

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 21, 2011 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Modification of Deed Restrictions for a 1.0 acre parcel conveyed to the City of West Palm Beach on July 11, 2006 (R2006-1265).

Summary: On July 11, 2006, the Board conveyed a 1.0 acre parcel of vacant surplus property located at 1400 Henrietta Avenue, West Palm Beach, to the City of West Palm Beach at no cost. The City requested the conveyance of the parcel because it planned to develop the property for attainable or workforce housing including housing for the elderly. The County Deed included deed restrictions requiring the City and its successors to be in compliance with the City's attainable or workforce housing programs. The property has remained vacant. The City has made strides towards addressing its affordable housing needs on other property in the area. Due to the location of this property immediately adjacent to the railroad tracks, the City no longer believes the property is suitable for residential development. This Modification of Deed Restrictions allows the use of the property for: urban market garden with ancillary uses; community center; recreation center; cultural facilities; and parks. The original deed restrictions related to affordable housing will remain in place in the event the property is ever developed for residential purposes. (PREM) District 7 (HJF)

Background and Policy Issues: The County acquired the Henrietta Avenue property by tax deed in August 2005. The property was not needed for County purposes. In response to the City's request for the land, the County's Housing and Community Development Department recommended that PREM convey the parcel to the City with deed restrictions limiting its use to attainable or workforce housing. The assessed value of the property at the time was \$157,500. Subsequent to the conveyance of the property to the City, city-initiated redevelopment efforts have resulted in the development of a significant number of attainable/workforce housing units in the area. In 2010, the City amended the land use of the property from Multifamily (MF) to Community Service (CS) in order to permit community service uses that the City feels would be more appropriate for the site and has requested that the Deed restrictions be modified. The current assessed value of the property is \$141,750. The approval of the Property Review Committee is not required. Florida Statutes Section 286.23 does not require that a Disclosure of Beneficial Interests be obtained. The PREM ordinance requires that all sales or conveyances of real property must be approved by a supermajority vote of the Board (5 Commissioners). While not technically a new conveyance, requiring a supermajority vote is consistent with the intent of the Ordinance.

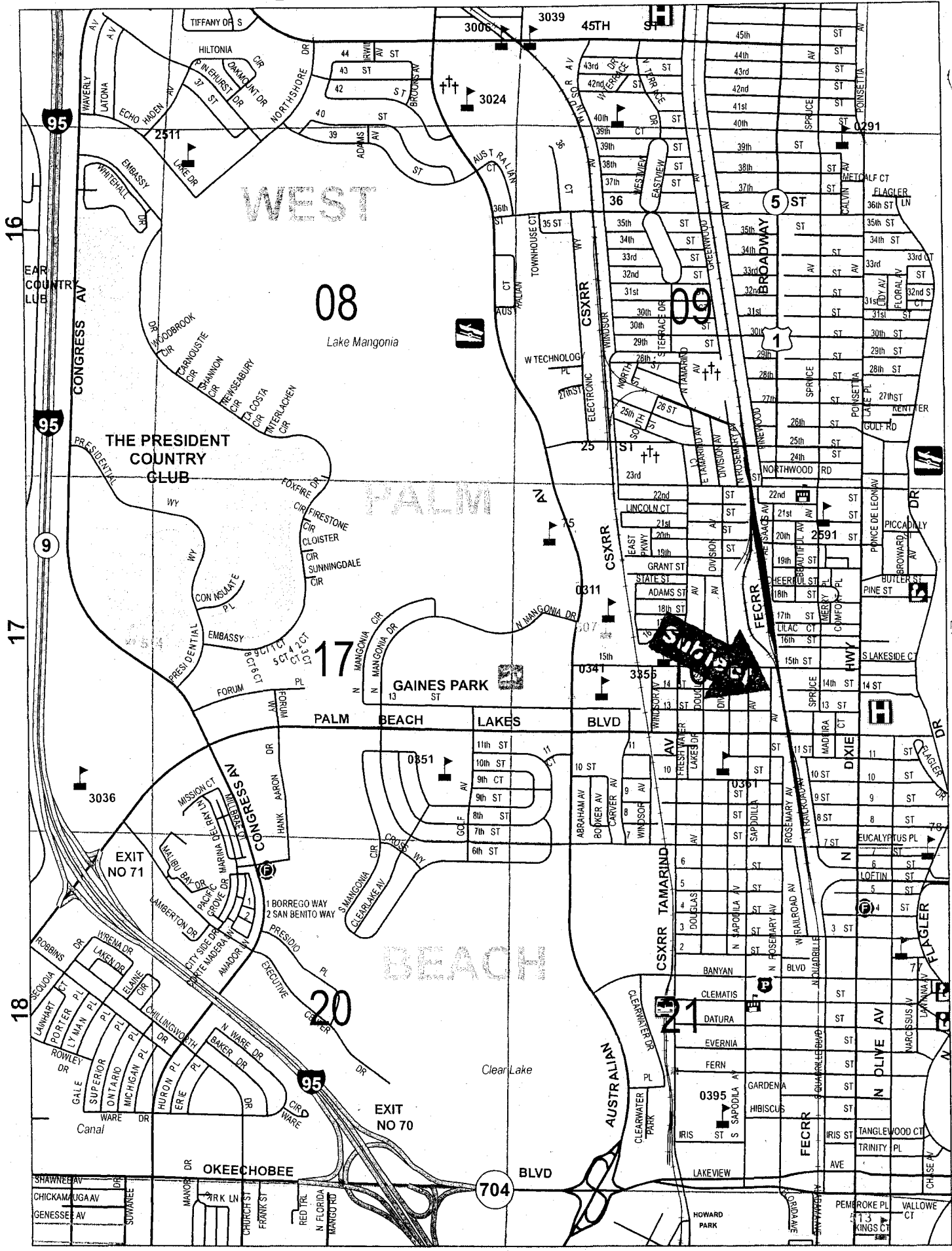
- Attachments:**
- 1. Location Map
 - 2. Modification of Deed Restrictions
 - 3. July 11, 2006 Agenda Item 3H-13

Recommended By: Ann Mary Wolf 5/27/11
Department Director Date

Approved By: Chris Weir 6/10/11
County Administrator Date

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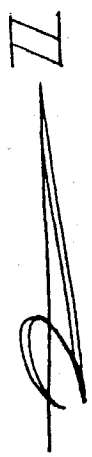
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LOCATION MAP

ATTACHMENT # 1



CONTRACT # 09708
RES 102-11

Prepared By And Return To:
Ross C. Hering, Director
Palm Beach County
Property & Real Estate Management Division
2633 Vista Parkway
West Palm Beach, Florida 33411-5605

PCN: 74-43-43-16-00-000-1120

MODIFICATION OF DEED RESTRICTIONS

THIS MODIFICATION OF DEED RESTRICTIONS, made _____, 2011, between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County"), whose address is 301 North Olive Avenue, West Palm Beach, Florida 33401, and the **CITY OF WEST PALM BEACH**, a municipal corporation ("City"), whose legal mailing address is 401 Clematis Street, PO Box 3366, West Palm Beach, Florida 33402.

WHEREAS, County, by deed dated July 11, 2006, recorded in Official Record Book 20629, Page 1818, of the Public Records of Palm Beach County, Florida, conveyed the following described land to City:

16-43-43, ALL TH PT OF N ½ OF NE ¼ OF SE ¼ W OF RY. THE ABOVE BEING THE REAL PROPERTY DESCRIBED UNDER TAX CERTIFICATE NUMBER 18284 IN THE TAX DEED RECORDED IN OFFICIAL RECORD BOOK 19095, PAGE 1332, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; and

WHEREAS, the deed contains restrictions limiting the use of the property to certain residential uses; and

WHEREAS, City has requested that the deed restrictions be modified to allow the property to be used for certain non-residential uses that will benefit the community; and

WHEREAS, County has agreed to modify the deed restrictions to also allow the City to utilize the property for the non-residential uses set forth herein; and

WHEREAS, County also wishes to modify one of the deed restriction requirements for residential use of the property.

Now, therefore, for and in consideration of the sum of TEN and 00/100 (\$10.00) Dollars, and other good and valuable consideration to County in hand paid by City, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.

2. Item 3.b. of the existing deed restrictions is hereby deleted and replaced with the following restriction that shall be included in the deed restrictions in the event the property is conveyed for homeownership:

The home buyer's annual adjusted income at the time of acquisition shall not exceed 140% of the median area income, adjusted for family size, as determined by the most current information from the U.S. Department of Housing and Urban Development.

3. The deed restrictions are hereby modified to allow for the use of the property for the following non-residential uses: urban market garden with the ancillary uses set forth herein; community center; recreation center; cultural facilities; park. In the event the property is used for an urban market garden, the following restrictions shall apply and shall be included in any lease or deed for the property:

- a. The property shall be restricted to use as an urban market garden operated by a non-profit organization for the purpose of providing sustainable farming education, job training, and employment opportunities, while making affordable produce available for local consumption.
- b. The following shall be allowed only as ancillary uses to an urban market garden: hoop houses, office/classroom structure, crop processing area, cistern water reclamation system, storage sheds, and a café/produce market.
- c. Café/produce market sales and off-site sale of produce shall be allowed for the purpose of funding the non-profit organization's operations on the property, but for-profit commercial use of the property is prohibited.

4. The conditions and restrictions imposed herein shall constitute covenants running with the land and shall be binding upon and burden City, its successors and assigns having or hereafter acquiring any right, title or interest in or to all or any portion of the property.

5. Except as set forth herein, the deed (and conditions and restrictions therein) remains unmodified and in full force and effect and the parties hereby ratify, confirm, and adopt the deed, as modified, in accordance with the terms thereof.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have caused this Modification of Deed Restrictions to be executed in their respective names, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair

Signed and delivered
in the presence of:

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

(OFFICIAL SEAL)

By: _____
Assistant County Attorney

City:

CITY OF WEST PALM BEACH, a
municipal corporation of the State of Florida

ATTEST:

By: *Janna Sharp*
Janna Sharp, City Clerk

By: *Geraldine Muoio*
Geraldine Muoio, Mayor 5/16/2011

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Samuel A. Perry 5-13-11
City Attorney

(City Seal)

Signed and delivered
in the presence of:

Barbara Dugan
Witness Signature

BARBARA DUGAN
Print Witness Name

Patricia Robinson
Witness Signature

Patrice T. Robinson
Print Witness Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

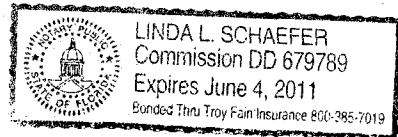
I HEREBY CERTIFY that on this 16 day of MAY, 2011, before
me personally appeared Geraldine Muoio, Mayor, personally known to me or who produced
_____ as identification and who did () did not () take an oath
and who executed the foregoing instrument and acknowledged before me that he executed
the same for the purposes therein.

Linda L. Schaefer
Notary Public, State of Florida

Print Name _____

Commission No. _____

My Commission Expires: _____



II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____
 Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact as a result of this item.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 7-6-06
 OFMB
 CW
 09/5/06

[Signature] 7/7/06
 Contract Development and Control
 E. Smith 10/6

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.



WEST PALM BEACH CITY COMMISSION
Agenda Cover Memorandum

Originating Department:
Planning & Zoning (PZ)

Meeting Type:

Regular

Special

Agenda Date:

05/16/2011

Advertised:

Required?: Yes No **18468**

Date:

Paper: PB Post

ACM#:

Subject:

Resolution No. 132-11 accepting and authorizing the Mayor to execute modifications to Deed Restrictions contained in a Deed from Palm Beach County for the property located at 1400 Henrietta Avenue to allow an urban market garden, community center or similar community based use.

Ordinance/Resolution:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING AND AUTHORIZING THE MAYOR TO EXECUTE MODIFICATIONS TO DEED RESTRICTION CONTAINED IN A DEED FROM THE PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS FOR THE PROPERTY LOCATED AT 1400 HENRIETTA AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 132-11.

Background:

On July 17, 2006, the City accepted the conveyance from Palm Beach County, without charge, of the property at 1400 Henrietta Avenue. By deed restrictions, use of the Property was limited to the development of attainable or workforce housing. City initiated redevelopment efforts have improved the general neighborhood through the use of various programs such as Neighborhood Stabilization Program 1 (NSP1), HOME, Disaster Recovery Initiative (DRI), and Community Development Block Grant (CDBG). Through these programs, more than 40 new affordable homes have been built and dozens of others have been rehabilitated. As an example, the City assisted with the development of Henrietta Townhomes located one block south of the subject property, and the Housing Authority is actively pursuing the redevelopment of Dunbar Village two blocks west of the property. As a result of the city's aggressive redevelopment efforts in the neighborhood, it is staff's opinion that the deed restriction limiting the use of the property to workforce or attainable housing is no longer necessary.

Further, due to its configuration as a very narrow strip of land and its location adjacent to the railroad tracks, the Henrietta Property, still vacant, is not desirable for housing use. As a result, in 2010, the City amended the Property's land use to Community Service. This new land use

allows better utilization of the property to suit the neighborhood needs such as use as an urban market garden, a community center, a recreation center, cultural facility or park. Palm Beach County has agreed to amend the deed restrictions to allow these uses.

Fiscal Note

Current Year: Annualized: Budgeted: Unbudgeted: Funding Source:

Comment: No fiscal impact.

Electronic Attachments: [Click here for assistance with naming convention.](#)



Henrietta Map.doc Henrietta PBC Deed Restriction.2006.pdf

Is this ACM related to a **Grant**? Yes No

Originating Department - Approved by: Charles Wu on 05/11/2011

Charles F. Wu

05/06/2011 City Attorney's Department

Samuel A. Shover

05/06/2011 Asst. City Administrator

Christina A. Miller

05/06/2011 City Administrator

Edward Miller

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