

ORDINANCE NO. 2023-16 AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY APPROVING THE CREATION OF A RESIDENTIAL PLANNED DEVELOPMENT DISTRICT, LOCATED AT THE NW CORNER OF SOUTH DIXIE HIGHWAY AND 9TH AVENUE SOUTH TO CONSTRUCT TWO, SIX-STORY MULTI-FAMILY BUILDINGS, CONTAINING A TOTAL OF 176 DWELLING UNITS AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, LOCATED WITHIN THE TRANSIT ORIENTED DEVELOPMENT – EAST (TOD-E) ZONING DISTRICT WITH A FUTURE LAND USE DESIGNATION OF TRANSIT ORIENTED DEVELOPMENT (TOD) SUBJECT TO SPECIFIC DEVELOPMENT STANDARDS SET FORTH IN EXHIBIT B AND CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT C; APPROVING A DEVELOPMENT OF SIGNIFICANT IMPACT; APPROVING A CONDITIONAL USE PERMIT; APPROVING A HEIGHT, DENSITY, AND INTENSITY BONUS INCENTIVE THROUGH THE CITY’S SUSTAINABLE BONUS INCENTIVE PROGRAM, TRANSFER OF DEVELOPMENT RIGHTS PROGRAM, AND AFFORDABLE/WORKFORCE HOUSING PROGRAM; APPROVING A MAJOR SITE PLAN FOR THE DEVELOPMENT OF A RESIDENTIAL PLANNED DEVELOPMENT; APPROVING A RIGHT-OF-WAY ABANDONMENT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

WHEREAS, the City Commission of the City of Lake Worth Beach, Florida, pursuant to the authority granted in Chapters 163 and 166, Florida Statutes, and the Land Development Regulations, as adopted by the City of Lake Worth Beach, is authorized and empowered to consider petitions relating to zoning and land development orders; and

WHEREAS, Chapter 23, Article 3, Division 6. – Planned Development of City of Lake Worth Beach’s Land Development Regulations allows for the creation of planned development districts to incentivize innovative development through the utilization of incentive programs and flexible dimensional and use requirements that are defined within and occur in conformity with an approved master development plan; and

WHEREAS, Madison Terrace, LLC, (the applicant) has petitioned the City of Lake Worth Beach (the City) on behalf of the property owner Buyer’s Choice Auto Sales, LLC, for creation of a Residential Planned Development District to allow for the construction of two, six-story multi-family buildings, containing 176 dwelling units (on a site located at the NW corner of South Dixie Highway and 9th Avenue South (PCNs 38-43-44-21-15-253-0110; 38-43-44-21-15-253-0040; 38-43-44-21-15-253-0032; 38-43-44-21-15-253-0020; and 38-43-44-21-15-253-0010) as further described in Exhibit A (the Property) within the TOD-E Zoning District and the TOD Future Land Use designation, which, if approved, shall constitute an amendment to the City’s official zoning map; and

DRAFT

WHEREAS, the applicant requests use of the City's Sustainable Bonus Incentive Program, Transfer of Development Rights, and Affordable/Workforce Housing Program to allow for additional height, density and intensity to be considered in conjunction with the applicant's request for approval for a major site plan for the construction of a residential development currently known as "Madison Terrace" and containing 176 residential units to be constructed on this site;

WHEREAS, on August xx, 2023, the Lake Worth Beach Planning and Zoning Board (PZB) considered the subject application for a Residential Planned Development, Development of Significant Impact, Major Site Plan, Conditional Use Permit, Right-Of-Way Abandonment, Sustainable Bonus Incentive Program, Affordable/Workforce Housing Program, and Transfer of Development Rights and recommended that the City Commission approve the creation of this residential planned development subject to specific district development standards and certain enumerated conditions; and

WHEREAS, on August xx, 2023, the City Commission voted to approve on first reading the subject application for a Residential Planned Development, Development of Significant Impact, Major Site Plan, Conditional Use Permit, Right-Of-Way Abandonment, Sustainable Bonus Incentive Program, Affordable/Workforce Housing Program, and Transfer of Development Rights subject to specific district development standards and enumerated conditions herein; and

WHEREAS, the City Commission has considered all of the testimony and evidence and has determined that a Residential Planned Development, Development of Significant Impact, Major Site Plan, Conditional Use Permit, Right-Of-Way Abandonment, Sustainable Bonus Incentive Program, Affordable/Workforce Housing Program, and Transfer of Development Rights including the development regulations and conditions, meets the requirements of the Land Development Regulations, Section 23.3-25.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. Recitals. The foregoing recitals are true and correct and are hereby affirmed and ratified.

Section 2. The Residential Planned Development District located within the TOD-E Zoning District with a future land use designation of TOD, as described more particularly in **Exhibit A**, is hereby approved. This approval includes the approval of the following elements to be known as the Master Development Plan: (a) Residential Planned Development; (b) Major Site Plan; (c) Sustainable Bonus Incentive Program; (d) Conditional Use Permit; (e) Transfer of Development Rights; (f) Affordable/Workforce Housing Program; (g) Right-Of-Way Abandonment (h) district development standards (**Exhibit B**); (i) conditions of approval (**Exhibit C**); (j) required plans including the site plan, landscape plan, and civil & drainage plans; (k) supplemental supporting documents, as well as all agreements, provisions and/or covenants which shall govern the use, maintenance, and continued protection of the residential planned development and any of

DRAFT

its common areas or facilities. The applicant is bound to all elements and requirements of the Master Development Plan.

Section 3. The City’s zoning maps shall be updated to reflect the changes to the property described in **Exhibit A**.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Severability. If any provision of this ordinance or the application thereof is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 6. Effective Date. This ordinance shall become effective ten (10) days after its final passage contingent on the final passage of Ordinances 2023-17 and 2023-18.

The passage of this ordinance on first reading was moved by _____, seconded by _____ and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on first reading on the ____ day of _____, 2023.

The passage of this ordinance on second reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2022.

DRAFT

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

DRAFT

Exhibit A

**DEPARTMENT FOR COMMUNITY SUSTAINABILITY
PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION
PROPERTY DESCRIPTION & LOCATION MAP**

Address: 821 South Dixie Highway, 818 South H Street, 824 South H Street, 826 South H Street, and 832 South H Street

PCNs: 38-43-44-21-15-253-0110; 38-43-44-21-15-253-0040; 38-43-44-21-15-253-0032; 38-43-44-21-15-253-0020; and 38-43-44-21-15-253-0010


Size: 1.8134 acres

General Location: North of 9th Avenue South, with frontage on South Dixie Highway to the east and South H Street to the west

Legal Description: See boundary survey in the Master Development Plan supporting documentation



Map Legend

Vacated Rights of Way 

Outline of Property Included in Project 

DRAFT

Exhibit B

**DEPARTMENT FOR COMMUNITY SUSTAINABILITY
 PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION
 DEVELOPMENT STANDARDS**

Development Standard		Base Zoning District Transit Oriented Development - East (TOD-E)	Residential Planned Development in TOD-E w/ SBIP, A/WHP, and TDR	Provided
Lot Size (min) In square feet (sf)		13,000 sf	0.5 ac	1.8134 ac
Lot Width (min)		100'	100'	320' (including half of abandoned 9 th Ave S)
Setbacks	Front (min build-to line)	10'	10' Front façade for third story and above must have front setback of eight (8) to twelve (12) feet in addition to minimum.	18' South Dixie Highway 143* South H Street
	Rear (min)	N/A	N/A	N/A
	Street Side (min)	N/A	N/A	N/A
	Interior Side (min)	0'	0'	9'-0" North 10'-0" South

DRAFT

Impermeable Surface Coverage (maximum)		65%	65%	65.78% (51,868 sf)**
Structure Coverage (max)		50%	50%	30.72% (24,220 sf)
Density (max)		40 du/acre (72 units)	97.75 du/acre (177 units) Section 23.3-25.b) and FLUE Table 1 & Policy 1.1.1.1	97.05 du/acre (176 units) Section 23.3-25.b) and FLUE Table 1 & Policy 1.1.1.1
Building Height (max)		30' (max. 2 stories)	71.25' (6 stories)	66'-4" (6 stories)
Maximum Wall Height at Side Setback		30'	71.25'	61'=4"
Floor Area Ratio (FAR) (max)		1.1	3.6437 Read Section 23.3-25.b) and FLUE Table 1 & Policy 1.1.1.1	1.7 (134,268 sf)
Living Area (minimum)	Studio	400 sf	400 sf	430 sf
	One-bedroom units	600 sf	600 sf	576 sf
Parking		8 Studios 168 1-Bedroom Total: 262 spaces	8 Studios 168 1-Bedroom Total: 197 spaces	123 Spaces

DRAFT

Workforce/Affordable Housing	100% of Units
Is site in floodplain (Flood Zone / BFE), or in Wellfield Zone? Yes/No	Wellfield Zone 4

DRAFT

-Exhibit C

**DEPARTMENT FOR COMMUNITY SUSTAINABILITY
PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION
CONDITIONS OF APPROVAL**

Planning & Zoning

Incentive Programs Conditions of Approval

1. Fifty percent of the sustainable bonus fee shall be paid to the City within two years of approval, or prior to the issuance of the building permit, whichever comes first. Alternatively, the City Commission may approve to waive the fee.
2. The applicant shall provide qualifying sustainable bonus features equal to fifty percent of the sustainable bonus fee, or shall be required to pay the remaining portion of the fifty percent of the incentive value prior to the issuance of a certificate of occupancy.
3. The transfer of development rights fee shall be paid to the City within two years of approval, or prior to the issuance of the building permit, whichever comes first. Alternatively, the City Commission may approve to waive the fee.
4. Increase parking spaces on the project site to no fewer than a total of 197 parking spaces. This may be achieved with parking alternates such as bicycle racks as outlined in LDR Section 23.4-10. Alternatively, the City Commission may approve to waive this condition and allow a total of 123 parking spaces, as requested.
5. All units shall be restricted for affordable/workforce housing in accordance with the City's Affordable/Workforce Housing Program (or an alternative program that is as restrictive or more) prior to the issuance of a Certificate of Occupancy for the building.

Project Phasing Conditions of Approval

6. Phase one (1) improvements shall include all of the fencing and landscaping fronting South H Street. Additionally, fencing along side property lines may also be required during building permit review.
7. The temporary driveway for phase one (1) shall be constructed of compacted shellrock or another material approvable by the Palm Beach County Fire Rescue Department. Should Phase two (2) not begin construction within one (1) year of the certificate of occupancy being issued for Phase one (1), interim landscaping and permanent driveway shall be required. These improvements shall be requested through a minor site plan to be reviewed by staff, and the work shall be completed within one (1) year of the certificate of occupancy being issued for phase one (1).
8. If construction of Phase I is completed prior to the issuance of a building permit for Phase II, then all construction fencing and debris shall be removed from the Phase II area, and the Phase II area shall at minimum be sodded, and perimeter landscape screening shall be installed along the side property lines. The vacant lot (Phase II) shall be maintained in accordance with City requirements for property maintenance.
9. The final plat including the required easements shall be approved prior to the issuance of a Certificate of Occupancy.

DRAFT

Site Conditions of Approval

10. The building facades fronting South H Street shall include murals to create visual interest. This public art shall be reviewed by both the Planning and Zoning Board and the CRA's LULA program prior to installation. The murals shall be approved and installed prior to the certificate of occupancy being issued for each phase.
11. Prior to the issuance of any building permits, a minor site plan shall be required to address the following:
 - a. Decrease the total impervious surface total to not exceed 65%. This can be achieved by increasing pervious areas and/or prosing additional semi-pervious surfaces.
 - b. Provide an updated tree survey that correctly identifies all existing trees including the diameter at breast height.
 - c. Provide a tree disposition plan.
 - d. Provide an updated landscape plan that provides the required six-inch replacement trees and the required five-foot buffer adjacent to the existing single-family residence including the required trees.
 - e. Submit an updated photometric plan demonstrating that the exterior lighting complies with dark sky lighting guidelines, including using fully shielded fixtures and LED lighting that has a color temperature of no more than 3000 Kelvins. www.darksky.org Specifically, the lighting fixtures shall be reviewed at building permit for consistency with the dark sky guidelines and the architecture of the buildings.
 - f. A designated delivery and/or ride share space shall be provided.
 - g. The dumpster enclosure material shall be reviewed for architectural consistency and for compliance with all applicable City requirements at building permit.
 - h. Wheel stops shall be provided when the parking spaces would encroach on landscape areas, walkways, accessible routes, and other rows of parking.
 - i. Update site data table errors.
12. Temporary fencing: Per LDR Section 23.4-4(j), 1. Screening details shall be submitted with the temporary construction fence permit application. Wind screening shall be substantial enough to avoid rips or tears due to wind or sun, and shall have no less than eighty-five (85) percent opacity. Screening shall be maintained in good condition at all times. Screening graphics shall be approved with a permit pursuant to the provisions of LDR Section 23.5-1; 2. Temporary construction fencing must be associated with an active building permit unless approved by the development review official in lieu of a permit. The development review official may require the removal of a temporary fence in absence of an active permit or for safety issues; and 3. Acceptable materials include screened chain link and any other permitted materials identified in LDR Section 23.4-4(c).
13. Prior to the issuance of a certificate of occupancy, documentation shall be submitted to the Department of Community Sustainability that the project qualifies at a minimum as a National Green Building Standard (NGSB) silver certification or equivalent certification to fulfill the City's project performance standards listed in LDR Section 23.2-31.

General Conditions of Approval

14. A restrictive covenant shall be recorded for the age-restricted units prior to the issuance of a Certificate of Occupancy for the buildings, or the developer shall pay to the PBC school district any required school concurrency fees.

DRAFT

15. At building permit, documentation shall be submitted to demonstrate that the material utilized for the semi-pervious parking areas has a percolation rate of at least fifty (50) percent relative to the ground percolation rate.
16. Any code cases associated with the subject properties shall be resolved and any fines shall be paid prior to the issuance of building permits.
17. An address application shall be required to be submitted prior to application for building permit.
18. A video security system shall be required for the property.

Utilities (Water, Sewer & Stormwater)

1. A Utility Easement will need to be established for the abandoned alleyway. Utility easements are a minimum of 15 feet wide and should be centered over the existing water or sewer infrastructure to provide a minimum of 7 feet east of the Sanitary Sewer. (plat required)
2. Drainage calculations for sizing of the exfiltration trench and hydraulic conductivity number must be provided with building permit application.
3. Eastern gates cannot swing outward into the public right-of-way and must either swing inward or slide.
4. Please be advised that since there is currently no existing driveway access to the site from S Dixie Hwy, the applicant would need to apply for an FDOT driveway permit to establish a construction entrance on that roadway.
5. The following shall be addressed and plans shall be updated accordingly prior to the issuance of a building permit:
 - a. Location of the property line, right-of-way, proposed/existing easements, water courses and other essential features.
 - b. Provide a sedimentation and erosion control plan, including but not limited to: silt fence, inlet protection, filter socks, and truck wash driveways. Provide the public works details in the plan submittal.
 - c. NPDES compliance practices shall be provided for the project site.
 - d. Location of existing and proposed fire hydrants (or operational equivalents) within 250 feet of the proposed structure or structures.
 - e. Locate all underground piping
 - f. Site and Location of the conceptual sanitary sewer connections and air conditioning units. If there are appurtenances such as grease traps, these must be sized and shown in the site plan.
 - g. Water and sewer horizontal offset distances must be provided per the FDEP requirements.
 - h. All meter boxes, risers to DDCA & meter, and fire hydrants should be situated as close to the property line as possible in order to minimize the amount of easement dedication necessary.
 - i. Utility easements are a minimum of 15 feet wide. Combined Water and Sewer easement size will be determined by the department but not less than 23 feet wide.
 - j. Show asphalt restoration limits required for the utility work. Reference City standard details for trench repair.
 - k. Signed and sealed Drainage Calculations including statement regarding floodplain management provisions for water quality and quantity shall be provided to the City.
 - l. Provide geotechnical information for the determination of the hydraulic conductivity of the soil, and groundwater elevation.

DRAFT

- m. Drainage Plan, prepared by a Registered Professional Engineer. The policy of the City is a property much retain the 3-year 1-hour storm event on site based on the runoff of the entire site area. This is equivalent to 2.6 inches of precipitation. Engineer shall provide calculations validating the retention and calculate the pre/post runoff rates to ensure there are no adverse effects to surrounding properties. The 100-year flood elevation shall be calculated and proposed structures finished floor shall be above the 100-year flood and/or 12-inches above the average crown of the adjacent roadway/s whichever is greater.
 - i. IF APPLICABLE: At time of engineering submittal provide a full drawing set the proposed drainage, Calculations, and any permits or permitting information from SFWMD and LWDD.
- n. Provide a cross section of the grading at each property line.
- o. Indicate vertical datum on all plan drawings with grades.
- p. Provide all applicable City of Lake Worth Beach details.
- q. Show water & sewer services, drainage structures, and stormmains on landscape plan. Confirm minimum spacing between landscape and services per Public Services Detail 23, Typical Tree with Root Barrier.
- r. Applicant to provide concurrence from FDOT on Access Management
- s. Provide final concurrence from Palm Beach County Traffic Engineering Division based on the traffic statement/analysis.
- t. Prior to building permit issuance, capacity fees for water and sewer must be paid in full in accordance with the current City Ordinance.
- u. Prior to Certificate of Occupancy, a Bill of Sale for the public utilities and easements must be dedicated for recording.

Public Works

1. SWPPP plan needs to be amended to include inlet protection for three locations. A copy of the original SWPPP is attached indicating locations. Specification for inlet protection need to be included in SWPPP.
2. The existing entrance to the property via Dixie Highway will need to be removed and new sidewalk installed to FDOT specifications. Plans will need to reflect this change and an FDOT ROW permit secured before issuance of a City permit. The location has been indicated on the attached survey.
3. The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Works Construction Standards and Policy and Procedure Manual.
4. No Certificate of Occupancy shall be granted until all conditions of approval have been satisfied under jurisdiction of the Department of Public Works.
5. In the event of a legal challenge to this approval, shall be responsible for all costs to defend the action of the city in approving any and all permits related to this application. Should the applicant fail to enter into an agreement fund the costs of litigation, the city, at its discretion, may rescind this approval and revoke all permits issued.
6. Prior to the issuance of a building permit, contact the Lake Worth Drainage (LWDD) District's Engineering Department and obtain any required permit(s), if necessary, and furnish to the City. Prior to the issuance of a building permit, contact the South Florida Water Management District's (SFWMD) Engineering Department and obtain any required permit(s), if necessary.

DRAFT

7. Prior to the issuance of a certificate of occupancy, ensure the entire surrounding off-site infrastructure inclusive of the roadway, sidewalk, curbing, stormwater system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other improvements are in the same condition as prior to construction. A pre-construction video of the entire perimeter shall be performed and submitted to the City.
8. Prior to the issuance of a building permit, submit an Erosion Control plan and indicate the BMP's and NPDES compliance practices.
9. Prior to the issuance of a Certificate of Occupancy, fine grade and sod all disturbed areas with bahia sod.
10. Prior to the issuance of a Certificate of Occupancy, broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity.
11. Prior to performing work in the right of way, apply for and receive issuance of a "Right of Way/Utility Permit" application.
12. Prior to the issuance of a Certificate of Occupancy, restore the right of way to a like or better condition. Any damages to pavement, curbing, striping, sidewalks or other areas shall be restored in kind.

Electric Utility

1. Before or at the time of application for a Building Permit, provide the load calculation, voltage requirements and riser diagram. If a pad mount transformer will be requested, the location of the pad-mount transformers for the building shall be depicted on all plans, including the plans submitted for the required minor site plan. The transformer locations must be accessible to our vehicles, and must have 8-ft minimum clearance in front of them and 3-ft clearance to the side or rear, including landscaping. They also must not be under or inside any structure.
2. Before the issuance of a Building permit, if pad-mount transformer will be requested, provide to the City a 10-ft wide utility easement for the underground electric, transformers and other equipment that will need to be installed to provide power to this project.
3. Before the issuance of a Certificate of Occupancy, the utility easement must be recorded.
4. Show the location of the meter center on the site plan.
5. Developer will be responsible for installing their own lightning for the parking areas.
6. Developer will be responsible for the cost of Lake Worth Beach's materials and labor for this project.
7. Before the issuance of a Certificate of Occupancy (CO) a final electrical inspection must be done.