

August 9, 2022

Rick Greene, AICP  
 Development Services Director  
 401 Clematis Street  
 West Palm Beach, FL 33401

Re: Carefree 6 at Flamingo Commercial Planned Development  
 Justification Statement

Dear Rick,

The Applicant as the owners of 2000 SDH, LLC and 2100 SDH, LLC (“Applicant”) respectfully request approval for Rezoning and Planned Development applications with Waivers for the Carefree 6 at Flamingo, a proposed mixed-use development in the City of West Palm Beach. The 1.804-acre (78,598 SF) subject sites (PCNs: 74-43-43-27-19-000-0050, 74-43-43-27-21-001-0010 & 74-43-43-27-21-002-0010) are located on the east side of South Dixie Highway, between Flamingo Drive and Cordova Road, on the north and south sides of Barcelona Road, (“subject property”) as shown on the attached aerial in Exhibit A. The addresses for the three subject parcels are 2000, 2020, and 2100 South Dixie Highway. Prior to 2018, the property had multiple differing Future Land Use and Zoning Designations. The subject property now has a Commercial East (CE), Future Land Use Designation, and a General Commercial (GC) zoning district. The Future Land Use and Zoning designations were approved by City by Ordinance 4798-18 and Ordinance 4799-18 respectively.

Below is a breakdown of surrounding land and uses:

	<b>Current Future Land Use</b>	<b>Current Zoning</b>	<b>Existing Uses</b>
<b>Site</b>	<b>CE</b>	<b>GC</b>	<b>Vacant</b>
<b>North</b>	MF	RPD <sup>1</sup>	Multi-family Residential (Magnolia Court)
<b>South</b>	CE (part) / SF (part)	GC (part) / SF14-C3 <sup>2</sup> (part)	Restaurant & Historic Single-Family Residential Home with 3 units
<b>East</b>	MF (part) / SF (part)	POR (part) / SF14-C3 <sup>2</sup> (part)	Warehouse/Office & Historic Single-Family Residential
<b>West</b>	CE	RTD	Greene School Parking Lot & Art Gallery/Restaurant & The Greene School

<sup>1</sup>RPD – Residential Planned Development, <sup>2</sup>SF14-C3 – Historic single-family high density residential, context 3

The Applicant requests rezoning to a Commercial Planned Development (CPD) to allow a mixed-use development that will include a boutique 6-screen cultural arts theater, all parking within an underground garage, ground floor retail and restaurants, as well as residential rental apartments and townhomes. The purpose of a Planned Development as set forth in Section 94-207 of the Zoning and Land Development Regulations (“ZLDRs”) is “to encourage through incentives, the use of innovative land planning and development techniques to create more

desirable and attractive development in the city”. The incentives include, *but are not limited to*, “relaxing or waiving height, setback, lot dimensions and lot area requirements”. Consistent with the purpose of a planned development, the Applicant is requesting nine (9) waivers, each of which allow for the development of this exciting urban redevelopment project within the suburban-oriented underlying zoning standards of the General Commercial (GC) district.

The Applicant is specifically requesting approval of the following:

- A Rezoning from General Commercial (GC) to Commercial Planned Development (CPD) with underlying General Commercial (GC) and nine (9) Waivers.
- A Site Plan for a mixed-use project that includes a theater, retail & restaurants, 59 townhome and apartment residential rental units, and a 2-level subterranean parking structure.

### **Site History**

In the 1930’s, the Carefree Theater (“The Carefree”) was an ice cream parlor and coin laundry. Then in the 1940’s, it expanded to a bowling alley and entertainment center. It eventually evolved into a center for the arts, displaying movies and hosting live entertainment for the remainder of its existence. The Carefree had a rich history along the South Dixie Corridor and in the City of West Palm Beach. Once a vibrant 750 seat, one-screen theater, it specialized in art house releases and concerts for over fifty years. The Carefree venue hosted the Rocky Horror Picture show for more than fifteen (15) years and served as a concert venue presenting national greats such as Meat Loaf, Jethro Tull, Jefferson Starship, and many others. The hurricanes of 2005 badly damaged The Carefree Theater and the venue fell into disrepair, ultimately permanently closing. Until the Applicant purchased the subject property, the Carefree’s dilapidated condition was a blight along the South Dixie corridor. The Applicant demolished the blighted building hoping to continue the upgrade to the corridor that has occurred in recent years, including the Norton Museum remodel, new residential development, restaurants, and boutique retail business uses. The “decade-new” development has been a welcome change, providing a catalyst for continued investment along the Corridor. The proposed project is consistent with and continues this upgrade to the South Dixie Corridor.

### **A New Vision**

Charles Cohen, managing member of 2000 SDH, LLC and 2100 SDH, LLC, is the President and CEO of Cohen Brothers Realty Corporation, which began in the 1950s. A developer by trade, Mr. Cohen’s passion is film and the arts. In 2008, he formed the Cohen Media Group, a specialty film production and distribution company. Presently, Cohen Media Group is the largest distributor of French Films in America and owns a world-renowned collection of more than 700 classic films made from 1917 to 1972. The Cohen Media Group is systematically restoring and preserving these films and distributing them throughout the United States.

In 2015, Mr. Cohen purchased the Carefree Theater properties. He has a vision to redevelop the subject property as a state-of-the-art film venue showing independent, classic, and foreign films, enhancing the cultural value of the South Dixie Corridor as a premier arts location in South Florida. This undertaking will be a legacy project for the arts of cinematography and motion pictures. Mr. Cohen’s desire is not something he comes to lightly, but something he has the experience and unique ability to make happen.

In addition to owning the classic movie collection, Mr. Cohen is the owner of two other important companies that add additional value to, and helped inspire, the proposed development. The Landmark Theaters, one of Mr. Cohen’s holdings, is the preeminent art house and specialty film exhibition circuit in the United States. With 40 theaters in 18 cities across the country, the

Carefree 6 will provide an opportunity for West Palm Beach to house its own Landmark Theater, bringing another special artistic and cultural amenity to the City. Mr. Cohen is also the owner of DCOTA, one of South Florida's most important design center campuses, which Mr. Cohen purchased and revitalized. It is the intent to house design showrooms within the El Cordova building retail spaces to provide the opportunity to add this artistic, personal touch to the South Dixie Corridor, another special opportunity for the City. The addition of the arthouse cinema and design showrooms is exactly the vision of the South Dixie Corridor that has long been desired.

The redevelopment of the now vacant subject property will enhance the revitalizing South Dixie Corridor, re-establishing and upgrading a cultural destination into a viable long-term facility with compatible restaurants and retail space to serve the residents of West Palm Beach, as well as providing a perfect location for those from outside the area to take the Brightline and then easily access the property via BrightBike or a short rideshare trip.

The newly revitalized subject property will be within a short walk or bike ride from nearby El Cid, Grand View Heights, Flamingo Park, Pineapple Park, and Sunshine Park neighborhoods. This additional supportive commercial development for all of these neighborhoods supports a major goal of the City Mobility Plan, which seeks to shift vehicular trips to alternate modes of travel such as bicycle, walking, or transit trips. Not only does the proposed rich mixture of uses encourage walkable trips from nearby neighborhoods, but it also has the potential to reduce additional trips from driving patrons, as the project program provides multiple destinations in one vehicular trip.

The proposed development is inline with the City vision for the corridor. In 2012, the City engaged the Urban Land Institute to conduct a study, using stakeholder/neighborhood input, examining the South Dixie Highway Corridor. The study designated the subject property as a location in the Arts and Culture District of the Corridor, as its proximity to the Norton Museum of Art is compatible and ripe for a similar "art" use, helping to create a "cultural hub" along the Corridor. Moreover, the proposed project supports other ULI study "desired outcomes" such as streetscape improvements, self-sufficient, on-site parking, and fosters opportunities to position the South Dixie Corridor as a notable shopping and entertainment destination.

Mr. Cohen's vision and the City's vision intersect in a meaningful way with the proposed development, including:

- Providing a valued cultural art space (art house & classic movie theater) along the well-traveled South Dixie Corridor, enhancing West Palm Beach as a premier cultural destination.
- Building well-designed, compatible architecture to both the neighboring residential districts and the Norton Museum in particular.
- Encourage walkability and alternative modes of transportation in the South Dixie Corridor by providing a mixture of uses near many surrounding neighborhoods.
- Providing additional retail and fine dining options along the South Dixie Corridor.
- Developing sufficient on-site public parking in an area of need along the busy mixed-use South Dixie Corridor.
- Providing rental units that will improve the overall mixture of housing opportunities for City residents in the South Dixie Corridor.

### **Recent Application Development History**

In 2016, the Applicant submitted a very different design for the subject property, though including the mix of uses. The application included several requests for more intensity for the

project. The request included a Floor to Area ratio increase to 2.5 F.A.R., a density increase to 97 units, and over 14 waiver requests. Based on input from City staff and residents, that project was revised to remove three stories of residential units, decreasing the total from 97 units to 58 (eliminating 39 units), and an overall height reduction from 97' feet to 71' 10" (El Flamingo Building) and 64.6' feet (El Cordova Building) and reduced the number of waivers from 14 to 11. After planning board recommendation of approval of that proposal, there were still significant concerns regarding the design, particularly a request to remove one more story from the building. At the same time, the COVID-19 pandemic arrived, creating unknown impacts to the future of restaurants and movie theaters that impacted the potential for the project. As a result, the Applicant withdrew that application. With the passage of time, it is clear that there is a future for both movie houses and restaurants in West Palm Beach, maybe now more than ever as we have seen unprecedented growth.

With the decision to revive plans for a new Carefree, the Applicant wanted to start fresh, considering previous comments from staff, the public and the Planning Board. To that end, a new development team was brought in to look at everything with a completely unfettered perspective. Considering the history and comments, the new development team led by Nichols Architects (which has worked on several buildings in West Palm Beach, including the West Palm Hilton and, with Mr. Cohen, West Palm Point) have created a shorter, sleeker design for the project.

The now proposed application works to address the concerns received from the neighbors. The updated project modifies the height and massing of the El Flamingo Building by reducing the height from 71' 10" to 57' (an almost 15' reduction – equating to a little more than one story in height) and the El Cordova Building from 58' to 44' (a 14' reduction – equating to one story in height). The new design reduces the waivers from 11 to 9 and also greatly reduced the massing of the buildings and now provides greater setbacks from the adjacent residential neighborhood to the east. Special Before and After Line Drawings have been provided which demonstrate the outline of the previous proposal compared to the current proposal to demonstrate these changes (see sheets A2.01, A2.02, A2.03 & A2.04). A 3D- AXO Massing Diagram has also been included, which provides a clear picture on the reduction of mass proposed with the updated application.

## **Comprehensive Plan**

When the Carefree Theater was damaged by hurricanes in 2005, its closing and later razing resulted in the elimination of a major cultural arts space and community element for City residents. The Carefree Theater had an 80-year history of being a local entertainment center, cultural arts venue, and community meeting place. Providing a new theater where the Carefree once stood is a very special project for the City and its residents. To achieve the vision as a viable opportunity consistent with the Applicant and City desires, the proposed density and intensity is necessary. The City's Comprehensive Plan Future Land Use Element Objective 1.7 and Policy 1.7.1 allow incentives to encourage innovative design and efficient use of land. Specifically, these incentives allow for increases in density and/or floor area ratio for planned developments.

**Objective 1.7:** Upon the adoption of this Plan, all future development and redevelopment in the City shall be directed in accordance with the Goals, Objectives and Policies outlined in this Element, consistent with the City's Future Land Use Map, and with the option of utilizing innovative planned development regulations and with incentives to encourage the use of such regulations.

**Policy 1.7.1:** The City shall continue to allow for innovative designs and the efficient use of land, such as the practice of permitting Planned Developments (PDs) and zero lot line developments. Incentives for PDs shall include:

- a) Relaxing of height, setback, or other dimensional requirements.
- b) Allowing an increase in density and/or floor area ratio.
- c) Permitting uses or a mixture of uses not normally permitted in the underlying zoning district.

The Applicant intends to redevelop the subject property to revitalize and upgrade a formerly significant element of cultural art space (art house & classic movie theater) for the City and its residents, while contributing important momentum development to the South Dixie Corridor.

The Applicant's proposal for the subject property is consistent with Goals, Objectives, and Policies of the Comprehensive Plan and specifically the Future Land Use Element Policies 1.1.7 and 1.1.8. The project as proposed is appropriate and suitable for the entire subject site.

The subject property will be developed as a Commercial Planned Development (CPD) utilizing innovative design and development features. This project will also provide an efficient use of land. One of these elements that shows both of these purposes being met is the use of subterranean parking. The subterranean parking facility will provide additional public parking spaces along the South Dixie Corridor in an area of need without adding additional height to the building that would otherwise have been required, but not desired.

The Comprehensive Plan recognizes the importance of Cultural and Performing Arts venues in the City. Projects that provide cultural arts, a mix of uses and offer additional public parking to the City provide for just the need that is recognized.

The Carefree project is a special project for the City with an opportunity to bring back a major art house and classic motion picture theater to the area in a way that is viable, sustainable, and consistent with the recent redevelopment along the South Dixie Corridor. To achieve this vision and bring this venue back to prominence, the proposed density and intensity are necessary. Cultural art venues are vital to the fabric of a community and are often surrounded by commercial development that benefits from the revenue spikes as a result of their presence. As such, the Carefree 6 at Flamingo presents an opportunity to help bolster the Dixie Corridor as a prominent area of cultural significance to the City while bringing up the surrounding commercial. The El Flamingo building will include multiple theaters of three sizes, the smallest two will have 50 seats, two will have 100 seats and the largest two theaters will have 150 seats each. This provides for flexibility in movie offerings as well as a distribution of start and end times that will help distribute traffic over time as opposed to every patron arriving and leaving together. Two complimentary restaurants will be included on the first floor, along with 33 residential units. The El Cordova building will include ground floor retail on the first floor and 26 residential units. Both buildings will also include two levels of subterranean parking. The location along the South Dixie Corridor, in proximity to the Norton and other cultural amenities is exactly the right place for the proposed development, helping to further establish a "cultural hub" in the area.

**Other Goals, Objectives, and Policies of the Comprehensive Plan** – The following are additional Goals, Objectives and Policies in the Comprehensive Plan that support the proposed development:

#### Future Land Use Element

**GOAL 2: TO DEVELOP THE CITY CONSISTENT WITH THE PRINCIPLES OF SUSTAINABLE COMMUNITIES AND SMART GROWTH.**

**Objective 2.1:** The City shall facilitate and encourage infill development especially within the areas east of I-95.

**Policy 2.1.2:** The City shall pursue further opportunities to redevelop the north and south of the City bounded by the Intracoastal Waterway (Lake Worth) to the east and Interstate 95 to the west. By the year 2010, the City Planning Department shall prepare a study of potential areas within the Eastern corridor (east of I-95) which may require redevelopment in the form of more urban spaces, and which furnish commercial and residential mixed-use development opportunities.

**GOAL 3: THE CITY SHALL STRENGTHEN ITS QUALITY OF LIFE, VISIBILITY AND POSITIVE REPUTATION BY CREATING A HIGHLY VIBRANT AND DIVERSE CULTURAL ENVIRONMENT.**

**Objective 3.1:** The City values the importance of culture in the lives of its citizens and therefore, shall be an active participant in advancing activities and venues that support the on-going growth of culture in the community. The City commits to support, foster, and promote:

- Culturally diverse and well-designed neighborhoods.
- Historic preservation efforts and a sustainable environment.
- Culture-oriented programming, events, and festivals.
- Major cultural organizations so that they may continue to serve growing audiences, offer world-class experiences, and contribute to the City's overall economic development.
- Small and mid-sized cultural organizations and individual artists by providing a positive climate for their on-going maturation.
- "Cultural hubs" throughout the City that reflect patterns of audience attendance and the locations of existing and planned cultural facilities.
- Additional sources of public and private sector funding to improve cultural offerings and venues.
- Effective coalitions, collaborations and partnerships between public and private sectors, cultural organizations, and artists to raise public awareness of the benefits of culture in the community.

The above Goals, Policies and Objectives support the proposed Carefree 6 at Flamingo project and the opportunity to bring a mixed-use development with a cultural arts element to the City in a blighted area east of Interstate 95.

**Planned Development (Commercial Planned Development – CPD) and Site Plan**

The Applicant is requesting the Subject Property (1.8671 acres) be rezoned to Commercial Planned Development (CPD) district. Nine (9) waivers are being requested to accommodate this unique and special development on the Subject Property. These waivers are discussed further below.

The Carefree 6 at Flamingo is a mixed-use project that will provide six (6) small art house theaters, with a total of 600 seats, complimentary fine dining restaurants, retail and 59 residential units. The design of the Carefree 6 at Flamingo is proposed as two (2) buildings, El Flamingo (north of Barcelona Road) and El Cordova (south of Barcelona Road). El Flamingo will house the six Theaters. To acquire the stadium-style seating, the theater level of the building requires it to be within two typical floors, which is above the larger first-floor, where all

the access, drive aisles, parking garage entrances and restaurants are located. This creates the need for additional height to accommodate the residential floors above. Both the El Flamingo and El Cordova include a 2-level subterranean parking structure that will provide required parking. Two restaurants will complement the theater by providing patrons the opportunity to dine before and/or after a show time, as well as residents to walk or bike to enjoy a meal regardless of whether they visit the theater. The upper floors of El Flamingo will include thirty-two residential units. El Cordova will complement the El Flamingo building by providing additional parking, upscale retail space on the ground floor and an additional twenty-six residential units.

### **Parking, Loading, & Circulation**

Parking is within two subterranean parking garages with two levels of parking under each building. By providing this parking below ground, in addition to reducing overall building height, this takes vehicles off the streets and out of the neighborhoods. The El Flamingo garage ingress is accessed from Flamingo Drive, via South Dixie Highway, and traversed within the building footprint via a ramp to be used by patrons, residents, and valet service. The Flamingo Building's garage main vehicular entry is located on Flamingo Drive, which includes a flex/thru lane for direct access as well as a valet/drop off lane of the parking and has egress available via either Flamingo Drive or Barcelona Road (egress only on Barcelona). The El Cordova garage has sole ingress/egress via Cordova Road, also from South Dixie Highway, and enters subterranean grades under the building footprint via a ramp to be used by patrons and residents, with no valet service.

The El Flamingo's garage contains tandem spaces on the ground floor (at grade), which will be used exclusively for valet parking. A Valet attendant will be on site managing parking during retail business and theater operational hours. Garage tandem spaces will be utilized for valet or assigned to residential units, with prominent signage posted outlining the reservations to avoid the public from parking in those spaces. Garage parking is open to non-commercial public as "pay for parking" with the option for validation for patrons of the restaurant, theater, and retail spaces. Residents will be provided appropriate parking spaces based on their rental unit and have the ability to validate guests through a coupon system. Permanent employees of the business will be provided with free parking to the garage, while more transient short-shift employees can also park for free and be directed to off peak locations based on business operational hours. Pursuant to the City of West Palm Beach Shared Parking Regulations the Carefree 6 at Flamingo project requires 316 parking spaces (see Shared Parking Statement, Simmons & White, August 8, 2022) and provides 378, which results in a surplus of 62 parking spaces. The City's standard parking space regulations would have required 379 parking spaces, our project provides 378, however with the mixed of uses that are provided within the project the shared parking regulations are the parking regulations which shall be used in evaluating the projects code required parking demand.

One element of concern of the immediate neighbors in prior discussions was vehicular traffic exiting through the neighborhood, not to South Dixie Highway. To avoid additional neighborhood traffic in El Cid from the garage, the egresses on Barcelona Road and Flamingo Drive direct exit traffic towards Dixie with signage and pavement striping, as shown on the site plan. Specifically, restricting garage traffic exit patterns towards Dixie Highway, by prohibiting right turns on Flamingo Drive and left turns onto Barcelona Road—the applicant is substantially reducing traffic and noise impacts to the El Cid neighborhood. Moreover, the Barcelona Road circulation is egress only—which reduces neighborhood impacts. Most of these design decisions were based on feedback we received in the neighborhood meetings held with

surrounding residents. The Applicant has also previously offered to post someone at the exits when movies are let out to further direct traffic to South Dixie Highway. That offer remains.

One loading zone space is required for the proposed commercial use. Two are provided for the project to provide additional assurances that there will not be a conflict with loading. The El Flamingo loading space is accessed from Flamingo Drive. To avoid backing onto Flamingo Drive to exit, loading trucks will pull forward and exit through the Flamingo building. Specifically, the Flamingo Building loading zone exit circulation will utilize the tandem spaces for egress circulation out of the garage; loading and the use of those spaces do not occur at the same time. Please see auto turn exhibit on the detail plan for reference. The loading zone for the El Cordova building is not required, but nonetheless, accessed via loading truck "back in" access, as shown on the auto-turn. The non-essential El Cordova building loading circulation does not back onto a street, thus complying with loading access standards.

Bike parking is located within the Flamingo garage and along Dixie for both buildings. Please see Sheet A1.01 for specific locations of bicycle parking.

#### **Standards of Code Compliance Sec. 94-33 Comprehensive Plan**

The proposed development project complies with intent of this standard.

#### **Standards of Code Compliance with Article XII and Article XVII**

The standards of these articles are not applicable to the proposed development.

#### **Standards of Code Compliance Sec. 94-35(c). - Site design qualitative development standards**

- (1) *Harmonious and efficient organization.* All elements of a plan shall be organized harmoniously and efficiently in relation to topography, the size and type of the property affected, the character of adjoining property, and the type and size of buildings. The site will be developed in a manner that will not impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

**Response:** The project is designed in an organized, harmonious, and efficient way relative to the site, the character of the various adjoining residential and commercial property, and type and size of buildings. The design of the Carefree 6 at Flamingo is proposed as two buildings, El Flamingo (north of Barcelona Road) and El Cordova (south of Barcelona Road). El Flamingo will house the six theaters. To acquire the stadium-style seating, the theater level of the building requires it to be within two typical building floors, which is above the larger first-floor, where all the access, drive aisles, parking garage entrances and restaurants are located. This creates the need for additional height to accommodate the residential floors above. Both the El Flamingo and El Cordova include a 2-level subterranean parking structure that will provide most of the required parking. Two restaurants will complement the theater by providing patrons the opportunity to dine before and/or after a show time, as well as providing for opportunities for residents in the varied neighborhoods in the vicinity to walk or bike to these restaurants. The upper floors of El Flamingo will include thirty-three residential units. El Cordova will complement the El Flamingo building by providing additional parking, upscale retail space and an additional twenty-six residential units.

- (2) *Preservation of natural conditions.* The landscape shall be preserved in its natural state, to the degree practical, by minimizing tree and soil removal and by other appropriate site planning



techniques. Terrain and vegetation shall not be disturbed in a manner likely to increase significantly either wind or water erosion within or adjacent to a development site.

**Response: The site is a vacant, redevelopment site without the natural conditions being in place.**

(3) *Screening and buffering.* Fences, walls, or vegetative screening shall be provided where needed to protect residents and users from undesirable views, lighting, noise, or other adverse off-site effects and to protect residents and users of off-site development from on-site adverse effects.

**Response: The proposal carefully considered residents and users in its design. The proposed landscape plan proposes Category 1 Canopy trees to provide great vegetation-rich spaces—thereby contributing to the revitalization of the Dixie Corridor Streetscape. There are also additional trees proposed along the eastern buffers to reduce impacts to the adjacent residential uses.**

(4) *Enhancement of residential privacy.* The site plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers, and vegetation shall be arranged to protect and enhance the property.

**Response: The proposal carefully considered the residents both within and surrounding the building. Trees are proposed along the eastern buffers to reduce impacts to the adjacent residential uses. Moreover, there are very limited windows or balconies that face the eastern neighborhood.**

(5) *Emergency access.* Structures and other site features shall be arranged to permit access by emergency vehicle to all buildings.

**Response: Emergency vehicles are able to access all buildings as necessary.**

(6) *Access to public ways.* All buildings, dwelling units and other facilities shall have safe and convenient access to public rights-of-way and/or other areas dedicated to common use.

**Response: As discussed above, access was carefully considered. The vehicular access is to and from South Dixie Highway and then via two existing public rights of way into the building.**

(7) *Pedestrian circulation.* When residential uses are included, a pedestrian circulation system shall be provided that is separated to the extent possible from the vehicular circulation system and that at a minimum shall conform to sidewalk standards of the city.

**Response: The proposed project emphasizes the streetscape along Dixie Highway, enhancing the pedestrian user experience of the site with innovative landscape planters, Canopy trees, and architectural details and balcony features.**

(8) *Design of access and egress drives.* The location, size, and numbers of access drives to a site will be arranged to minimize any negative impacts on public and private ways and on adjacent private property. Traffic improvements shall be provided where they will significantly improve safety for vehicles and pedestrians.

**Response: Careful thought went into how this sight is accessed—not only for the safety of pedestrians and vehicles, but also to minimize impacts on the surrounding neighborhood regarding vehicular circulation and parking.**

**As discussed above, to avoid additional neighborhood traffic in El Cid from the garage, the egresses on Barcelona Road and Flamingo Drive direct exit traffic towards Dixie with signage and pavement striping, as shown on the site plan. Specifically, restricting garage traffic exit patterns towards Dixie Highway, by prohibiting right turns on Flamingo Drive and left turns onto Barcelona Road—the applicant is substantially limiting traffic and noise impacts to the El Cid neighborhood. Moreover, the Barcelona Road circulation is egress only—which reduces neighborhood impacts. Most of these design decisions were based on feedback received from surrounding residents.**

(9) *Coordination of on-site circulation with off-site circulation.* The arrangement of public or common ways for vehicular and pedestrian circulation shall be coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.

**Response: The design as discussed is coordinated with existing streets and provides for both pedestrian and bicycle opportunities as may exist in the future. The Applicant will work with City staff and FDOT, as applicable, during the review process to ensure this continues.**

(10) *Design of public rights-of-way.* Public streets and rights-of-way within a site shall be designed for maximum efficiency. They shall occupy no more land than is required to provide access, nor shall they unnecessarily fragment development into small blocks. Large developments containing extensive public rights-of-way shall provide a road network with local streets which provide direct access to individual parcels and other streets which provide no or limited direct access to individual parcels.

**Response: There are no public streets or rights of way within the site.**

(11) *Stormwater control.* Appropriate measures shall be taken to ensure that removal of stormwater will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made for the construction of facilities, including grading, gutters, piping and the treatment of turf, to accommodate stormwater and to prevent erosion and the formation of silt.

**Response: Storm water management for the site will not have adverse impacts and will comply with required provisions. The Applicant's project engineers will work with the City to confirm this standard is met.**

(12) *Exterior lighting.* Exterior lighting shall not interfere with the quiet enjoyment of adjacent properties or the safety of public rights-of-way.

**Response: Lighting will not interfere with adjacent properties nor public rights of way. The City standards are met. Please refer to the photometric plan set.**

(13) *Protection of property values.* All elements of a site plan shall be arranged to have minimal negative impact on the property values of adjoining property.

**Response: The proposed development shall not negatively affect property values of adjacent properties. It is important to note that the applicant owns one of the adjacent properties. Indeed, the proposed development adds value to the neighborhood overall by bringing high quality development of a cultural amenity and retail uses that enhance the neighborhood as a truly urban environment.**

(14) *Consideration of future development.* Site plan reviews performed pursuant to this section shall consider existing and likely future development adjacent to the site.

**Response: There is little likely future development adjacent to the site. However, to the extent there would be, the proposed development would not have any adverse impact on that development.**

**Sec. 94-32. - Amendments and rezoning.**

(a) Standards. In reviewing a proposed amendment to the text or map of this chapter, the City commission and the planning board shall consider all the following:

(1) Whether the proposed amendment is consistent with all elements of the City comprehensive plan;

**Response: The proposed rezoning is consistent with all the elements of the Comprehensive Plan including the Future Land Use Element, which encourages the use of Planned Developments. Furthermore, the proposed Commercial Planned Development is consistent with the proposed Commercial East (CE) Future Land Use designation.**

(2) Whether there exist changed conditions which require an amendment;

**Response: There are changed conditions regarding this amendment. The subject property existed as a commercial entertainment center (Carefree Theater) for over 80 years. The property previously contained four Future Land Use designations (CE, C, MF & SF). It has since changed to all Commercial East (CE)The hurricanes of 2005 badly damaged the Carefree Theater, and it became blighted and in disrepair. It was subsequently demolished. The area surrounding the subject property has also undergone changes, one critical change being the investment of the Norton in its upgrade to provide a modern cultural facility – a world class art museum in a world class building – along South Dixie Highway. The proposed development is consistent with the changes to the South Dixie Highway corridor.**

(3) Whether the proposed amendment is in conformance with all applicable portions of the city development code;

**Response: The proposal confirms with the applicable portions of the City's code, including the innovative design that allows for the requested waivers.**

(4) Whether and the extent to which the proposed amendment is inconsistent with existing and proposed land uses;

**Response: As discussed above, the existing and future uses along the Dixie Highway Corridor provide for an urban, vibrant arts and commercial corridor. The**

**proposed amendment is consistent with those land uses.**

- (5) Whether and the extent to which the proposed amendment would exceed the capacity of public facilities, including but not limited to transportation, sewerage, water supply, parks, fire, police, drainage, schools, and emergency medical facilities;

**Response: The proposed amendment will not exceed the capacity of public facilities as identified in the Level of Service analysis as part of the previously Land Use and Zoning designation approvals.**

- (6) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment;

**Response: This is a redevelopment of an existing vacant site. The proposed amendment will not negatively impact the natural environment.**

- (7) Whether and the extent to which the proposed amendment would adversely affect property values in the area; and

**Response: As noted above, the proposed amendment will enhance the overall property values in the area.**

- (8) Whether and the extent to which the proposed amendment would result in an orderly and logical development pattern, and the specific identification of any negative effects on such pattern.

**Response: The proposed amendment follows an orderly and logical development pattern. The redevelopment is infill, urban development along an urban corridor that restores a significant element to a vacant site along the corridor. This blighted area of the South Dixie corridor is in need of redevelopment. The re-establish this of motion picture arts to the local area and City at large will be a popular destination for residents and visitors alike. The Norton recently underwent major renovations and with this investment into the arts within the community demonstrates the need for these types of uses that foster arts and culture within the City.**

**Commercial Planned Development (CPD) Standards Sec. 94-207(d)**

The rezoning to Commercial Planned Development (CPD) is consistent with all the elements of the Comprehensive Plan including the Future Land Use Element, which encourages the use of Planned Developments. Furthermore, the Commercial Planned Development (CPD) is consistent with the proposed Commercial East (CE) Future Land Use designation. Most of the properties surrounding this project are commercial and multi-family. There is only a small portion of the property that is adjacent to historic single-family uses, however the commercial development line has already been established and this project is not seeking to expand into the adjacent historic single-family area. Furthermore, the property owner and Applicant own the historic single-family house at 309 Barcelona and have plans to restore the structure, to remain a single-family residence. This property will act as a natural buffer between the proposed Carefree 6 at Flamingo project and the adjacent historic neighborhood to the East. This request for Rezoning to Commercial Planned Development (CPD) is necessary to have a unified development on the subject property, which is situated on the North and South sides of Barcelona Road.

The following standards apply to Commercial Planned Developments:

- (1) *Location.* Commercial planned developments may be in any commercial or industrial district.

**Response: The property is in a Commercial district.**

- (2) *Minimum area required.* The minimum area required for a commercial planned development district shall be five acres; however, an area of lesser size as identified in Sec 94-243. Table VIII-3, GCPDD and may be approved for commercial planned development zoning upon findings by the planning board and the city commission of the following: a. Particular circumstances justify such reduction. b. Requirements for planned development district zoning and the benefits to be derived from planned development district zoning can be derived in such lesser area.

**Response: The property totals 1.8671 acres. The Applicant is requesting a waiver to allow this property to be zoned Commercial Planned Development with a reduced acreage based on the standards noted. This project is being planned as one unified development with a mix of uses that all work together and complement each other. The commercial development line along South Dixie has been established in this area for over eighty years and results in smaller (less than 5 acres) commercial properties along this corridor.**

- (3) *Permitted uses.* Permitted uses within a planned commercial development are those uses permitted by the city commission and specified in the adopting ordinance. The permitted uses may include all uses permitted in all districts.

**Response: The existing and proposed uses of theater, retail, restaurant, and multi-family residential are currently permitted by right in the underlying general commercial (GC) zoning district.**

- (4) *Required setbacks.* Required setbacks shall be as provided in article VIII of this chapter.

**Response: The Applicant is requesting waivers to allow the mass of the building**

directly on South Dixie Highway, away from the residents to the east. Additionally, the theater levels require the building to be taller, thus increasing the required setbacks. The project has a more urban feel, so allowing these setback waivers will be similar to other planned developments and building located along the corridor and the surrounding area. The intent of the Planned Development is to provide flexibility with development standards, such as setbacks, to encourage creative architecture and innovative development form. The setbacks are met subject to approved waivers as allowed by the City comprehensive plan and code.

- (5) *Maximum floor area ratio.* The maximum floor area ratio for a commercial planned development shall be in accordance with article VIII of this chapter.

**Response: The proposed development does not exceed the maximum floor area ratio of 1.5 for the Commercial East (CE) Planned Development District.**

- (6) *Parking and loading space requirements.* Parking and loading spaces shall be provided pursuant to article XV of this chapter.

**Response: The project exceeds the parking and loading requirements of Article XV.**

- (7) *Landscaping/buffering.* Landscaping and buffering shall be provided pursuant to article XIV of this chapter.

**Response: This application requests one waiver for landscaping for not providing a 10' buffer around the Site, which would also waive the requirements for 41 trees for 866 total linear feet of buffer material. The side streets accommodate landscape areas that range in width from two (2') feet to six feet (6') the required street trees and other additional plantings will be located in the right-of-way as part of the implementation of the South Dixie Highway corridor study. Multiple mitigation measures are proposed by increasing landscape material on other site portions to decrease impact of a reduced buffer as well as stepping the building back from the residential areas as height increases. The details for each buffer are as follows:**

#### **Flamingo Building Property**

**North Buffer:** North buffer requires 10 trees. The proposed plan provides seven palm trees along the building and five trees within the right of way. Additionally, smaller trees are utilized due to overhead lines which restrict the maximum size allowable in that area.

**South Buffer:** South buffer requires six trees. The proposed plan provides two upgraded live oak trees flanking the project entrance. Specifically, the oak trees have been upgraded from 12' at install to 16' to assist in mitigating for the waiver.

**East Buffer:** East buffer requires 12 trees. The proposed plan provides 17 trees, five more than code required to help offset the quantity on the other buffers. Further, an additional 37 palms are proposed to assist in offsetting this waiver request.

**West Buffer:** West buffer requires eight trees. the proposed plan provides six upgraded Cathedral Live Oaks located in tree grates. Moreover, an additional four palms are located in the parking islands. To offset the tree number deficiency, oaks

are to be installed at 20' tall, which is significantly larger than the minimum size required by code. Further, two accent trees and four palms are proposed along the building façade.

### **Cordova Building Property**

**North Buffer:** North buffer requires four (4) trees. The proposed plan provides one accent tree (size reduction due to location of water service) and one upgraded 16' live oak is proposed in ROW. Additionally, three accent trees are proposed along the building façade to bolster tree canopy presence in this frontage location.

**South Buffer:** South buffer requires four trees. The proposed plan provides two 16' oaks, one accent tree, and two palms along the foundation area.

**East Buffer:** East buffer requires eight trees. The proposed plan provides 12 trees, which help offset reduction in other areas. To further mitigate this waiver request in other areas, an additional 25 palms are proposed along this frontage.

**West Buffer:** West buffer requires eight trees. The proposed plan provides nine upgraded Cathedral Live Oaks in the right of way, along with two accent trees and 15 palms along the building façade. The west buffers have been upgraded to include canopy trees and palms to both screen from the residents to the east but also enhance the buffer and provide addition tree quantity to offset the overall requirement on site.

Finally, new urbanism principles, appropriate for the subject's site location, encourage buildings to have minimal setbacks to foster and engage street activities and provide a street-to-building ratio that frames the street space with a sense of enclosure—critical to urban realm placemaking. A buffer reduction is consistent when applying these placemaking principals to the site's urban location.

(8) *Illumination.* Any source of illumination located within a commercial planned development district shall not exceed one foot-candle at or beyond the boundaries of such development.

**Response: Complies. Please refer to the photometric plan set.**

(9) *Outdoor storage.* Outdoor storage facilities are prohibited in any commercial planned development district unless outdoor storage is expressly approved by the city commission as part of the ordinance adopting the commercial planned development. Approval of outdoor storage in a commercial planned development district shall include mitigation measures to protect adjacent properties from the impacts of the outdoor storage. However, this prohibition shall not apply to the following:

a. The outdoor display of automotive vehicles for sale or rent.

b. The incidental display of goods or chattels for sale or rent in a commercial planned development by an establishment having activities that occur within a building. These goods or chattels shall be secured within the building when the business is not open.

**Response: No outdoor storage is proposed.**

## **Waivers**

The following is a list of waivers being requested with this application for Commercial Planned Development (CPD):

The waivers sought are the minimum waivers required to reasonably construct the proposed uses to create a viable, sustainable mixed-use cultural amenity. The zoning code Section 94-243 – Table VIII-3: Commercial district schedule of district regulations, allows the City Commission, at their discretion, to approve the above waivers for planned development districts in the City of West Palm Beach. These waivers are identified on the proposed Site Plan.

**Waiver #1 PD Size:** Section 94-207(d) (2) requires that all Commercial Planned Developments (CPD) shall be a minimum five (5) acres in size. However, the code allows the for an area of lesser size if there are circumstances that justify such a reduction and the requirements for planned development district zoning and the benefits to be derived from planned development district zoning can be derived in such lesser area. As discussed more fully above, there are circumstances in this case as the land area of the original Carefree Theater is limited in size and cannot be expanded to the east due to the historic neighborhood. With the current layout and design, all the community benefits of the planned development can be achieved in the 1.8671 acres.

**Waiver #2 Frontage/Setback Orientation:** Section 94-611(4) Lot Definitions. Lot Line, Front is the Public Right of Way with the narrowest length. The implementation of the setback requirement of chart 94-243 - Table VIII-3 requires that the frontage is the narrow part of the lot, therefore, requiring the three streets for Flamingo, Barcelona, and Cordova as the frontage with no true rear or side corner setbacks. This does not make sense for the subject property, which should be designed with South Dixie Highway as the front, allowing for the proper South Dixie Highway address (meaning those needing directions will be taken to South Dixie Highway, not through the neighborhoods) and for the focus of the project on this important corridor. The applicant is requesting that South Dixie Highway be considered the frontage for the property and therefore, further implementing Table VIII-3 to identify South Dixie Highway as such. This interpretation will be a truer implantation of the setback requirements over the entire CPD.

**Waiver #3 Front Setback (South Dixie Highway):** Section 94-243 – Table VIII-3 – The Commercial Planned Development with underlying General Commercial (GC-PDD) Property Development Regulations require a 15-foot front setback based on a building with a height of 57 feet, specifically for the west property line of El Flamingo at the South Dixie Highway frontage. As a result of the buildings being brought up to the right of way line and the implementation of the South Dixie Corridor Plan, a 5' setback is appropriate in this area along South Dixie Highway. In an urban environment, buildings are brought up the right-of-way line to establish a storefront presence along the roadway. Most of the building's mass has been pushed forward to the South Dixie corridor with the closed part of the buildings actually having a 5' setback. No balcony encroaches into more than 3' of the 5' front setback as shown and dimensioned in various points on the site plan. The setback waiver is adjacent to a right-of-way and across from existing commercial development.

This waiver will allow for development consistent with other development along the South Dixie Highway Corridor as shown by the below examples:





**Waivers #4 Lot Coverage:** Section 94-243 – Table VIII-3 – The Commercial Planned Development with underlying General Commercial (GC) Property Development Regulations allows a Maximum Lot Coverage of 60%. The site plan demonstrates an overall Lot Coverage of 67%, requiring this waiver of 7%. This site is ripe for redevelopment given the location along the bustling Dixie Highway Corridor. The proposed lot coverage is consistent with the corridor development patterns and the adjacent Norton Museum and Palm Beach Atlantic University.

**Waivers #5 Impermeable Surface:** Table VIII-3 provides for a maximum impermeable surface of 85%. The site plan is showing 97% impermeable surface, requiring a 12% waiver. There is a note on the plan that further explains this calculation discrepancy with the landscape plan ratio. This project is proposed as an urban infill development along the South Dixie Highway corridor. One of the important innovative design elements is the use of underground parking garage. That makes it impossible for the site to comply with this standard. However, as shown on the landscape plan, the project proposes many landscape planters that will soften the hardscape on site and enhance the public realm of the circulation spaces for vehicles and pedestrians. Similar lot coverage totals can be found in urban developments along similar corridors throughout the City and within community redevelopment areas. Although the City does not recognize the South Dixie Corridor as a specific public funded redevelopment area, there is truly a need for such redevelopment in this area. The subject property has been vacant for too long. The Carefree Six presents an opportunity for a private property owner to invest in this corridor. Again, this intensity is not unlike other projects in the downtown district, or in other community redevelopment agencies in the City.

**Waivers #6 Landscape Area:** Section 94-243 – Table VIII-3 – The Commercial Planned Development with underlying General Commercial (GC) Property Development Regulations requires minimum landscaping area of 15%. There is a note on the plan that further explains this calculation discrepancy with the landscape plan ratio. The site plan demonstrates an overall landscape area of 10%, requiring this waiver of 5%. However, as shown on the landscape plan, the project proposes many landscape planters that will soften the hardscape on site and enhance the public realm of the circulation spaces for vehicles and pedestrians, meeting the intent of the provision. As discussed above, this waiver is necessitated by the design and site elements including the underground parking.

To mitigate this waiver request, the plan proposes landscape planters along both facades of the building. The plan further proposes planters throughout the site on top of garage structure, planted with vegetation, to also help mitigate impacts of this request. While the planters are costly, the applicant recognizes the importance of incorporating green space in this urban mixed-use project. Finally, the design proposes more foundation planting than required by code. All these mitigating efforts are proposed to offset the impact of this waiver request.

**Waivers #7 Open Space:** Table VIII-3 also requires a minimum open space area of 40%. The site plan demonstrates an open space area of 33%, thus requiring a waiver of 7%. This waiver relates to others as requested, as each of the planting waivers ultimately impacts the open space requirements. The Applicant has accommodated and planned for an upgraded streetscape design which includes landscaping, shade trees, tree grates and pavement upgrades along the S Dixie, Flamingo Drive, Barcelona Road, and Cordova Road corridors.

Additionally, the urban location of the site along a major urban thoroughfare, S. Dixie Highway, is more appropriate for less open space than other more suburban areas of the City where open space has a higher value and impact on the quality of life and recreation. Moreover, the roof deck amenity will offer tree planters and lounge recreation for the residents to compensate for the decrease in open space on site.

**Waivers #8 Landscape Buffer:** Section 94-443(d) requires a 10-foot landscape buffer strip along each property line. The Applicant seeks a waiver from the standard 10-foot buffer requirement along each property lines, which would also waive the requirements for 41 trees for 866 total linear feet of buffer material. The side streets accommodate landscape areas that range in width from two (2') feet to six (6') the required street trees and other plantings will be in the right-of-way as part of the implementation of the South Dixie Highway corridor study. The ground floor is mostly commercial along the linear frontages of the right-of-way \. As such, the waiver request does not have as much impact as a request would with 100% multi-family residential. In fact, new urbanism principles of pulling the ground floor of commercial uses closer to the street is consistent with many other urban oriented parts of the City's code and maintain the urban location of the subject property warrants this type of building orientation along Dixie Highway. Moreover, the roof deck amenity will offer tree planters and lounge recreation for the residents to compensate for the requested wavier of buffers. The details of each buffer are discussed above.

### **Waiver #9 Signage**

A waiver from the City's signage regulations has been requested to provide unique signage for the project's theater. The intent of the waiver is to provide design flexibility for the theater signage which will allow the theater sign to keep in character with the style of signage that was prominent during the golden era of cinema. The City's standard sign regulations do not provide the flexibility needed to provide a unique and attractive sign that compliments the project's unique theater use.

As noted throughout this statement, this project presents a unique opportunity for a cultural and arts redevelopment focused mixed use project along South Dixie Highway. The design has changed significantly from prior presentations based on input from neighbors and the City, the goal being to balance the commercial and cultural opportunities along South Dixie Highway with the residential uses to the east. We look forward to working with City staff and continuing discussions with the neighboring communities to bring this opportunity to the City.

Rick Greene, AICP  
August 9, 2022

Sincerely,

*Brian Seymour*

Brian M. Seymour, Esq.

*Josh Long*

Joshua I. Long, AICP

Cc: Client