

6B-6

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: Date May 5, 2020 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: accepting a civic site cash-out payment in lieu of an off-site civic dedication from 13FH Palm Beach, LP (13th Floor), the developer of the Delray Trails at Villa Del Ray PUD.

Summary: 13th Floor recently closed upon a 118 acre golf course within the Villa Del Ray PUD which it will redevelop with residential units. 13th Floor received rezoning and site plan approval for its Delray Trails at Villa Del Ray development at the July 25, 2019 Zoning meeting. 13th Floor was required by the ULDC to provide the County a 2.8 acre civic site within its development for the County's development of a Fire Station, but the residents had concerns that the specified location would not be ideal for a Fire Station. As a result, the zoning conditions of approval were structured to require 13th Floor to enter into a contract to purchase a replacement civic site, and if the County choses not to accept that contract, then 13th Floor would have the right to pay the County a \$1,103,500 cash out fee in lieu of providing a civic site. County staff worked with 13th Floor to identify an alternate site located outside of the community on Lake Ida Road. The 5.19 acre offsite replacement civic site proposed by 13th Floor meets Fire Rescue's locational criteria but is comprised of two parcels, bisected by Lake Ida Road. Staff confirmed that the Fire Station could be developed on the South parcel, leaving the North parcel available for another County purpose such as affordable housing. 13th Floor negotiated a contract for purchase of the property for \$2,650,000, which was the lowest price it could negotiate for any property meeting Fire Rescue's locational criteria. Staff obtained two appraisals valuing the property at \$1,260,000 and \$1,200,000 respectively, which is roughly half the contract purchase price. Staff does not recommend paying twice the appraised value for more property than is required for development of the Station. 13th Floor will remain obligated under the Zoning conditions to pay the County \$1,103,500 as a civic site cash out fee upon filing of its first plat of the Delray Trails property. **(Property & Real Estate Management) District 5 (HJF)**

Background and Policy Issues: For the last 2 years, 13th Floor has been working with the Homeowners Associations within the Villa Delray PUD to obtain their support for redevelopment of the golf course within the community. After coming up with a plan for their development which was acceptable to the community, 13th Floor submitted an application for development approvals. As part of the review of 13th Floor's application, Fire Rescue identified a need for a civic site for development of a Fire Station. 13th Floor was unaware that a civic site would be required and had not discussed the civic site requirement with the community. As a result, the community felt that Fire Rescue was jeopardizing the community's deal with 13th Floor. In addition, the civic site would be located internal to the community and directly across the street from a condominium building. It quickly became apparent that the community would not support development of the Station on a civic site located internal to their community.

Continued on Page 3

Attachments:

- 1. Location Map
- 2. Zoning Conditions

Recommended By: [Signature] Department Director Date 4/8/2020
Approved By: [Signature] County Administrator Date 4/22/2020

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	0	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(1,103,500)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(1,103,500)	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes No X

Does this item include the use of Federal Funds? N0 X

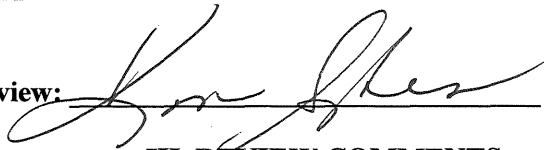
Budget Account No: Fund 3700 Dept 441 Unit F143 Rev. Source 3800

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

The Fire Rescue MSTU Fund will be credited with \$1,103,500 Civic Site Cash Out Fee upon filing of the first plat of the Delray Trails property.

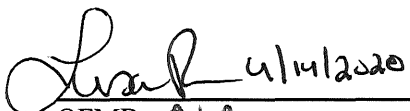
Fixed Assets Number N/A

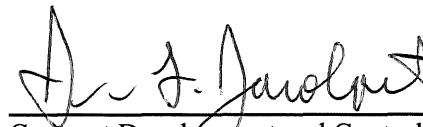
C. Departmental Fiscal Review:



III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 4/14/2020
OFMB 4/13 LM 4/13

 4/15/2020
Contract Development and Control 4/15/2020

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

Department Director

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

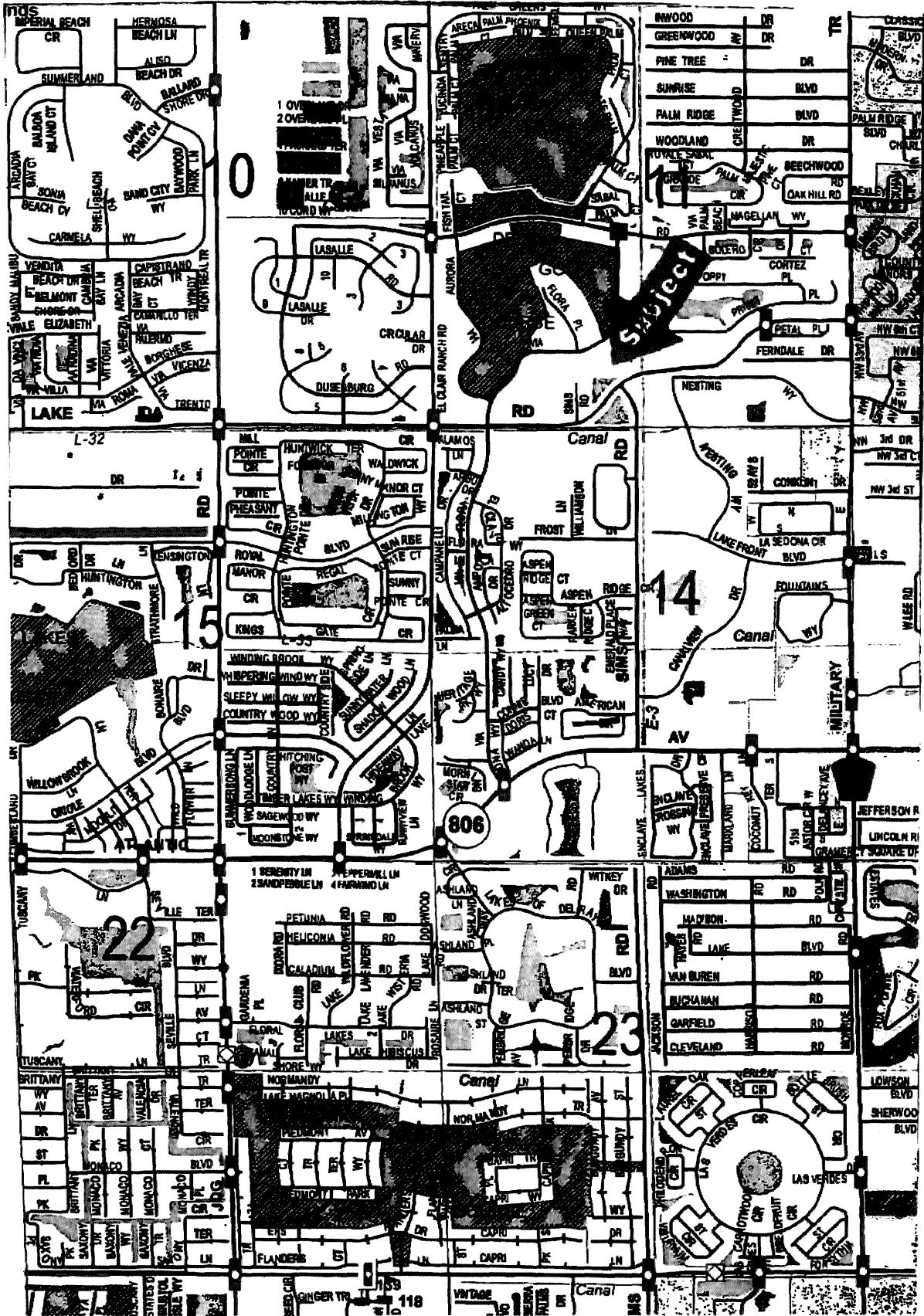
Background and Policy Issues Continued: As a result, staff suggested that 13th Floor attempt to locate an acceptable replacement site. Unfortunately, there are few vacant sites in the area which meet Fire Rescue's location requirements. Of those few sites, several property owners already have plans for development or are asking unreasonable prices. The best deal that 13th Floor was able to negotiate was for purchase of a 5.19 acre property on Lake Ida Road for \$2,650,000. Fire Rescue only needs approximately 2.5 acres for development of the Station. While the extra 2.57 acres on the north side of Lake Ida Road could be used for another County purpose such as affordable housing or sold to recoup a portion of the County's investment, the appraisals obtained by the County do not support the contract purchase price. The County's appraisals valued the 5.19 acre property at \$1,260,000 and \$1,200,000 respectively for an average of \$1,230,000. The contract purchase price is \$2,650,000.

Staff has had subsequent discussions with the Seller regarding the terms of the contract. The Seller was open to the idea of only selling half of the property, but was unwilling to reduce the per acre price. The Seller has sought to obtain an additional appraisal but has not received the results yet.

Staff completed its due diligence review of the property. Environmental testing indicated levels of agricultural pesticides in excess of soil cleanup target levels. Because the property has a low elevation, clean fill can be imported and spread across the site to raise the elevation and avoid having to remove contaminated soils. Staff estimates the additional site work required to meet environmental standards for residential property for both parcels would cost roughly \$500,000. Depending on the ultimate design of the fire station and housing project and coordination with the development of the 13th Floor property, these remediation costs could be reduced. However, this additional cost was not addressed in the appraisals.

In light of the appraisal values and remediation costs, staff recommends that the County not proceed with acquisition of the property, and instead accept a cash out payment from 13th Floor in lieu of the offsite civic dedication. Staff will continue to explore other options for siting this Fire Station.

LOCATION MAP



ATTACHMENT 2

Zoning Conditions

2 Pages

PREM Conditions

1. 13FH Palm Beach, LP (“13th Floor”) has a contract to purchase the Delray Trails golf course property. 13th Floor is scheduled to close on the Delray Trails property on or before March 16, 2020. If 13th Floor and/or its assigns do not close on the Delray Trails property, the development order for the Delray Trails property will be rendered non-compliant.
2. As a condition of receiving development approvals for its Delray Trails development, 13th Floor has an obligation to provide the County a 2.38 acre civic site. 13th Floor has requested the County allow an off-site dedication utilizing an approximately 5.17 property identified by PCN 00424611000005010 (the Replacement Site”) which the County has agreed to accept in lieu of an onsite dedication
3. 13th Floor Acquisitions, an entity affiliated with 13th Floor, has entered into a Commercial Contract together with a First and Second Amendment thereto (“Contract”) to purchase the Replacement Site. A true, correct, and complete copy of the Contract has been provided to the County.
4. 13th Floor Acquisitions shall keep the Contract in full force and effect through the Assignment Date. On or before _March 10, 2020 County Staff shall request conditional approval to purchase the Replacement Site from the County Commission. Within two (2) days after 13th Floor’s Closing on Delray Trails, the County shall, assuming it has received approval to do so, take assignment of the Contract (the “Assignment Date”) and shall replace 13th Floor’s deposit pursuant to the terms of the Contract.
5. In the event the County does not take assignment of the Contract on the Assignment Date, 13th Floor may terminate the Contract and shall pay the County at the recording of the first plat of its Delray Trails development \$1,103,500 as a cash out in lieu of civic site dedication, and shall continue to be responsible for Workforce Housing payments as required by the applicable development approvals.
6. If County accepts the Contract and 13th Floor has closed on the Delray Trails property, 13th Floor shall pay County:
 - a. The \$1,103,500 cash out fee on or before April 30, 2020;
 - b. The full balance of the Delray Trails Workforce Housing payment on or before April 30, 2020.
7. As of October 1, 2019, 13th Floor has paid the \$650,000 Workforce Housing Payment that was due for the Avalon development.
8. 13th Floor will cooperate, so long as it does not incur material additional cost in connection with such cooperation, with County to reduce County’s site development costs by coordinating 13th Floor’s site development work to accept unsuitable materials form the Replacement Site so long as such materials are available

contemporaneous with site development activities at Delray Trails and potential impact load of the materials are within the range of target levels approved by FDEP for the Delray Trails Site. Additionally, 13th Floor will provide County surplus clean fill, to the extent available and at no cost to 13th Floor, from 13th Floor's Delray Trails development. For purposes hereof, "material additional cost" shall mean costs in excess of \$25,000 and shall not include consulting, permitting and/or engineering costs.

9. Nothing contained herein shall limit 13th Floor's ability to obtain credits for Fire Rescue and/or General Government impact fees payable on its Delray Trails development.

dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (DRO: PALM-TRAN - Palm-Tran) [Note: COMPLETED] (Previous MASS TRANSIT Condition 1 of Resolution R-1998-1109, Control No.1971-00013)

PLANNING

1. Prior to final site plan certification for this 34 acre pod, the site plan shall, (in furtherance of the recommendations of the West Boynton Area Community Plan), depict a street circulation pattern that is inter-connected which allows automobiles greater circulation options and reduces reliance on one road. (DRO: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-1998-1109, Control No.1971-00013)

2. Prior to final site plan certification for this 34 acre pod, the site plan shall (in furtherance of the recommendations of the West Boynton Area Community Plan), provide street cross section details depicting sidewalks for pedestrian and bicycle circulation through this pod connecting to the entire PUD. (DRO: PLANNING - Planning) (Previous PLANNING Condition 2 of Resolution R-1998-1109, Control No.1971-00013)

PROPERTY & REAL ESTATE MANAGEMENT

1. 13FH Palm Beach, LP (13th Floor) has a contract to purchase the Delray Trails golf course property. 13th Floor is scheduled to close on the Delray Trails property on or before September 16, 2019. If 13th Floor and/or its assigns do not close on the Delray Trails property, the development order for the Delray Trails property will be rendered non-compliant. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

2. As a condition of receiving development approvals for its Delray Trails at Villa Delray PUD (Delray Trails) development, 13th Floor has an obligation to provide the County a 2.38 acre civic site. 13th Floor has requested the County allow an off-site dedication utilizing an approximately 5.17 acre property identified by PCN 00-42-46-11-00-000-5010 (the "Replacement Site) which the County has agreed to accept in lieu of an onsite dedication. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

3. 13th Floor Acquisitions, an entity affiliated with 13th Floor, has entered into a Commercial Contract and First Amendment thereto ("Contract") to purchase the Replacement Site. A true, correct, and complete copy of the Contract has previously been provided to the County. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

4. 13th Floor Acquisitions shall keep the Contract in full force and effect until October 8, 2019. On or before October 8, 2019, County shall accept or reject an assignment of the Contract from 13th Floor Acquisitions. If the County accepts the Contract, County shall replace 13th Floor's deposit pursuant to the terms of the Contract. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

5. If County rejects the Contract, 13th Floor shall pay the County at the recording of the first plat of its Delray Trails development \$1,103,500 as a cash out in lieu of civic site dedication, and shall continue to be responsible for Workforce Housing payments as required by the applicable development approvals. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

6. If County accepts the Contract and 13th Floor has closed on the Delray Trails property, 13th Floor shall pay County:

- a. The \$1,103,500 cash out fee on or before April 1, 2020;
- b. The \$650,000 Workforce Housing payment due for the Avalon Trails at Villages of Oriole PUD development on or before October 1, 2019;
- c. \$500,000 of the \$896,500 Workforce Housing payment for the Delray Trails development on or before December 1, 2019;
- d. The remaining \$396,500 balance of the Delray Trails Workforce Housing payment on or before April 1, 2020.

(PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

7. 13th Floor will cooperate, so long as it does not incur material additional cost in connection with such cooperation, with County to reduce County's site development costs by coordinating 13th Floor's site development work to accept unsuitable materials from the Replacement Site so long as such materials are available contemporaneous with site development activities at Delray Trails and the potential contaminant load of the materials are within the range of target levels approved by FDEP for the Delray Trails Site. Additionally, 13th Floor will provide County surplus clean fill from the Delray Trails site, to the extent excess clean fill is available and at no cost to 13th Floor. For purposes hereof, "material additional cost" shall mean costs in excess of \$25,000 and shall not include consulting, permitting and/or engineering soft costs. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

8. Nothing contained herein shall limit 13th Floor's ability to obtain credits for Fire Rescue and/or General Government impact fees payable on its Delray Trails development. (PLAT: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

SCHOOL BOARD

1. The Property Owner shall provide a Declaration and Restrictive Covenant which prohibits children less than nineteen years of age from residing in the community no later than six (6) months after DRO Approval. This declaration shall be recorded in the public records for Palm Beach County in a form and manner acceptable to the School Board and the County Attorney. (DRO: COUNTY ATTORNEY - School Board)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning) (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning) (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.