lane · Suite 1 · Jupiter, FL · 33458
 561.747.6336 · 561.747.1377

ORDINANCE NO. 2022-10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, SPECIFICALLY AMENDING A PORTION OF THE CITY OF WESTLAKE FUTURE LAND USE MAP AS A SMALL SCALE AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION FROM CIVIC CATEGORY TO DOWNTOWN MIXED USE CATEGORY ON PROPERTY DESIGNATED AS POD PC-2, MORE PARTICULARLY DESCRIBED HEREIN AND CONTAINING 9.137 ACRES MORE OR LESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, an application filed by Minto PBLH, LLC (Applicant) seeks a small scale future land use map amendment of the hereinafter described property; and

WHEREAS, the City of Westlake Future Land Use Map designates the said property as Civic Site; and

WHEREAS, the Applicant wishes to amend the City’s Future Land Use map to change the land use designation from Civic Category to a Downtown Mixed Use Category for property on property designated as POD PC-2.

WHEREAS, said application was heard and considered before the City Council of the City of Westlake and at a duly scheduled public hearing all objections, if any, were heard.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. This application coming before the City Council pursuant to an application filed by Minto PBLH, LLC, and in accordance with the Florida Statutes, a Public Hearing having been held on October _____ 2022, the City Council hereby acknowledges and approves the application submitted by Minto PBLH, LLC, as the owner of the following described property and therefore, the Westlake Future Land Map is hereby amended to change the Future Land Use designation from current Civic category to Downtown Mixed Use category on property located on property designated as POD PC-2 and legally described as follows:

See attached *Exhibit “A”*

1 **SECTION 3. Conflicts.** All ordinances or parts of ordinances,
2 resolutions or parts of resolutions which are in conflict herewith, are hereby
3 repealed to the extent of such conflict.
4

5 **SECTION 4. Severability.** Should the provisions of this ordinance be
6 declared to be severable and if any section, sentence, clause or phrase of this
7 ordinance shall for any reason be held to be invalid or unconstitutional, such
8 decision shall not affect the validity of the remaining sections, sentences, clauses,
9 and phrases of this ordinance but they shall remain in effect, it being the
10 legislative intent that this ordinance shall remain notwithstanding the invalidity
11 of any part.
12

13 **SECTION 5. Effective Date.** This ordinance shall be effective upon
14 adoption on second reading.
15

16 **PASSED** this ____ day of September, 2022, on first reading.

17 **PUBLISHED** on this ____ day of October, 2022 in the Palm Beach Post.

18 **PASSED AND ADOPTED** this ____ day of _____, 2022, on second reading.

19 _____
20 City of Westlake
21 John Paul O'Connor, Mayor

22 ATTEST:
23 _____
24 Zoie Burgess, City Clerk
25

26 APPROVED AS TO LEGAL FORM:

27 _____
28 OFFICE OF THE CITY ATTORNEY
29
30
31
32
33
34
35
36
37
38
39
40
41

1

Exhibit "A"

2 A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY
3 OF WESTLAKE, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

4 **COMMENCE** AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE
5 40 EAST; THENCE S.01°33'05"W. ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE
6 OF 250.33 FEET TO A POINT ON THE NORTH LINE OF THE 80 FOOT M-CANAL ROAD
7 EASEMENT AS RECORDED IN DEED BOOK 1156, PAGE 58 OF THE PUBLIC RECORDS OF
8 PALM BEACH COUNTY, FLORIDA AND AS SHOWN IN ROAD PLAT BOOK 6, PAGE 136 OF
9 SAID PUBLIC RECORDS, AND AS MONUMENTED; THENCE S.88°36'57"W. ALONG SAID
10 NORTH LINE OF THE 80 FOOT M-CANAL ROAD EASEMENT, A DISTANCE OF 3776.52 FEET
11 TO A POINT ON THE ORIGINAL EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT
12 WHITNEY ROAD AS RECORDED IN OFFICIAL RECORD BOOK 1544, PAGE 378 AND
13 OFFICIAL RECORD BOOK 1640, PAGE 1626 BOTH OF SAID PUBLIC RECORDS; THENCE
14 S.01°42'52"W. ALONG SAID ORIGINAL EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT
15 WHITNEY ROAD, A DISTANCE OF 4364.18 FEET TO THE NORTHWEST CORNER OF THE
16 EXISTING RIGHT-OF-WAY OF SEMINOLE PRATT WHITNEY ROAD AS RECORDED IN
17 OFFICIAL RECORD BOOK 28479, PAGE 822 OF SAID PUBLIC RECORDS, ALSO A POINT ON
18 THE SOUTH LINE OF PERSIMMON BOULEVARD AS RECORDED IN OFFICIAL RECORD
19 BOOK 10202, PAGE 430, OF SAID PUBLIC RECORDS; THENCE S.88°17'08"E., ALONG SAID
20 SOUTH LINE OF PERSIMMON BOULEVARD, A DISTANCE OF 646.56 FEET TO A POINT ON
21 THE EAST LINE OF SAID EXISTING RIGHT-OF-WAY OF SEMINOLE PRATT WHITNEY
22 ROAD; THENCE S.01°42'52"W., ALONG SAID EAST LINE, A DISTANCE OF 77.00 FEET;
23 THENCE CONTINUE S.01°42'52"W., A DISTANCE OF 3.00 FEET TO A POINT ON THE
24 ADDITIONAL RIGHT-OF-WAY OF PERSIMMON BOULEVARD, AS SHOWN ON PERSIMMON
25 BOULEVARD EAST - PLAT 1, AS RECORDED IN PLAT BOOK 125, PAGES 106 AND 107, OF
26 SAID PUBLIC RECORDS; THENCE CONTINUE ALONG SAID ADDITIONAL RIGHT-OF-WAY
27 FOR THE FOLLOWING THREE (3) COURSES: 1) S.88°17'08"E., A DISTANCE OF 573.95 FEET;
28 2) THENCE S.43°17'08"E., A DISTANCE OF 53.74 FEET; 3) THENCE S.88°17'08"E., A DISTANCE
29 OF 112.50 FEET TO POINT ON THE EAST RIGHT-OF-WAY OF ILEX WAY II, AS SHOWN OF
30 ILEX WAY II, AS RECORDED IN PLAT BOOK 128, PAGES 22 THROUGH 25, INCLUSIVE, OF
31 SAID PUBLIC RECORDS AND THE **POINT OF BEGINNING**; THENCE CONTINUE
32 S.88°17'08"E. ALONG SAID ADDITIONAL RIGHT-OF-WAY, A DISTANCE OF 1.50 FEET TO
33 THE SOUTHEAST CORNER OF PERSIMMON BOULEVARD EAST - PLAT 1, AS RECORDED IN
34 PLAT BOOK 125, PAGES 106 AND 107, OF SAID PUBLIC RECORDS, ALSO A POINT ON THE
35 SOUTHERLY RIGHT-OF-WAY OF PERSIMMON BOULEVARD EAST, AS SHOWN ON
36 PERSIMMON BOULEVARD EAST-PLAT 2, AS RECORDED IN PLAT BOOK 128, PAGES 22
37 THROUGH 25, INCLUSIVE, OF SAID PUBLIC RECORDS; THENCE ALONG SAID SOUTHERLY
38 RIGHT-OF-WAY OF PERSIMMON BOULEVARD EAST, FOR THE FOLLOWING THREE (3)
39 COURSES: 1) N.01°42'52"E., A DISTANCE OF 12.00 FEET; 2) THENCE N.46°42'53"E., A
40 DISTANCE OF 56.57 FEET; 3) THENCE S.88°17'08"E., A DISTANCE OF 373.13 FEET; THENCE
41 S.01°41'49"W., A DISTANCE OF 947.92 FEET; THENCE N.88°18'58"W., A DISTANCE OF 419.92
42 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF ILEX WAY II, AS RECORDED IN PLAT
43 BOOK 128, PAGES 22 THROUGH 25, INCLUSIVE, OF SAID PUBLIC RECORDS; THENCE
44 ALONG SAID EAST RIGHT-OF-WAY LINE OF ILEX WAY II FOR THE FOLLOWING SIX (6)
45 COURSES: 1) N.01°42'52"E., A DISTANCE OF 286.41 FEET; 2) THENCE N.43°17'08"W., A

8/18 127p

1 DISTANCE OF 15.56 FEET; 3) THENCE N.01°42'52"E., A DISTANCE OF 38.40 FEET; 4) THENCE
2 N.02°54'08"E., A DISTANCE OF 239.24 FEET; 5) THENCE N.14°07'19"E., A DISTANCE OF 51.38
3 FEET; 6) THENCE N.01°42'52"E., A DISTANCE OF 270.96 FEET TO THE **POINT OF**
4 **BEGINNING.**

5 CONTAINING: 398,017 SQUARE FEET OR 9.137 ACRES, MORE OR LESS.
6

File Attachments for Item:

B. ZC-2022-01 (Second Reading): Application of Minto PBLH, LLC requesting a zoning change from the Civic (C) zoning district to the Mixed Use (MU) zoning district. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.

Submitted By: Planning and Zoning

ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, APPROVING THE REZONING OF THE PROPERTY CONSISTING OF APPROXIMATELY 9.137 GROSS ACRES IN SIZE, FOR THE PARCEL REFERRED TO AS POD PC-2 FROM CIVIC DISTRICT TO MIXED USE DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.



Meeting Agenda Item Coversheet

MEETING DATE:		10/4/22	Submitted By: Planning and Zoning	
SUBJECT: <i>This will be the name of the Item as it will appear on the Agenda</i>		ZC-2022-01 (Second Reading): Application of Minto PBLH, LLC requesting a zoning change from the Civic (C) zoning district to the Mixed Use (MU) zoning district. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.		
STAFF RECOMMENDATION: (MOTION READY)		Motion to adopt ZC-2022-01 zoning change from the Civic (C) zoning district to the Mixed Use (MU) zoning district.		
SUMMARY and/or JUSTIFICATION:		The applicant is requesting to change the zoning designation from the Civic (C) district to the Mixed Use (MU) zoning district on a 9.137 acre site. The amendment will change the development potential on the site from civic use to a wide range of commercial and residential uses. An application for a Future Land Use Map (FLUM) amendment is being processed concurrent with the subject application. The FLUM amendment is proposing to change the future land use designation from Civic to Downtown Mixed Use.		
SELECT, if applicable	AGREEMENT:		BUDGET:	
	STAFF REPORT:	X	PROCLAMATION:	
	EXHIBIT(S):	X	OTHER:	
IDENTIFY EACH ATTACHMENT. <i>For example, an agreement may have 2 exhibits, identify the agreement and Exhibit A and Exhibit B</i>	Agenda Item Sheet Final Staff Report Application Justification Statement Maps			
SELECT, if applicable	RESOLUTION:		ORDINANCE: 2022-11	
IDENTIFY FULL RESOLUTION OR ORDINANCE TITLE <i>(if Item is <u>not</u> a Resolution or Ordinance, please erase all default text from this field's textbox and leave blank)</i> <u>Please keep text indented.</u>				
FISCAL IMPACT (if any):				\$



PETITION DESCRIPTION

PETITION NUMBER: ZC-2022-01 (Pod C-2) Ordinance 2022-11

OWNER: Minto PBLH, LLC

APPLICANT: Cotleur & Hearing

ADDRESS: Southeast corner of Persimmon Blvd E and Ilex Way

PCN: 77-40-43-12-00-000-1010

REQUEST: The applicant is requesting a zoning change from the Civic (C) zoning district to the Mixed Use (MU) zoning district. The site is located at the southeast corner of Persimmon Blvd and Ilex Way.

SUMMARY

The applicant is requesting to change the zoning designation from the the Civic (C) district to the Mixed Use (MU) zoning district on a 9.137 acre site. The amendment will change the development potential on the site from civic use to a wide range of commercial and residential uses. An application for a Future Land Use Map (FLUM) amendment is being processed concurrent with the subject application. The FLUM amendment is proposing to change the future land use designation from Civic to Downtown Mixed Use.

No site plan has been submitted as part of this application. Once the City receives a site plan application for the subject site it will be reviewed for compliance with the development regulations under Chapter 3 Zoning Districts and Standards, and it will need to be approved by the City Council. The approval process includes a Local Planning Agency hearing, and two (2) City Council readings.

STAFF RECOMMENDATION

Based upon the facts and findings contained herein, the **Planning & Zoning Department** recommends approval of the subject application.

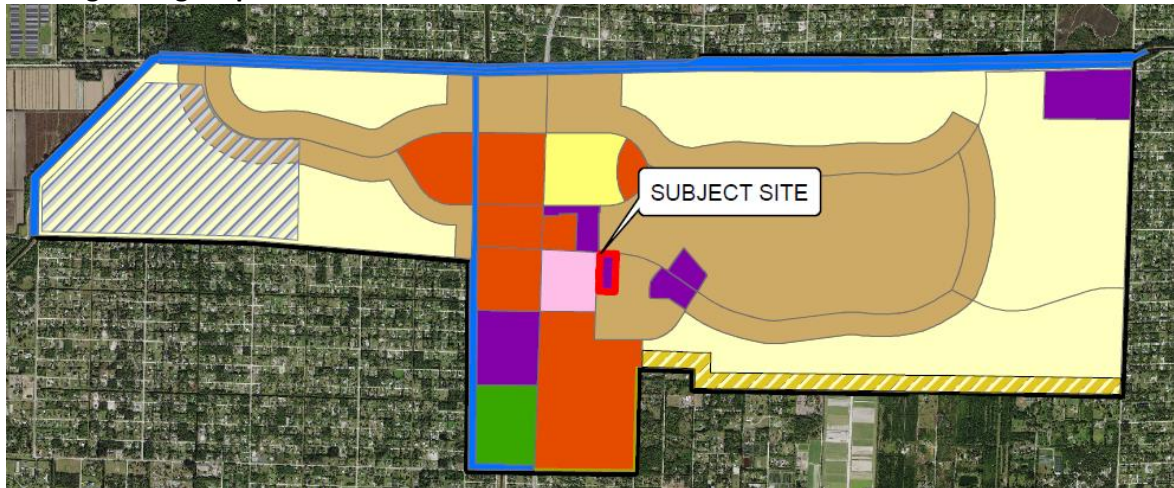
PETITION FACTS

- a. Total Gross Site Area: 9.137 acres
- b. Land Use and Zoning
 - Existing Land Use: Vacant
 - Existing Future Land Use: Civic
 - Proposed Future Land Use: Downtown Mixed Use
 - Existing Zoning: Civic (C)
 - Proposed Zoning: Mixed Use (MU)

	FUTURE LAND USE	ZONING
SUBJECT PROPERTY	Civic	Civic
NORTH	Residential-2	Residential-2
SOUTH	Residential-2	Residential-2
EAST	Residential-2	Residential-2
WEST	Downtown Mixed Use	Medical District



Existing Zoning Map



BACKGROUND

On June 20, 2016, the City of Westlake became the 39th municipality in Palm Beach County. On March 12, 2018, Ordinance No. 2017-05 approved the adoption of the City of Westlake Comprehensive Plan and Future Land Use Map. On September 23, 2019, Ordinance No. 2019-09 established Chapter 3 “Zoning Districts and Standards”, and Adopting of the Zoning Map. The subject application is the first zoning map amendment processed by the City.

STAFF ANALYSIS

Staff reviewed the subject application focusing on compatibility with the surrounding neighborhoods and for any negative impacts regarding the proposed zoning change to the Mixed use zoning district. The proposed Mixed Use zoning district allows a mix of non-residential and residential uses that may be developed on the same parcel, and may be integrated vertically or horizontally. The Mixed Use zoning districts includes all of the uses allowed under the Civic (C) zoning district plus the following uses:

TABLE 3-11: MU DISTRICT RESIDENTIAL STANDARDS

Residential Use Type	Minimum Lot Width Per Dwelling Unit (Feet)	Minimum Front Setback ¹ (Feet)	Minimum Side Road Setback ² (Feet)	Minimum Side Yard Setback ^{2,3} (Feet)	Minimum Rear Yard Setback ² (Feet)	Maximum Building Height (Feet)	Maximum Lot Coverage	Minimum Pervious Percentage of Parcel
Single family attached dwellings	20	BLDG: 5	BLDG: 5	BLDG: 5	10	50	70%	20%
		FLG: 20	SLG: 20	SLG: 20				
Multi-family dwellings	-	5	20	10	20	100	50%	25%
Assisted living facilities	-	5	20	10	20	100	50%	25%
1. BLDG = Building without front-loading garage, or portion of building without front-loading garage. FLG = Front Loading Garage.								
2. For multi-family developments, setbacks shall be measured from the boundary of the parcel. No other setbacks apply to buildings within the parcel, except buildings are subject to building separation requirements in the Florida Building Code and fire safety codes.								
3. BLDG = Building without side-loading garage, or portion of building without side-loading garage. SLG = Side Loading Garage. No setback is required for single family attached dwelling units along the shared wall.								

TABLE 3-12: MU DISTRICT NON-RESIDENTIAL STANDARDS

Non-Residential Use Type	Minimum Parcel Size (Square Feet)	Minimum Front Setback (Feet)	Minimum Side Setback (Feet)	Minimum Rear Setback (Feet)	Minimum Building Separation (Feet)	Maximum Lot Coverage	Minimum Pervious Percentage of Parcel
Religious uses	43,560	20	10	10	20	35%	25%
Educational Uses	43,560	20	10	10	20	35%	25%
Recreational Uses	-	20	10	10	20	30%	60%
Conservation uses	-	-	-	-	-	-	-
Commercial Uses	-	20	10	10	20	45%	25%
Medical Uses	-	20	10	10	20	45%	25%
Sexually oriented business	-	30	10	10	20	35%	25%
Civic Uses	-	20	10	10	20	30%	25%
Light industrial uses	-	30	10	10	20	50%	25%
Institutional uses	-	10	10	10	20	35%	25%
Commercial recreation uses	-	20	10	10	20	35%	25%
Agricultural uses	-	-	-	-	-	-	-
Essential facilities and services	-	-	-	-	-	-	-
Utilities	-	-	-	-	-	-	-
1. Buildings separated from residential zoning districts by a road or canal are not considered adjacent to residential zoning districts.							

This rezoning request is consistent with the following goals, objections, and policies of the City of Westlake Comprehensive Plan:

Objective FLU 1.6: Ensure compatibility among various future land uses while promoting mixed use, economic development and multi-modal transportation.

Policy 1.6.1: Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

Policy: 1.6.2: All allowable uses within a future land use category are deemed compatible with one another for purposes of the Plan and the Land Development Regulations.

Staff has reviewed the following criteria:

1. The proposed change would not be contrary to the land use plan and would not have adverse impacts to the Comprehensive Plan.

The requested Mixed Use (MU) zoning district, allows a minimum gross density of 4 units per acre, the maximum gross density is 16 dwelling units per acre, and a maximum of 3.0 FAR. This is consistent with the Downtown Mixed Use future land use designation that allows a minimum gross density of 4 units per gross acre, the maximum gross density of 16 dwelling units per gross acres, and a maximum of 3.0 FAR. This designation will be consistent with the proposed land use designation of Downtown Mixed Use that is being processed concurrently (CPA-2022-01).

Applicant Response: As detailed in the Justification Statement, the proposed amendment is consistent with the Comprehensive Plan.

2. The proposed rezoning is consistent with the existing land use pattern.

The proposed zoning district is compatible with the existing single-family residential use to the north, south and east, as well as with the existing development to the west.

Applicant Response: The rezoned property will be near other Mixed Use districts and is similar in type to the adjacent medical district. The rezoning will provide for an orderly development pattern consistent with the Comprehensive Plan.

3. The proposed rezoning will not create an isolated district unrelated to adjacent and nearby districts.

This proposed zoning change would not create an isolated zoning district and will be a continuation of the existing development pattern to the west.

Applicant Response: There is no requirement in the City's LDRs to provide this justification; nonetheless, the rezoned property will be near to other Mixed Use districts, is similar in type to the adjacent medical district, and abuts the Downtown Mixed Use Future Land Use Category on the City's 2038 Future Land Use Map, FLU Map 2.1.

4. The proposed change will not create or excessively increase traffic.

The subject site already allows a number of religious, education and civic uses. The proposed zoning change will not create excessive traffic in the area. Any future development will be reviewed for traffic impacts and will be required to provide a traffic study.

Applicant Response: No change in use is proposed and no site plan has been submitted as part of this application. Therefore, no traffic analysis/statement is required. However, as further explained in the Justification Statement, the level of service standards are based on data and analysis that rely on development occurring with a mix of uses, which mix is set forth in Policy FLU 1.1.15. As explained in the Justification Statement, the proposed plan amendment will preserve the mix of uses as contemplated in 1.1.15 because the development of the site with commercial and other non-residential uses will balance out the amount of the land in the Mixed Use District that has been developed with or permitted for civic

use following the development of the Christ Fellowship Center. Thus, as explained in the Justification Statement, the proposed amendment will not call for any development not already contemplated by the Plan and the underlying data and analysis for the existing Comprehensive Plan support the proposed amendment. Therefore, it is anticipated that this amendment will not negatively impact the ability of public facilities to operate within the acceptable levels of service.

5. The change will not adversely influence living conditions in the neighborhood.

The proposed change will not adversely affect the living conditions in the area. Any future development will be reviewed for compliance with the City’s Comprehensive Plan and Land Development Regulations and will need to be approved by the City Council.

Applicant Response: There is no requirement in the City’s LDRs to justify that the property will not adversely influence living conditions in the neighborhood. Nonetheless, the basis for the application is to rebalance the mix of uses in the Mixed Use zoning district. This will allow for a more vibrant downtown and increase the City’s tax base by allowing a balance of uses more consistent with what was contemplated in the City’s Comprehensive Plan than what has been built to date. See attached Exhibit, which demonstrates the amount of existing and permitted civic uses already within the Mixed Use Zoning District, and within the City. Further, as discussed in the Justification Statement, compatibility with adjacent developments will be addressed through buffering as required by the City’s Comprehensive Plan and LDRs.

STAFF RECOMMENDATION

Please see page 1 for staff recommendation.

Reply To: tduhy@llw-law.com

August 1, 2022

Kenneth Cassel, City Manager
City of Westlake
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

Dear Mr. Cassel:

Please accept this letter as an application on behalf of Minto PBLH, LLC, for concurrent review of a small scale comprehensive plan amendment to the City of Westlake's Future Land Use Map and a rezoning for the Parcel known as Pod PC-2, which is more fully described in the attached Legal Description.¹ Pursuant to the requirements of *Chapter 2: Land Development Procedures, Article 2*, this comprehensive plan and rezoning application includes the following documents:

- Data and Analysis and Justification Statement for Comprehensive Plan Amendment and Rezoning
- City of Westlake Existing Zoning Map
- Applicant's Proposed Zoning Map
- Property Legal Description
- Abstracted Survey
- Owner's Affidavit
- Application Fee Detail
- Fee Authorization Form from Applicant
- Approved Site Plan for Adjacent Development
- GIS map series:
 - Aerial Location Exhibits (2)
 - Existing Future Land Use Map (2)
 - Applicant's Proposed Future Land Use Map

JACKSONVILLE

245 Riverside Ave., Suite 510
Jacksonville, Florida 32202
T: 904.353.6410
F: 904.353.7619

ST. PETERSBURG

100 Second Ave., South
Suite 501-S
St. Petersburg, Florida
33701
T: 727.245.0820
F: 727.290.4057

TALLAHASSEE

315 South Calhoun St., Suite
830
Tallahassee, Florida 32301
T: 850.222.5702
F: 850.224.9242

TAMPA

301 West Platt St.
Suite 364
Tampa, FL 33606
T: 813.775.2331

WEST PALM BEACH

515 North Flagler Dr., Suite 1500
West Palm Beach, Florida 33401
T: 561.640.0820
F: 561.640.8202

Kenneth Cassel, City Manager
City of Westlake
August 1, 2022
Page 2

- Existing Zoning Map (2)
- Proposed Zoning Map
- Planned Landscape Buffer Map

The Applicant will collaborate closely with City staff to bring this application to completion as quickly as possible. The Applicant and the entire development team are available to answer any questions staff might have and/or provide necessary information to supplement the information provided in the submittal. If the City requires any additional information to process the subject applications, please do not hesitate to contact me.

Very truly yours,



Tara W. Duhy
Executive Shareholder

TWD/lb

c: Donald J. Doody
John Carter
Don Hearing
Nilsa Zacarias

ⁱ The Planning and Zoning Director has advised that no application form exists for the requested approvals.

Reply To: tduhy@llw-law.com**MEMORANDUM**

TO: Ken Cassel

FROM: Tara W. Duhy, Esquire

DATE: August 1, 2022

SUBJECT: **Data and Analysis and Justification Statement**

I. Introduction

Minto PBLH, LLC, is requesting a small-scale comprehensive plan amendment to the City of Westlake's Comprehensive Plan Future Land Use Map ("FLUM") along with a rezoning for the parcel referred to as Pod PC-2, as more fully described in the Legal Description included as part of this application ("the Parcel"). Specifically, the Applicant is requesting that the future land use designation of the Parcel be amended from its current civic category to the downtown mixed use category and that the Parcel be rezoned from the civic district to the mixed use district. As will be discussed in greater detail below, these requests are consistent with the City's Comprehensive Plan ("Plan") and Land Development Regulations ("LDRs") as well as the Community Planning Act.

II. Procedural Summary

The two applications qualify for concurrent processing pursuant to Chapter 3, Article 2.3, Section 3 of the City's Land Development Regulations. A pre-application meeting was held with the City Manager and City attorney on July 15, 2022.

Small Scale Comprehensive Plan Amendment

The requested Amendment is consistent with Policy ADM 1.1.4 of the City's Plan and qualifies to be processed as a small-scale comprehensive plan amendment pursuant to Chapter 2, Article 2.2, Section 2(A) of the City's LDRs, which provides:

01784498-2

JACKSONVILLE
245 Riverside Ave.,
Suite 510
Jacksonville, Florida 32202
T: 904.353.6410
F: 904.353.7619

ST. PETERSBURG
100 Second Ave., South
Suite 501-S
St. Petersburg, Florida 33701
T: 727.245.0820
F: 727.290.4057

TALLAHASSEE
315 South Calhoun St.,
Suite 830
Tallahassee, Florida 32301
T: 850.222.5702
F: 850.224.9242

TAMPA
301 West Platt St.
Suite 364
Tampa, Florida 33606
T: 813.775.2331

WEST PALM BEACH
360 South Rosemary Ave.,
Suite 1100
West Palm Beach, FL 33401
T: 561.640.0820
F: 561.640.8202

(1) Comprehensive Plan amendment applications that meet the following criteria will be processed as Small-Scale Plan Amendments. In order to be processed as a Small-Scale Plan Amendment:

- (a) The proposed amendment relates to a parcel that is less than 10 acres in size;
- (b) The proposed amendment is only for a site-specific small scale development activity;
- (c) The parcel that is the subject of the proposed amendment is not located within an area of critical state concern;
- (d) The City must not have approved more than 120 acres of small scale amendments in the calendar year in which the application is submitted; and
- (e) Text amendments associated with the Small-Scale Plan Amendment to the Future Land Use Map ("Small Scale Map Amendment") are directly related to and will be adopted simultaneously with the Small-Scale Map Amendment

The Parcel is approximately 9.137 acres in size and the Applicant is only requesting an amendment to the FLUM for small scale development activity. The Parcel is not located within an area of critical state concern and the City has not approved any small-scale amendments in the current calendar year. Finally, while permitted, the Applicant is not seeking any text amendments related to the requested small-scale amendment. Therefore, the application is consistent with the City's LDRs. For the same reasons, the subject application is consistent with the requirements Section 163.3187, Florida Statutes.

Pursuant to Section 163.3187(2), Florida Statutes and Table 2.1 of Chapter 3 of the City's LDRs, a small-scale comprehensive plan amendment only requires one public hearing before the City Council, which shall be an adoption hearing as described in Section 163.3184(11), Florida Statutes.¹ "Small scale amendments may not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments may not become effective until the state land planning agency or Administrative Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance." Section 163.3187(5)(c), Florida Statutes.

Rezoning

The requested rezoning is contingent on approval of the requested small-scale amendment to the City's FLUM and is consistent with the City's Plan and LDR. Pursuant to the Table 2-1 of Chapter 3 of

¹ The City Code also requires that small-scale amendments be heard by the Land Planning Agency.

the City's LDRs, a Rezoning is subject to approval by the City Council and must be heard by the Land Planning Agency.

III. Comprehensive Plan Consistency and Compliance Analysis

Florida Statutes requires that "[c]omprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177." See Section 163.3187(4), Florida Statutes. Section 163.3184 also requires that comprehensive plan amendments be "consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248."

In addition, Policies FLU 1.1.1 and FLU 1.1.2 of the City's Plan requires that "[a]ll future development orders shall be consistent with the Plan," and "[a]mendments to the Plan, including the Future Land Use Map (FLU Map 2.1) shall be consistent with all Florida Statute Requirements."

Below, please find an analysis demonstrating that the requested small-scale amendment and related rezoning are compatible with the City's Plan and are in compliance with all applicable Florida Statutes.²

Consistency with Policy FLU 1.1.15, HE 1.2.1, and the data and analysis supporting the existing FLUM

The existing FLUM Category and Zoning District of the Parcel is civic. A future land use amendment and zoning change are requested to allow the potential development of additional non-residential uses to offset the existing development of a significant portion of the current downtown mixed use land area with civic uses. The City has approved the development of the Christ Fellowship Center located on the southern portion of Pod J along Seminole Pratt Whitney Road, consisting of approximately 68,000 square feet of civic uses on thirteen (13) acres. While civic uses are permissible within the downtown mixed use designation, Policy FLU 1.1.15(d) provides that the downtown mixed use area as a whole be developed with a minimum and maximum mix of residential, commercial, civic, light industrial and institutional uses. To maintain the balance called for in Policy 1.1.15, the subject amendment will offset the development of civic uses on thirteen acres of the existing downtown mixed use land area by adding commercial and other non-residential uses to the list of allowable uses on the subject Parcel.³

This request is supported by HE Policy 1.2.1, which provides:

Policy HE 1.2.1 Allow for and support commercial and light industrial development, which will provide employment

² Sections 163.3178 (Coastal management), 163.3191 (Evaluation and appraisal of comprehensive plan), 163.3245 (Sector Plans), and 163.3248 (Rural land stewardship areas) are not applicable to the subject request.

³ Residential uses are not permitted within the Civic category but are permitted within the downtown mixed use category. While the Applicant does not anticipate the Parcel developing with residential uses, the same justification applies – the amendment will not call for any development not already contemplated by the Plan.

opportunities within the City to enable the purchase or rent of affordable housing.

By approving the requested amendment, the City will maintain land area for commercial uses that support economic activities as originally conceived by the Plan, while still providing civic uses at a different location within the downtown.

Because 13 acres of current land designated with the downtown mixed use category have developed with civic uses, the proposed amendment, which will allow commercial and other non-residential development on the property, is consistent with the population projections, non-residential needs and public facilities analyses that support the existing Comprehensive Plan and Future Land Use Map. The proposed amendment will not call for any development above what is already contemplated by the Plan.

Compatibility – Policies FLU 1.6.1, 1.6.5, 1.6.7 and 1.6.8

Table 1 demonstrates future land use, zoning, and land use designations of the adjacent site parcels. The subject Parcel is separated from the existing Downtown Mixed Use District by Ilex Way.

Table 1: Adjacent Property Land Uses

TABLE 1 SURROUNDING LAND USES			
	FUTURE LAND USE	ZONING	LAND USE
NORTH	N/A	N/A	Roadway – Persimmon Blvd E
SOUTH	Residential 2	Residential 2 (R-2)	Single-Family Residential – Sky Cove South (Pod N)
EAST	Residential 2	Residential 2 (R-2)	Single-Family Residential – Sky Cove South (Pod N)
WEST	N/A	N/A	Roadway – Ilex Way

The Plan addresses Consistency requirement in Objective 1.6. The proposed amendment is consistent with this Objective and its supporting Policies. Specifically, Policy FLU 1.6.1 reads:

Policy FLU 1.6.1 Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

The Parcel is centrally located and surrounded by residential and mixed use districts. The proximity of Sky Cove South residents to the Parcel will allow for multi-modal transportation opportunities via

cycling and walking to the site, which may provide opportunities for work or shopping that are not currently available under the civic designation.

Policy FLU 1.6.5 Development abutting a different future land use category shall comply with the following minimum compatibility requirements. The City may adopt additional buffer requirements in the Land Development Regulations.

The proposed amendment is consistent with Policy FLU 1.6.5, which anticipates and addresses the development of different land uses adjacent to one another by requiring appropriate buffers and spacing. (See also Policies FLU 1.6.7 and 1.6.8, which provide alternative compatibility techniques). At the time a Site Plan is submitted for the Parcel, Policy 1.6.5 and implementing provisions of the City's LDRs will require the Parcel to achieve compatibility with adjacent existing residentially developed land. In addition, Sky Cove has a buffer averaging thirty-six feet (36') in depth along its western boundary and twenty to twenty-five feet (20'-25') along its northern boundary, adjacent to Parcel C-2. This condition further demonstrates the compatibility of the proposed land use amendment with the adjacent residential development.

Public Facilities – Policies FLUE 1.4.2, TE 1.2.3, TE 1.2.7, INF 1.1.5, INF 1.1.6, INF 1.3.5, INF 1.3.6, INF 1.5.7, INF 1.5.8, INF 1.6.5, and CIE 1.3.2

The proposed small-scale amendment to the FLUM and related rezoning are consistent with Policies FLUE 1.4.2, TE 1.2.3, TE 1.2.7, INF 1.1.5, INF 1.1.6, INF 1.3.5, INF 1.3.6, INF 1.5.7, INF 1.5.8, INF 1.6.5, and CIE 1.3.2 of the Comprehensive Plan which address public facilities within the City.

As mentioned above, the proposed amendment will not call for any development not already contemplated by the Plan. Thus, the underlying data and analysis for the existing Comprehensive Plan support the proposed amendment. Concurrency for drainage, potable water, wastewater, and solid waste will be addressed through the Site Planning process for any proposed use on the Property pursuant to Chapter 2, Article 2.2, Section 3. Thus, the subject amendment is consistent with the City's Comprehensive Plan relative to the provision of public facilities.

IV. Consistency with City LDRs

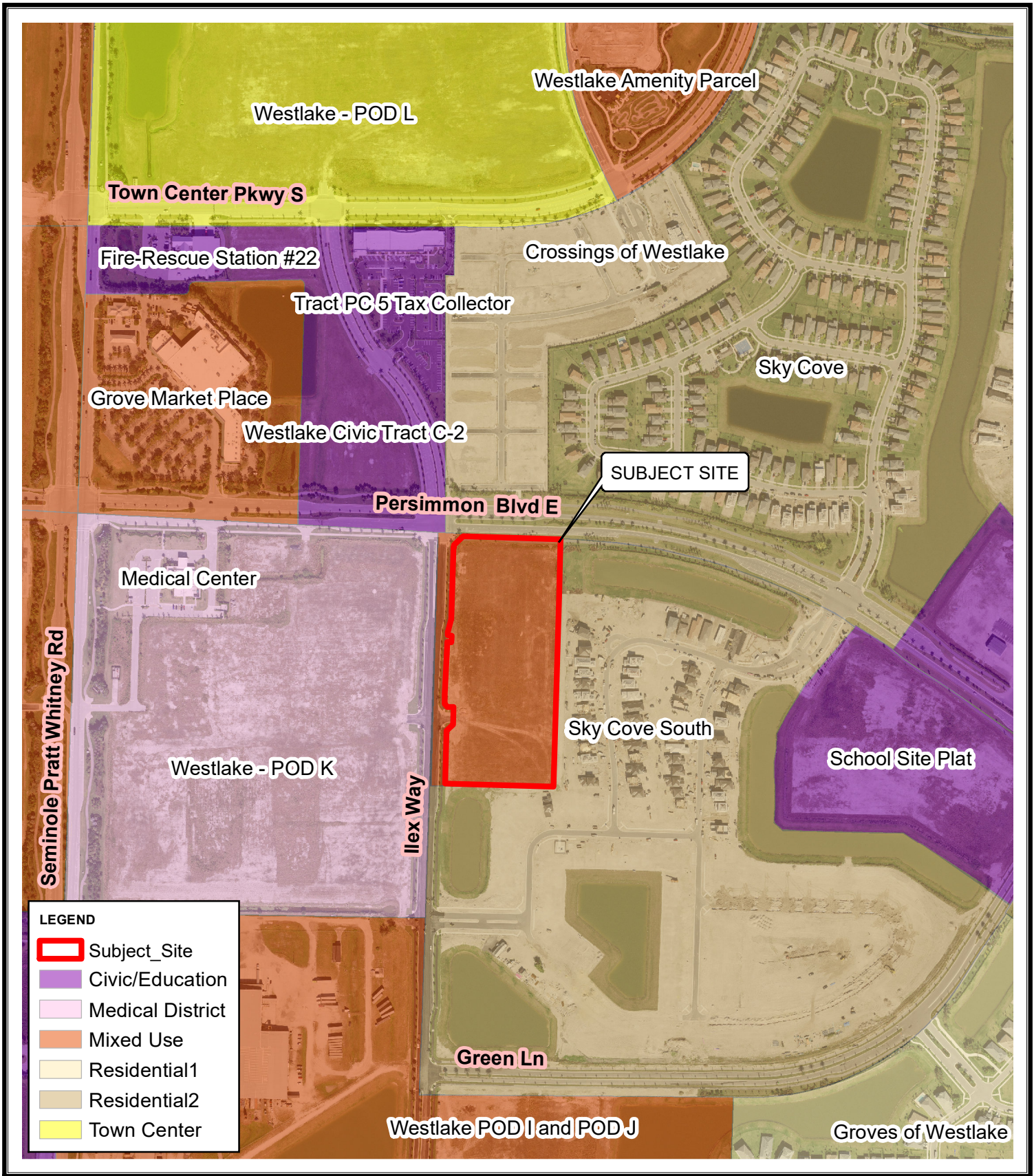
The Applicant proposes a mixed use zoning district within the downtown mixed use future land use designation, which is deemed consistent and pursuant to Chapter 3, Article 3.2, Section 1.

TABLE 3-1: FUTURE LAND USE CONSISTENCY TABLE

Future Land Use Category	Consistent Zoning Districts
Downtown Mixed Use	Mixed Use (MU) Town Center (TC) Medical District (M) Civic (C) Open Space and Recreation (OSR) Planned Development (PD)

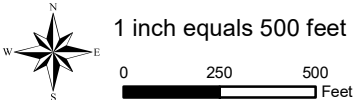
V. Conclusion

The Applicant is requesting approval of the small-scale comprehensive plan amendment to the FLUM of the City’s Plan as presented, along with the related rezoning, both of which are consistent with the City’s Plan and LDRs as well as all applicable Florida Statutes.



LEGEND

- Subject_Site
- Civic/Education
- Medical District
- Mixed Use
- Residential1
- Residential2
- Town Center



Map Document:
 (F:\Projects Active\13-0518.123 Minto Westlake Comp
 Plan Amendment\Maps and Graphics\ArcMap_Projects)
 AS 06/21/2022 -- 03:30:00 PM

Parcel PC-2
Proposed Zoning Map
 Westlake, Florida

**Cotleur &
Hearing**

1934 Commerce Lane · Suite 1 · Jupiter, FL · 33458
 561.747.6336 · 561.747.1377

ORDINANCE NO. 2022-11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, APPROVING THE REZONING OF THE PROPERTY CONSISTING OF APPROXIMATELY 9.137 GROSS ACRES IN SIZE, FOR THE PARCEL REFERRED TO AS POD PC-2 FROM CIVIC DISTRICT TO MIXED USE DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, through an Application filed by Minto PBLH, LLC, the City of Westlake intends to rezone approximately 9.137 acres consisting of real property located at Westlake, Florida; and

WHEREAS, the City of Westlake Future Land Use Map designates this real property for Downtown Mixed Use category; and

WHEREAS, rezoning the area in question from Civic District to the Mixed Use District is consistent with the permitted uses as identified in the City of Westlake Comprehensive Plan Land Use Implementation; and

WHEREAS, the proposed rezoning to Mixed Use District is compatible with the surrounding existing zoning designations for properties in this vicinity; and

WHEREAS, the City proposes to rezone the site that consists of 9.137 acres more or less; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council of the City of Westlake, Florida, after hearing any and all comments and objections made during the course of a duly advertised and scheduled public hearing hereby finds that this rezoning request is consistent with the following goals, objections, and policies of the City of Westlake Comprehensive Plan:

Objective FLU 1.6: Ensure compatibility among various future land uses while promoting mixed use, economic development and multi-modal transportation.

Policy 1.6.1: Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

1 Policy: 1.6.2: All allowable uses within a future land use category are deemed
2 compatible with one another for purposes of the Plan and the Land Development
3 Regulations.

4

5 **SECTION 3.** The City Council of Westlake, Florida hereby approves the
6 rezoning of the real property as depicted in the map labeled Exhibit "A" to Mixed
7 Use District.

8

9 **SECTION 4. Conflicts.** All ordinances or parts of ordinances,
10 resolutions or parts of resolutions which are in conflict herewith, are hereby
11 repealed to the extent of such conflict.

12

13 **SECTION 5. Severability.** Should the provisions of this ordinance be
14 declared to be severable and if any section, sentence, clause or phrase of this
15 ordinance shall for any reason be held to be invalid or unconstitutional, such
16 decision shall not affect the validity of the remaining sections, sentences, clauses,
17 and phrases of this ordinance but they shall remain in effect, it being the
18 legislative intent that this ordinance shall remain notwithstanding the invalidity
19 of any part.

20

21 **SECTION 6. Effective Date.** This ordinance shall be effective upon
22 adoption on second reading.

23

24 **PASSED** this ____ day of _____, 2022, on first reading.

25 **PUBLISHED** on this ____ day of _____, 2022 in the Palm Beach Post.

26 **PASSED AND ADOPTED** this ____ day of _____, 2022, on second reading.

27

28

29

City of Westlake
John Paul O'Connor, Mayor

30

31

32 **ATTEST:**

33

34 _____
Zoie Burgess, City Clerk

35

36

APPROVED AS TO LEGAL FORM:

37

38

OFFICE OF THE CITY ATTORNEY

1
2

Exhibit A

3 A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY
4 OF WESTLAKE, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

5 **COMMENCE** AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE
6 40 EAST; THENCE S.01°33'05"W. ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE
7 OF 250.33 FEET TO A POINT ON THE NORTH LINE OF THE 80 FOOT M-CANAL ROAD
8 EASEMENT AS RECORDED IN DEED BOOK 1156, PAGE 58 OF THE PUBLIC RECORDS OF
9 PALM BEACH COUNTY, FLORIDA AND AS SHOWN IN ROAD PLAT BOOK 6, PAGE 136 OF
10 SAID PUBLIC RECORDS, AND AS MONUMENTED; THENCE S.88°36'57"W. ALONG SAID
11 NORTH LINE OF THE 80 FOOT M-CANAL ROAD EASEMENT, A DISTANCE OF 3776.52 FEET
12 TO A POINT ON THE ORIGINAL EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT
13 WHITNEY ROAD AS RECORDED IN OFFICIAL RECORD BOOK 1544, PAGE 378 AND
14 OFFICIAL RECORD BOOK 1640, PAGE 1626 BOTH OF SAID PUBLIC RECORDS; THENCE
15 S.01°42'52"W. ALONG SAID ORIGINAL EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT
16 WHITNEY ROAD, A DISTANCE OF 4364.18 FEET TO THE NORTHWEST CORNER OF THE
17 EXISTING RIGHT-OF-WAY OF SEMINOLE PRATT WHITNEY ROAD AS RECORDED IN
18 OFFICIAL RECORD BOOK 28479, PAGE 822 OF SAID PUBLIC RECORDS, ALSO A POINT ON
19 THE SOUTH LINE OF PERSIMMON BOULEVARD AS RECORDED IN OFFICIAL RECORD
20 BOOK 10202, PAGE 430, OF SAID PUBLIC RECORDS; THENCE S.88°17'08"E., ALONG SAID
21 SOUTH LINE OF PERSIMMON BOULEVARD, A DISTANCE OF 646.56 FEET TO A POINT ON
22 THE EAST LINE OF SAID EXISTING RIGHT-OF-WAY OF SEMINOLE PRATT WHITNEY
23 ROAD; THENCE S.01°42'52"W., ALONG SAID EAST LINE, A DISTANCE OF 77.00 FEET;
24 THENCE CONTINUE S.01°42'52"W., A DISTANCE OF 3.00 FEET TO A POINT ON THE
25 ADDITIONAL RIGHT-OF-WAY OF PERSIMMON BOULEVARD, AS SHOWN ON PERSIMMON
26 BOULEVARD EAST - PLAT 1, AS RECORDED IN PLAT BOOK 125, PAGES 106 AND 107, OF
27 SAID PUBLIC RECORDS; THENCE CONTINUE ALONG SAID ADDITIONAL RIGHT-OF-WAY
28 FOR THE FOLLOWING THREE (3) COURSES: 1) S.88°17'08"E., A DISTANCE OF 573.95 FEET;
29 2) THENCE S.43°17'08"E., A DISTANCE OF 53.74 FEET; 3) THENCE S.88°17'08"E., A DISTANCE
30 OF 112.50 FEET TO POINT ON THE EAST RIGHT-OF-WAY OF ILEX WAY II, AS SHOWN OF
31 ILEX WAY II, AS RECORDED IN PLAT BOOK 128, PAGES 22 THROUGH 25, INCLUSIVE, OF
32 SAID PUBLIC RECORDS AND THE **POINT OF BEGINNING**; THENCE CONTINUE
33 S.88°17'08"E. ALONG SAID ADDITIONAL RIGHT-OF-WAY, A DISTANCE OF 1.50 FEET TO
34 THE SOUTHEAST CORNER OF PERSIMMON BOULEVARD EAST - PLAT 1, AS RECORDED IN
35 PLAT BOOK 125, PAGES 106 AND 107, OF SAID PUBLIC RECORDS, ALSO A POINT ON THE
36 SOUTHERLY RIGHT-OF-WAY OF PERSIMMON BOULEVARD EAST, AS SHOWN ON
37 PERSIMMON BOULEVARD EAST-PLAT 2, AS RECORDED IN PLAT BOOK 128, PAGES 22
38 THROUGH 25, INCLUSIVE, OF SAID PUBLIC RECORDS; THENCE ALONG SAID SOUTHERLY
39 RIGHT-OF-WAY OF PERSIMMON BOULEVARD EAST, FOR THE FOLLOWING THREE (3)
40 COURSES: 1) N.01°42'52"E., A DISTANCE OF 12.00 FEET; 2) THENCE N.46°42'53"E., A
41 DISTANCE OF 56.57 FEET; 3) THENCE S.88°17'08"E., A DISTANCE OF 373.13 FEET; THENCE
42 S.01°41'49"W., A DISTANCE OF 947.92 FEET; THENCE N.88°18'58"W., A DISTANCE OF 419.92
43 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF ILEX WAY II, AS RECORDED IN PLAT
44 BOOK 128, PAGES 22 THROUGH 25, INCLUSIVE, OF SAID PUBLIC RECORDS; THENCE
45 ALONG SAID EAST RIGHT-OF-WAY LINE OF ILEX WAY II FOR THE FOLLOWING SIX (6)

8/18 126p

1 COURSES: 1) N.01°42'52"E., A DISTANCE OF 286.41 FEET; 2) THENCE N.43°17'08"W., A
2 DISTANCE OF 15.56 FEET; 3) THENCE N.01°42'52"E., A DISTANCE OF 38.40 FEET; 4) THENCE
3 N.02°54'08"E., A DISTANCE OF 239.24 FEET; 5) THENCE N.14°07'19"E., A DISTANCE OF 51.38
4 FEET; 6) THENCE N.01°42'52"E., A DISTANCE OF 270.96 FEET TO THE **POINT OF**
5 **BEGINNING.**

6 CONTAINING: 398,017 SQUARE FEET OR 9.137 ACRES, MORE OR LESS.
7
8
9
10
11
12
13
14
15
16
17

File Attachments for Item:

A. FIRST READING: Ordinance 2022-12 – Pedestrian Safety and Public Lodging

Submitted By: Planning and Zoning

ORDINANCE NO. 2022-12

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, CREATING CHAPTER _____ OF THE CITY’S CODE OF ORDINANCES ENTITLED “Pedestrian Safety and public lodging” BY SPECIFICALLY CREATING SECTIONS _____ THROUGH _____ DESIGNED TO protect pedestrians, PANHANDLERS, SOLICITERS, AND BEGGARS in public streets and rights of way and prohibiting certain public lodging subject to outreach efforts; PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.



Meeting Agenda Item Coversheet

MEETING DATE:		10/4/22	Submitted By: Planning and Zoning	
SUBJECT: <i>This will be the name of the Item as it will appear on the Agenda</i>		FIRST READING: Ordinance 2022-XX – Pedestrian Safety and Public Lodging		
STAFF RECOMMENDATION: (MOTION READY)		Motion to approved first reading of Ordinance 2022-XX “Pedestrian Safety and Public Lodging”.		
SUMMARY and/or JUSTIFICATION:		This Ordinance establishes provisions designed to protect pedestrians, panhandlers, solicitors, and beggars in public streets and rights of way and prohibiting certain public lodging subject to outreach efforts.		
SELECT, if applicable	AGREEMENT:		BUDGET:	
	STAFF REPORT:		PROCLAMATION:	
	EXHIBIT(S):	X	OTHER:	
IDENTIFY EACH ATTACHMENT. <i>For example, an agreement may have 2 exhibits, identify the agreement and Exhibit A and Exhibit B</i>		Exhibit A: Ordinance 2022-xx: Pedestrian Safety and Public Lodging.		
SELECT, if applicable		RESOLUTION:		ORDINANCE: 2022-XX X
IDENTIFY FULL RESOLUTION OR ORDINANCE TITLE <i>(if Item is <u>not</u> a Resolution or Ordinance, please erase all default text from this field’s textbox and leave blank)</i> <u>Please keep text indented.</u>		<p style="text-align: center;">ORDINANCE NO. _____</p> <p>AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, CREATING CHAPTER _____ OF THE CITY’S CODE OF ORDINANCES ENTITLED “PEDESTRIAN SAFETY AND PUBLIC LODGING” BY SPECIFICALLY CREATING SECTIONS ___ THROUGH ___ DESIGNED TO PROTECT PEDESTRIANS, PANHANDLERS, SOLICITERS, AND BEGGARS IN PUBLIC STREETS AND RIGHTS OF WAY AND PROHIBITING CERTAIN PUBLIC LODGING SUBJECT TO OUTREACH EFFORTS; PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.</p>		
FISCAL IMPACT (if any):				\$

ORDINANCE NO. 2022-12

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, CREATING CHAPTER _____ OF THE CITY’S CODE OF ORDINANCES ENTITLED “PEDESTRIAN SAFETY AND PUBLIC LODGING” BY SPECIFICALLY CREATING SECTIONS ____ THROUGH ____ DESIGNED TO PROTECT PEDESTRIANS, PANHANDLERS, SOLICITERS, AND BEGGARS IN PUBLIC STREETS AND RIGHTS OF WAY AND PROHIBITING CERTAIN PUBLIC LODGING SUBJECT TO OUTREACH EFFORTS; PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, based upon statistics collected by “Pedestrian Traffic Fatalities by State” 2020 Preliminary Data by the Governors Highway Safety Association approximately 332 pedestrians were killed between January and June in 2020 in the State of Florida.

WHEREAS, in addition to pedestrians, numerous types of right-of-way vendors and solicitors currently operate or may seek to operate within the City of Westlake, often with multiple groups soliciting within one intersection at the same time, collecting donations for various causes along with people seeking to distribute information and/or obtain donations; and

WHEREAS, the metro area of Fort Lauderdale-West Palm Beach-Miami ranked 13th among the nation’s most dangerous metropolitan areas for pedestrians over the last decade, according to the report entitled “Dangerous by Design 2021” by Smart Growth America, a pedestrian safety organization; and

WHEREAS, South Florida had 1,675 pedestrian deaths between 2010 and 2019, the last period for which data is available. That is 2.8 deaths per 100,000 residents, annually; and

WHEREAS, the roads, streets and boulevards located in the City of Westlake are primarily designed for vehicular traffic and are not suited to safely accommodate right-of-way vendors or solicitors whose presence interferes with the safe movement of normal vehicular traffic; and

WHEREAS, vendors or solicitors in the City utilize the streets, roads and boulevards or right-of-ways located in the City to store items for sale or distribution, and other objects utilized to assist or support their solicitation, creating a hazard to vehicular traffic and causing litter and debris to be dispersed throughout the area; and

WHEREAS, it is the intention of the City Council to utilize means which are narrowly tailored to advance the significant government interests of traffic safety and public peace and safety, and by analysis of the major roadways within the City, including accident data and reports, the City Council has determined that hazards posed to traffic and public safety with regard to activities in and use of city streets, roads and boulevards by right-of-way vendors and solicitors will be lessened by the enactment of the regulations contained herein; and

WHEREAS, the City Council has reviewed the regulations proposed in this ordinance and finds that such regulations accomplish the purpose intended while utilizing the least restrictive means possible; and

WHEREAS, the City Council desires to preserve and protect the personal safety and quality of life of its residents and of those who use the streets, roads and boulevards, located in the City both pedestrian and motorist alike as well as vendors and solicitors; and

WHEREAS, the City Council finds that it is in the best interests of the residents of the City to adopt this ordinance to protect and provide for the safety of pedestrians and any other individuals when using the streets, roads, avenues, and boulevards, in the City of Westlake; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council hereby creates Chapter ____ entitled "Pedestrian Safety and Public Lodging" as follows:

Chapter ____ . Pedestrian Safety and Public Lodging.

Sec ____

(a) The City Council recognizes a constitutional right to beg, panhandle, solicit or offer for sale items in a peaceful and non-threatening manner. However, the City Council further finds that the activity of begging, panhandling, soliciting, or selling items adversely impacts the public health, welfare, safety, and crowd control when such activities are conducted on or near public streets which are in use by vehicular traffic because these activities involve the process of a person requesting something from an occupant or operator of a vehicle which is in traffic, that vehicle occupant or operator must consider the request or solicitation, and, if the vehicle occupant or operator decides to fulfill the request, that person must perform some act while that person and vehicle are located on a public street in use by vehicular traffic. Based on the foregoing, the City Council finds that the activity of begging, panhandling, soliciting or selling from or to occupants or operators of vehicles located on streets in use by vehicular traffic distracts drivers from their primary duty to watch traffic and potential hazards in the road, observe all traffic signals or warnings and move through the city's streets and intersections in a lawful and safe manner and creates a potential safety hazard and poses a substantial risk to the public, particularly pedestrians, and impedes the free flow of traffic on the streets within the city resulting in the delay and obstruction of the public's free flow of travel on the city's streets. The City Council further finds that the safety of beggars, panhandlers, solicitors, individuals selling items, pedestrians and operators and occupants of vehicles is at significant risk when such activities occur because the nature of these activities often entails beggars, panhandlers, solicitors, or individuals selling items by standing on traffic medians, bicycle paths and public streets and right of way in use by vehicular traffic, property only meant for the use and control of vehicular traffic and not begging, panhandling, soliciting or the sale of items.

(b) It is not the purpose and intent of this article to prohibit begging, panhandling, soliciting or selling items in public areas when such activities will not interfere with vehicular traffic and cause traffic safety and traffic flow concerns or when such activities will not otherwise cause any public health, welfare and safety concerns.

(c) The restrictions contained herein are neither overbroad nor vague and are narrowly tailored to serve a substantial governmental interest. Moreover, this article only restricts begging, panhandling, soliciting and the sale of items in certain public places while preserving ample alternative areas for the valid exercise of First Amendment constitutional rights. Furthermore, in enacting this ordinance, the City Council recognizes the availability of community service and other alternatives, which may be appropriate remedies for violations of this article.

(d) The law is not intended to limit any persons from exercising their constitutional right to beg, panhandle or solicit funds, picket, protest or engage in other constitutionally protected activity or any lawful activity permitted pursuant to the Florida Statutes. Its goal is instead to provide for pedestrian safety and protect citizens from the fear and intimidation accompanying certain kinds of begging, panhandling or solicitation and to prohibit aggressive begging, panhandling and solicitation in certain public places based upon significant governmental interests.

Sec _____

(a) Purpose. The City Council also finds that any person who intentionally blocks the passage of another person or a vehicle, which requires another person to take evasive action to avoid physical contact, constitutes a threat to the public health, welfare and safety of the citizenry. The City Council further finds that any person who begs, panhandles or solicits under circumstances where the person being solicited cannot readily escape from the undesired conduct constitutes a threat to the public health, welfare and safety of the citizenry. The City Council also finds that any person begging, panhandling or soliciting from occupants or operators of vehicles while such vehicles are on the portion of a public street currently in use by vehicular traffic and any person begging, panhandling or soliciting on traffic medians, bicycle paths or public streets when such property is in use by vehicular traffic poses a threat to public safety and prevents the free flow of traffic on public streets.

(b) Definitions. Except where the content otherwise requires, as used in this chapter:

(1) Aggressively beg, panhandle or solicit means any request made in person from another person by an unwanted touching, detaining, impeding or intimidation.

(2) Beg, panhandle or solicit means any request made in person, either by words, bodily gestures, signs or other means, from another person or to another person.

(3) Beg, panhandle, solicit or offer to sale to or from any operator or occupant of a vehicle that is in traffic on a public street or to make an offer to sale any item or provide a service of any nature to any operator or occupant of a vehicle that is in traffic on a public street means any request made in person or provide a service for value, either by words, bodily gestures, signs or other means, from any operator or occupant of a vehicle, between the person begging, panhandling or soliciting and any operator or occupant of a vehicle while that vehicle is on the portion of a public street currently in use by vehicular traffic.

(4) Obstruct pedestrian or vehicular traffic means to walk, stand, sit, lie or place an object in such a manner as to block passage of another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's

constitutional right to picket or to legally protest outside of the portion of the public street or right of way not currently in use by vehicular traffic, are not included within the definition of this term.

(5) Beggar, panhandlers or solicitor means any person traveling either by foot, vehicle or other conveyance, from place to place, requesting in person anything, either by words, bodily gestures, signs or any other means, from another person.

(c) Restrictions and requirements.

(1) Beggars, panhandlers or solicitors are prohibited from obstructing pedestrian or vehicular traffic and aggressively begging, panhandling, soliciting or offering to sell any items on any County road located in the City of Westlake and any road in Westlake that joins a County road.

(2) Beggars, panhandlers or solicitors are prohibited from begging, panhandling or soliciting from any operator or occupant of a vehicle that is in traffic on a public street.

(3) No person shall stand on a traffic median, bicycle path, public street, or right of way to beg, panhandle, solicit or sell items when in use by vehicular traffic.

Sec. _____

Any person convicted of violating any of the provisions of Sections _____ and _____ shall be punished as provided in _____ of this Code which provides, *inter alia*, that the county court may either impose a fine, a sentence of imprisonment for a term not to exceed ninety (90) days, or both.

Sec. _____ . Public Lodging.

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

(1) Camp or camping means either sleeping or otherwise being in a temporary shelter out-of-doors, sleeping out-of-doors or cooking over an open flame out-of-doors, except that "camp" or "camping" does not include in their meaning only so-called "tailgating," picnicking or other similar temporary celebratory activity conducted in good faith in connection with the occurrence of a legitimate sporting event, concert, theatrical event or similar activity conducted by a school, college, professional sports association, orchestra, governmental agency, religious or civic organization or Section 501(c)(3) organization.

(2) Outreach team member shall mean any group of social service providers, homeless outreach workers, mental health or drug and alcohol workers that may be authorized and designated by the City to work with County officials.

This article is enforceable by all means provided by law.

(b) It shall be unlawful for any person, after having been informed and given notice by a law enforcement officer that the following conduct is in violation of a city ordinance, and after the completion of the outreach efforts delineated in subsection (d) of this section, to engage in the following conduct:

(1) Sleep, camp, lodge or lie with the intent to sleep, camp, or lodge:

a. On any right-of-way, sidewalk, street, roadway, or parking lot; or

b. In any park or pavilion; or

c. Under any bridge or causeway; or

d. In any building lobby, entranceway, plaza or common area.

(2) Construct or maintain any building, structure, tent or use any other objects that are intended to be used for housing accommodations, lodging, sleeping or camping:

a. On any right-of-way, sidewalk, street, roadway, or parking lot; or

b. In any park or pavilion; or

c. Under any bridge or causeway; or

d. In any building lobby, entranceway, plaza or common area; or

e. Upon the grounds of any other person without the permission of such person.

(d) Outreach efforts. No person shall be cited for a violation of subsection (b) of this section before a reasonable attempt has been made to ascertain whether the person is in need of homeless assistance services and/or housing assistance and that available shelter beds or other suitable emergency housing is available should the person need housing/shelter assistance.

(1) If it is determined that a person is in need of housing/shelter assistance, the law enforcement officer or a City's outreach team member shall evaluate the person's housing needs and take all reasonable steps toward directing the person to the appropriate housing/shelter service provider, including, without limitation, transportation to such provider.

(2) If a person refuses housing/shelter assistance, or if they have been offered or received housing/shelter assistance within the previous 90 days, and they otherwise fail to comply with subsection (b) of this section after notice of a violation has been provided, the person may be cited with a violation of subsection (b) of this section.

(3) Law enforcement officers shall take all necessary and appropriate steps to insure that those officers who are likely to come into contact with persons in violation of subsection (b) of this section shall receive all appropriate training in approaching, investigating, and assisting persons in need of mental health treatment, housing/shelter or other social service assistance.

Sec. _____ . Enforcement.

A violation of this division shall be subject to the penalties provisions of Section _____ of this Code. In addition to any other penalty provided in this section, a person violating this article may be subject to the penalties and procedures set forth in F. S. §§ 162.22 and 162.23.

SECTION 3. Codification. It is the intention of the City Council of the City of Westlake that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Westlake, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 5. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 6. Effective Date. This ordinance shall be effective upon adoption on second reading.

PASSED this ____ day of _____, 2022, on first reading.

PUBLISHED on this ____ day of _____, 2022 in the Palm Beach Post.

PASSED AND ADOPTED this ____ day of _____, 2022, on second reading.

City of Westlake
John Paul O'Connor, Mayor

ATTEST:

Zoie Burgess, City Clerk

APPROVED AS TO LEGAL FORM:

OFFICE OF THE CITY ATTORNEY

File Attachments for Item:

B. ORDINANCE 2022-13 - Emergency Ordinance - Declaring a State of Emergency in the City of Westlake

ORDINANCE NO. 2022-13

**AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF WESTLAKE, FLORIDA;
PURSUANT TO CHAPTER 166 OF THE FLORIDA STATUTES; THE CITY COUNCIL
HEREBY DECLARES A STATE OF EMERGENCY IN THE CITY OF WESTLAKE GIVEN THE
IMPACTS CREATED BY HURRICANE IAN; PROVIDING FOR SEVERABILITY; PROVIDING
FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.**

9/28/22

ORDINANCE NO. 2022-13

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF WESTLAKE, FLORIDA; PURSUANT TO CHAPTER 166 OF THE FLORIDA STATUTES; THE CITY COUNCIL HEREBY DECLARES A STATE OF EMERGENCY IN THE CITY OF WESTLAKE GIVEN THE IMPACTS CREATED BY HURRICANE IAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE

WHEREAS, Hurricane Ian was a major hurricane that severely impacted portions of the State of Florida; and

WHEREAS, Governor Ron DeSantis issued Executive Order Number 22-218 declaring that a state of emergency exists 24 counties in the State of Florida, including Broward County; and

WHEREAS, Governor Ron DeSantis issued an amended Executive Order Number 22-219, declaring a state of emergency exists in the entire State of Florida; and

WHEREAS, the City Council of the City of Westlake finds that it is in the best interest of the citizens and residents of the City of Westlake to declare a state of emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. In accordance with the authority vested in it by Chapter 166 of the Florida Statutes, the City Council declares that in order to protect the life, health, property and public peace and to address the impact of Hurricane Ian has had on the City of Westlake and that a state of emergency exists in the City of Westlake.

SECTION 4. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 5. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such

9/28/22

1 decision shall not affect the validity of the remaining sections, sentences, clauses,
2 and phrases of this ordinance but they shall remain in effect, it being the
3 legislative intent that this ordinance shall remain notwithstanding the invalidity
4 of any part.

5
6 **SECTION 6.** This Ordinance shall be effective immediately upon its
7 passage and adoption by the City Council of the City of Westlake.

8 .
9 **PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WESTLAKE,**
10 **FLORIDA THIS 4th DAY OF OCTOBER 2022.**

11

12

13

14

15

16

17

ATTEST:

18

19

20

21

Zoie Burgess, City Clerk

22

23

24

25

26

27

28

City of Westlake
JohnPaul O'Connor, Mayor

APPROVED AS TO LEGAL FORM:

OFFICE OF THE CITY ATTORNEY

File Attachments for Item:

C. Consideration of Engagement Letter with Berger, Toombs, Elam, Gaines & Frank for the Fiscal Year 2022 Financial Audit

Presented By: Administration



Berger, Toombs, Elam, Gaines & Frank

Certified Public Accountants PL

600 Citrus Avenue
Suite 200
Fort Pierce, Florida 34950

772/461-6120 // 461-1155
FAX: 772/468-9278

September 30, 2022

City of Westlake
Inframark Infrastructure Management Services
210 North University Drive, Suite 702
Coral Springs, FL 33071

The Objective and Scope of the Audit of the Financial Statements

You have requested that we audit the financial statements of City of Westlake, (the “District”), which comprise governmental activities and each major fund as of and for the year ended September 30, 2022, which collectively comprise the basic financial statements. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter for the year ending September 30, 2022 and thereafter if mutually agreed upon by City of Westlake and Berger, Toombs, Elam, Gaines & Frank.

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor’s report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users made on the basis of these financial statements. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

The Responsibilities of the Auditor

We will conduct our audit in accordance with (GAAS). Those standards require that we comply with applicable ethical requirements. As part of an audit in accordance with GAAS, we exercise professional judgement and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

Fort Pierce / Stuart

City of Westlake
September 30, 2022
Page 2

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for the reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

We will maintain our independence in accordance with the standards of the American Institute of Certified public Accountants.

City of Westlake
September 30, 2022
Page 3

The Responsibilities of Management and Identification of the Applicable Financial Reporting Framework

Management is responsible for:

1. Identifying and ensuring that the District complies with the laws and regulations applicable to its activities, and for informing us about all known violations of such laws or regulations, other than those that are clearly inconsequential;
2. The design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the District involving management, employees who have significant roles in internal control, and others where the fraud could have a material effect on the financial statements; and
3. Informing us of its knowledge of any allegations of fraud or suspected fraud affecting the District received in communications from employees, former employees, analysts, regulators, short sellers, vendors, customers or others.

The Board is responsible for informing us of its views about the risks of fraud within the entity, and its knowledge of any fraud or suspected fraud affecting the entity.

Our audit will be conducted on the basis that management acknowledges and understands that it has responsibility:

1. To evaluate subsequent events through the date the financial statements are issued or available to be issued, and to disclose the date through which subsequent events were evaluated in the financial statements. Management also agrees that it will not conclude on subsequent events earlier than the date of the management representation letter referred to below;
2. For the design, implementation and maintenance of internal control relevant to the preparations of fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; and
3. To provide us with:
 - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements including information relevant to disclosures;
 - b. Draft financial statements, including information relevant to their preparation and fair presentation, when needed to allowed for the completion of the audit in accordance with the proposed timeline;

City of Westlake
September 30, 2022
Page 4

- c. Additional information that we may request from management for the purpose of the audit; and
- d. Unrestricted access to persons within the District from whom we determine it necessary to obtain audit evidence.

As part of our audit process, we will request from management written confirmation concerning representations made to us in connection with the audit, including among other items:

1. That management has fulfilled its responsibilities as set out in the terms of this arrangement letter; and
2. That it believes the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Reporting

We will issue a written report upon completion of our audit of City of Westlake's financial statements. Our report will be addressed to the Board of City of Westlake. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

Records and Assistance

During the course of our engagement, we may accumulate records containing data that should be reflected in the of City of Westlake books and records. The District will determine that all such data, if necessary, will be so reflected. Accordingly, the District will not expect us to maintain copies of such records in our possession.

The assistance to be supplied, including the preparation of schedules and analyses of accounts, has been discussed and coordinated with an Inframark accountant. The timely and accurate completion of this work is an essential condition to our completion of the audit and issuance of our audit report.

Other Relevant Information

In accordance with Government Auditing Standards, a copy of our most recent peer review report has been provided to you, for your information.

Either party may unilaterally terminate this agreement, with or without cause, upon sixty (60) days written notice subject to the condition that the District will pay all invoices for services rendered prior to the date of termination.

City of Westlake
September 30, 2022
Page 5

Fees, Costs and Access to Workpapers

Our fees for the services described above are based upon the value of the services performed and the time required by the individuals assigned to the engagement, plus direct expenses. Invoices for fees will be submitted in sufficient detail to demonstrate compliance with the terms of this engagement. Billings are due upon submission. Our fee for the services described in this letter for the year ending September 30, 2022 will not exceed \$7,000, unless the scope of the engagement is changed, the assistance which of City of Westlake has agreed to furnish is not provided, or unexpected conditions are encountered, in which case we will discuss the situation with you before proceeding. All other provisions of this letter will survive any fee adjustment.

In the event we are requested or authorized by of City of Westlake or are required by government regulation, subpoena, or other legal process to produce our documents or our personnel as witnesses with respect to our engagement for of City of Westlake, of City of Westlake will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

The audit documentation for this engagement is the property of Berger, Toombs, Elam, Gaines, & Frank and constitutes confidential information. However, you acknowledge and grant your assent that representatives of the cognizant or oversight agency or their designee, other government audit staffs, and the U.S. Government Accountability Office shall have access to the audit documentation upon their request and that we shall maintain the audit documentation for a period of at least three years after the date of the report, or for a longer period if we are requested to do so by the cognizant or oversight agency.

Access to requested documentation will be provided under the supervision of Berger, Toombs, Elam, Gaines, & Frank audit personnel and at a location designated by our Firm.

City of Westlake
September 30, 2022
Page 6

Information Security – Miscellaneous Terms

Berger, Toombs, Elam, Gaines & Frank is committed to the safe and confidential treatment of City of Westlake's proprietary information. Berger, Toombs, Elam, Gaines & Frank is required to maintain the confidential treatment of client information in accordance with relevant industry professional standards which govern the provision of services described herein. City of Westlake agrees that it will not provide Berger, Toombs, Elam, Gaines & Frank with any unencrypted electronic confidential or proprietary information, and the parties agree to utilize commercially reasonable measures to maintain the confidentiality of City of Westlake's information, including the use of collaborate sites to ensure the safe transfer of data between the parties.

If any term or provision of this arrangement letter is determined to be invalid or unenforceable, such term or provision will be deemed stricken and all other terms and provisions will remain in full force and effect.

Because Berger, Toombs, Elam, Gaines & Frank will rely on of City of Westlake and its management and Board of Supervisors to discharge the foregoing responsibilities, City of Westlake holds harmless and releases Berger, Toombs, Elam, Gaines & Frank, its partners, and employees from all claims, liabilities, losses and costs arising in circumstances where there has been a known misrepresentation by a member of City of Westlake's management, which has caused, in any respect, Berger, Toombs, Elam, Gaines & Frank's breach of contract or negligence. This provision shall survive the termination of this arrangement for services.

This letter constitutes the complete and exclusive statement of agreement between Berger, Toombs, Elam, Gaines, & Frank and of City of Westlake, superseding all proposals, oral or written, and all other communications, with respect to the terms of the engagement between the parties.

Retention of Records

We will return to you all original records you provide to us in connection with this engagement. Further, in addition to providing you with those deliverables set forth in this engagement letter, we will provide to you a copy of any records we prepare or accumulate in connection with such deliverables which are not otherwise reflected in your books and records without which your books and records would be incomplete. You have the sole responsibility for retaining and maintaining in your possession or custody all of your financial and nonfinancial records related to this engagement. We will not host, and will not accept responsibility to host, any of your records. We, however, may maintain a copy of any records of yours necessary for us to comply with applicable law and/or professional standards or to exercise our rights under this engagement letter. Any such records retained by us will be subject to the confidentiality obligations set forth herein and destroyed in accordance with our record retention policies.

City of Westlake
September 30, 2022
Page 7

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

Sincerely,

*Berger Toombs Elam
Gaines + Frank*

BERGER, TOOMBS, ELAM, GAINES & FRANK
J. W. Gaines, CPA

Confirmed on behalf of the addressee:

Report on the Firm's System of Quality Control

To the Partners

October 30, 2019

Berger, Toombs, Elam, Gaines & Frank, CPAs, PL
and the Peer Review Committee of the Florida Institute of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Berger, Toombs, Elam, Gaines & Frank, CPAs, PL, (the firm), in effect for the year ended May 31, 2019. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control, and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including a compliance audit under the Single Audit Act.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Berger, Toombs, Elam, Gaines & Frank, CPAs, PL, in effect for the year ended May 31, 2019, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)*, or *fail*. Berger, Toombs, Elam, Gaines & Frank, CPAs, PL has received a peer review rating of *pass*.

Baggett, Reutimann & Associates, CPAs PA
BAGGETT, REUTIMANN & ASSOCIATES, CPAS, PA
Signed Electronically by Judson B. Baggett, CPA, CVA, Partner, U.S. 18161 email jbaggett@brpa.com

**ADDENDUM TO ENGAGEMENT LETTER BETWEEN BERGER, TOOMBS,
ELAM, GAINES AND FRANK AND CITY OF WESTLAKE
(DATED SEPTEMBER 30, 2022)**

Public Records. Auditor shall, pursuant to and in accordance with Section 119.0701, Florida Statutes, comply with the public records laws of the State of Florida, and specifically shall:

- a. Keep and maintain public records required by the District to perform the services or work set forth in this Agreement; and
- b. Upon the request of the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; and
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Auditor does not transfer the records to the District; and
- d. Upon completion of the Agreement, transfer, at no cost to the District, all public records in possession of the Auditor or keep and maintain public records required by the District to perform the service or work provided for in this Agreement. If the Auditor transfers all public records to the District upon completion of the Agreement, the Auditor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Auditor keeps and maintains public records upon completion of the Agreement, the Auditor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

Auditor acknowledges that any requests to inspect or copy public records relating to this Agreement must be made directly to the District pursuant to Section 119.0701(3), Florida Statutes. If notified by the District of a public records request for records not in the possession of the District but in possession of the Auditor, the Auditor shall provide such records to the District or allow the records to be inspected or copied within a reasonable time. Auditor acknowledges that should Auditor fail to provide the public records to the District within a reasonable time, Auditor may be subject to penalties pursuant to Section 119.10, Florida Statutes.

IF THE AUDITOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AUDITOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT/CONTRACT, THE AUDITOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS FOR THE DISTRICT AT:

**INFRAMARK
INFRASTRUCTURE MANAGEMENT SERVICES
210 NORTH UNIVERSITY DRIVE, SUITE 702
CORAL SPRINGS, FL 33071
TELEPHONE: 954-603-0033
EMAIL: _____**

E-VERIFY REQUIREMENTS. Auditor shall comply with and perform all applicable provisions of Section 448.095, *Florida Statutes*. Accordingly, beginning January 1, 2021, to the extent required by Florida Statute, Auditor shall register with and use the United States Department of Homeland Security's E-Verify system to verify the work authorization status of all newly hired employees. The District may terminate this Agreement immediately for cause if there is a good faith belief that the Auditor has knowingly violated Section 448.091, Florida Statutes.

If the Auditor anticipates entering into agreements with a subcontractor for the Work, Auditor will not enter into the subcontractor agreement without first receiving an affidavit from the subcontractor regarding compliance with Section 448.095, *Florida Statutes*, and stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Auditor shall maintain a copy of such affidavit for the duration of the agreement and provide a copy to the District upon request.

In the event that the District has a good faith belief that a subcontractor has knowingly violated Section 448.095, *Florida Statutes*, but the Auditor has otherwise complied with its obligations hereunder, the District shall promptly notify the Auditor. The Auditor agrees to immediately terminate the agreement with the subcontractor upon notice from the District. Further, absent such notification from the District, the Auditor or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1), Florida Statutes, shall promptly terminate its agreement with such person or entity.

By entering into this Agreement, the Auditor represents that no public employer has terminated a contract with the Auditor under Section 448.095(2)(c), *Florida Statutes*, within the year immediately preceding the date of this Agreement.

Auditor: J.W. Gaines

District: City of Westlake

By: _____



By: _____

Title: Director

Title: _____

Date: September 30, 2022

Date: _____