

MINUTES OF THE HISTORIC PRESERVATION BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: February 19, 2014

LOCATION: ESD Training Room, 434 South Swinton Avenue

MEMBERS PRESENT: John Miller, Annette Smith, Samuel Spear and Annie Adkins Roof,
Ronald Brito,

MEMBERS ABSENT: Ana Maria Aponte, Iris McDonald

STAFF PRESENT: Amy Alvarez, Janice Rustin (Asst. City Attorney), Diane Miller

I. **CALL TO ORDER:**

The meeting was called to order by the Chair, Ms. Annie Adkins Roof at 6:00 p.m.

II. **ROLL CALL:**

Upon roll call by Ms. Miller it was determined that a quorum was present.
Chair Ms. Roof read the Quasi-Judicial Rules for the City of Delray Beach and Ms. Miller swore in all who wished to give testimony on any agenda item.

III **APPROVAL OF AGENDA:**

Motion made by Samuel Spear, seconded by Annette Smith, and approved 5-0.

IV. **ACTION ITEMS:**

A. Certificate of Appropriateness (2014-079) **812 East Atlantic Avenue, Marina Historic District**

Applicant: Vixity

Property Owner: Delray Beach Associates, Inc.

Authorized Agent: Sign-A-Rama, USA

Consideration of the installation of a new, illuminated wall sign on a contributing property.

Exparte Communication

Ronald Brito – Drive by

Annette Smith – Drive by

The subject property is located on the south side of East Atlantic Avenue between Palm Square and the Intracoastal Waterway within the Central Business District (CBD). The property is also located within the Marina Historic District and contains a circa 1931 Mission style building which houses a deli and a retail shop.

The review history associated with the subject property primarily involves signage for the tenants. The most recent sign approval was a wall sign for the deli space. This sign, for the “Old

School Bakery” has since been removed and no previously approved signage remains on the building. The new deli, E&J’s Sandwich Shop, is identified by the permitted window signage.

The subject proposal is for the installation of a new wall sign which consists of “acrylic face channel letters, internally illuminated with UL LED’s.” The sign will state “Vixity” with “Jewelry with an Edge” below. The sign will be “digitally printed vinyl with U/V lamination. The overall measurements are 45.56” wide by 29.24” high. The sign will be centrally located on the gable end in the middle of the building. The front façade is symmetrical; however, the deli consists of just on third of the space, while the retail space consists of 2/3 of the building. Therefore, the sign will be located above the retail space.

Signs can be approved administratively however, when there is a questions as to their appropriateness, compatibility or compliance with the LDRs, we will bring them before the board for your decision. The applicant is aware of this and we have been working internally about this.

When looking at the sign code, the sign does strive to meet the code; however, it is the material and the internal illumination of the sign that is not in keeping with the sign regulation as well as the LDRs.

We are recommending change in material, possibly aluminum letters, with a separate lightening source that could be up lite or down lite. We are recommending a lamp up above to shine on the letters but this will be up to the board.

Staff has recommended approval subject to the following conditions:

1. That the material be changed to aluminum;
2. That the internal illumination be removed; and,
3. That a separate source of lighting be provided (optional).

Applicant Presentation

Michelle Laskowski – Sign-A-Rama

Mindy Zwerin – Owner

I am excited to bring the owner, Mindy Zwerin to talk about her company.

Mindy Zwerin – I have been in the jewelry business for 35 years and came to Delray Beach as this is a growing community. We are the only bridal registry to date in Delray Beach and we are working with the local hotels and merchants.

One of the things that I have trying to do with the store is keep its integrity. The only thing that was changed was the furniture and some fresh paint. We definitely need some light over at the business as it is very dark and scary and this will only be an asset to the community.

Michelle Laskowski – Michelle brought in some picture to show how they are going to use the lightening. She also gave example of some of the nearby business and their lightening and how long they have been there. We are trying to do a soft lightening and sign to go with the esthetics of the building. Mindy has done a big clean up with the building and we are asking that you let her do what she would like to the building.

Public Comments - None

Board Members Comments

John Miller – You had said that it will be internally lit, what will be the colors at night?

Michelle Laskowski – It is acrylic face with channel letters with vinyl overlay, with internal light of soft gray.

Sam Spear – (question directed to Amy Alvarez) Want to know what the main concern is here tonight.

Amy Alvarez – She said that the concern was the internal illumination and that is what prompted me to bring it here to the board.

Sam Spear – What is the material that is being used for this sign?

Michelle Laskowski – The material will be an acrylic face and then take a digital vinyl print and put the owners logo on top of it so it will show through and all the electrical will be inside.

Sam Spear – Would it take away from the looks if you made the metal aluminum? Ms. Laskowski said that yes she feels that it would.

Annette Smith – If you were to do a brushed aluminum instead of a polished aluminum would you feel comfortable in considering that? Ms. Laskowski thinks that would be beautiful, but I am here tonight to fight for what the owner wants.

Sam Spear – My concern is that the sign will be TOO bright. Ms. Laskowski said that there are two different LED lights that can be used and she can use the less intensity.

Board Discussion

John Miller – When I look at a sign request I am looking for size, scale, esthetic match, and I think what is presented is fine.

Ronald Brito – I like the sign the way it is presented.

Annette Smith – What shade of gray will this be. Ms. Laskowski said that it will be a silver gray.

MOTION/FINDINGS

Approve the Certificate of Appropriateness (2014-079) for **812 East Atlantic Avenue, Marina Historic District**, by adopting the findings of fact and law contained in the staff report, and finding that the request does not meet criteria set forth in the Land Development Regulations, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation, subject to the following conditions:

1. That normal intensity LED lighting is used on the internal components of the sign.

Motion by Mr. Miller, seconded by Ms. Smith. Said motion passed with a 5-0 vote.

B. Certificate of Appropriateness and Variance Request (2014-074) **236 Dixie Boulevard, Del-Ida Park Historic District**

Applicant: Anne Gannon, Property Owner

Consideration of the installation of a freestanding pergola to the west side of a contributing structure.

Exparte Communications – None

The item before the Board is the consideration of a Certificate of Appropriateness (COA) and Variance request associated with a new, free-standing trellis on a contributing property located at **236 Dixie Boulevard, Del-Ida Park Historic District**, pursuant to Land Development Regulations (LDR) Section 2.4.6(H).

The current proposal is for the construction of a freestanding pergola to the west side of the historic structure. The pergola measures approximately 9'6" wide, 18' deep, and 10' high and will be used to provide a covered parking area within the driveway. The posts, cross members, and brackets will consists of pressure treated wood and left with a natural finish.

A variance has also been requested due to encroachment within the required side interior (west) setback. The pergola would be set approximately 2' from the west property line, on the side interior, whereas the required setback is 7'6".

In meeting all the LDR requirements, we feel this is a good solution and it also meets all the variance requirements and maintains the historic character of the property.

We feel that the project is appropriate and staff support both the pergola and the variance.

Applicant Presentation

Anne Gannon – Property Owner

Ms. Gannon agrees with the staff presentation and is here for any questions you might have.

Public Comments – None

Board Comments:

John Miller – In agreement with project.

Ronald Brito – In agreement with project.

Annette Smith - Great design and in agreement with project.

Samuel Spear – Wanted to know if there were any comments from the neighbors and Amy Alvarez said that she had not heard from anyone.

MOTION/FINDINGS

Move approval of the Certificate of Appropriateness (2014-074) for **236 Dixie Boulevard, Del-Ida Park Historic District** by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof meets the criteria set forth in the Land Development Regulations, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation:

Motion by Ms. Smith, seconded by Mr. Miller. Said motion passed with a 5-0 vote.

Variance

Approve the variance to **LDR Section 4.3.4(K)**, to reduce the side interior (west) setback for the pergola to 2', whereas 7'6" is required, based upon positive findings to LDR Section 2.4.7(A)(6).

Motion by Mr. Miller, seconded by Ms. Smith. Said motion passed with a 5-0 vote.

V.A. Privately initiated amendment to LDR Sections 4.4.24(B), 4.4.24(C), and 4.4.24(F) to add Lots 16 – 18 of Block 69, and Lots 11-12 and the North Half of Lot 13, and Lots 23-25 of Block 70 to those properties zoned OSSHAD (Old School Square Historic District) and to which the “Permitted Uses” of 4.4.13(B), “Accessory Uses” of 4.4.13(C), and “Development Standards” 4.3.4(J)(4) of the CBD (Central Business District) zoning district are allowed, excluding exceptions to height provided in LDR Section 4.3.4(J)(4).

The item before the Board is that of making a recommendation to the Planning and Zoning Board regarding a privately-initiated amendment to LDR Section 4.4.24 Old School Square Historic Arts District (OSSHAD), subsections (B) Permitted Uses, (C) Accessory Uses, and (F) Development Standards. The proposed amendment is to add Lots 16 – 18 of Block 69, and Lots 11-12 and the North Half of Lot 13, and Lots 23-25 of Block 70 to those properties within the OSSHAD zoning district that can be developed pursuant to the development standards and uses of the CBD (Central Business District) zoning district, pursuant to LDR Section 2.4.5(M).

The intent of the subject LDR amendment is to apply the development standards and uses (excluding conditional uses) of the CBD to multiple properties within the south area of the OSSHAD zoning district. The properties are located at 36, 48, 104, and 122 SE 1st Avenue, and 14 and 18 SE 1st Street. All of the subject properties are also located within the Old School Square Historic District, and as such, a description of each property is provided:

36 SE 1st Avenue (North portion of Lots 16, 17, and 18, Block 69): Vacant. A circa 1938 frame vernacular structure was relocated from the subject property to 186 NW 5th Avenue in 2011, where it was individually designated and listed on the Local Register of Historic Places as “The Harvel House” in the West Settlers Historic District. Prior to its relocation, the structure was classified as contributing within the Old School Square Historic District. This site has an approved plan for office space and the approval expires in August.

48 SE 1st Avenue (South portion of Lots 16, 17, and 18, Block 69): A circa 1955 two-story, 4,107 square foot building remains on the property and is classified as contributing. In 1984, the City Commission approved a conditional use application for an Adult Living Facility.

104 SE 1st Avenue (Lot 11, Block 70): Vacant. A one-story, multi-family dwelling was constructed on the property in 1952; it was demolished in 2004. A valet parking lot was approved for the site in 2011 in association with the approved Swinton Social project on South Swinton Avenue.

122 SE 1st Avenue (Lot 12, Block 70): A circa 1955, one-story multi-unit building is located on the property and is classified as non-contributing.

14 SE 1st Street (Lot 23, Block 70): A circa 1935, Minimal Traditional style structure is located on the property and is classified as contributing.

18 SE 1st Street (Lots 24 and 25, Block 70): A circa 1930 Mission style structure is located on the property, as well as a circa 1955 Frame Vernacular style structure. Both structures are classified as contributing.

These are the properties in question and that is the request.

Those three lots were included in one text amendment adopted on January 4, 2000 (Ordinance 47-99) which provided for the expansion of the CBD overlay district (uses and development

standards), for the primary purpose of constructing the Block 69 parking garage (aka Federspiel Garage).

In 2007, a privately-initiated LDR Amendment (Ordinance 31-07) was submitted which also proposed to extend the CBD Overlay at 36 SE 1st Avenue. The ordinance was reviewed by the HPB (September 5, 2007), Community Redevelopment Agency (September 6, 2007), and Planning and Zoning Board (September 17, 2007) and was unanimously recommended for denial by all three Boards. The ordinance was placed on hold by the property owner while a Class V Site Plan Application and COA were reviewed by the HPB for a replacement project involving new Class A offices. The HPB also reviewed four variances and three waiver requests associated with the Class V Site Plan and COA, all of which were denied.

Subsequently, the property owner moved forward with an appeal to the City Commission of the Class V Site Plan denial. The appeal was upheld, thereby overturning the HPB's denial of the project; as a result, the Class V Site Plan was approved by the City Commission at its August 19, 2008 meeting. Subsequently, the LDR amendment described in Ordinance 31-07 was withdrawn. The plans for the Class A office space approved by City Commission on August 19, 2008 received extensions of approval twice and remain valid until August 19, 2014.

In 2013, a second privately-initiated LDR Amendment was submitted which was identical to Ordinance 31-07. This amendment, processed as 09-13, was reviewed by the CRA on March 28, 2013 and by the HPB on April 3, 2013. At both meetings, the item was tabled; the request was placed on hold by the applicant prior to the item being further reviewed and now we have this new request.

The application of the CBD development standards onto the subject properties would permit a maximum height of forty-eight feet (48'), versus a thirty-five foot (35') maximum height permitted within OSSHAD. In the OSSHAD zoning district, the required setbacks are twenty-five feet (25') for the front, seven feet, six inches (7'6") for the side interior, and ten feet (10') for the rear, whereas the CBD setbacks are as follows:

The proposed changes would further increase the types of both principal and accessory uses that could be established in the OSSHAD zoning district to allow the following:

A wider range of retail (i.e. automotive parts, pharmacies, lawn care equipment, sporting goods, toys);

Business, professional and medical uses (i.e. dental clinics, medical laboratories, publishing);

Services and facilities (i.e. dry cleaning, cocktail lounges, parking garages, commercial or public parking lots);

Multi-family dwelling units up to a density of 30 units per acre; and,

Hotels, motels, and residential-type inns.

(Briefly Ms. Alvarez went over the powerpoint maps and identified the areas in discussion)

Looking at the Comprehensive Plan and the Future Land Use element, the objective requires complimentary development to adjacent land uses and we do not feel this amendment meets the intent of the future land use element. Also, with the housing element as well as the

Comprehensive Plan and we feel the increase density within the historically designated area would be inconsistent with the development pattern.

(Showing a map on the screen) There is a development across the street and it appears that is the justification for the request is the larger development from CBD to provide and expand the CBD guidelines onto these properties as well as the encroachment of the CBD to the Historic District already. However when the amendment went through in 2000, it was noted on the record that this would not be precedent setting, however, it is use now as a precedent to continually request the CBD into the OSSHAD.

The Comprehensive Plan calls for the preservation of historic resources, which is not achieved by the proposed amendment. Therefore, a positive finding cannot be made that the amendments are consistent with and further the Goals, Objectives, and Policies of the Comprehensive Plan.

The **Community Redevelopment Agency** (CRA) considered the subject LDR Amendments at its meeting of February 13, 2014; the consensus of the Board was to not support the proposed amendment.

Public Notice

Since the proposed LDR text amendment is site specific, a public notice has been provided to property owners within a 500' radius of the subject properties.

Staff recommends that you recommend denial to the Planning and Zoning Board as positive findings cannot be made.

Applicants Presentation

Michael Weiner – Weiner, Lynn & Thompson-10 SE 1st Avenue

We are here tonight for a recommendation to change the Land Development regulations of the LDRs, specifically Section 4.4.24 allowing for a CBD overlay on the OSSHAD. We are not changing the zoning but what is happening is that retail can only be done in little houses. We need to have retail on the front of the street, and we want to have a street scape so people will walk down the street. And secondly, that we need is height. When you look at it there really is not a lot of difference between CBD and OSSHAD. We have done this before and I am hoping that we can do it again.

We would be adding SE 1st Avenue and SE 1st Street *(Mr. Weiner shows the area on the screen)* Ms. Alvarez went through what OSSHAD and CBD are all about, but we are not re-inventing the wheel this has been done many times before. We don't want Atlantic Avenue to be the only linier of Delray Beach.

The reason that we could build the Federspiel Garage and occupy it is that there was a willingness to extend the CBD overlay. In 2002, the Master Plan came together and it had numerous recommendations and everyone was involved.

In talking about the surrounding blocks, Ms. Alvarez said that things needed to be complimentary to adjacent development. *(Mr. Weiner showed examples of surrounding buildings on a map).*

The Master Plan says the lack of buildings along side streets within the commercial core has limited commercial component and caused it to concentrate mainly on Atlantic Avenue. *(This is quoted from the Master Plan)*. It also says that it leaves small business owners out of the plan.

We agree that it should be complimentary to adjacent development and we are already there with 48 feet and we are here to be sympathetic and Ms. Alvarez feels that this will only damage it and no, this will protect the area. *(Mr. Weiner shows pictures of some of the houses in the Historic District)*

We are here tonight to rescue the historic structures.

Public Comments

Francisco Perez-Azua – 55 SE 2nd Avenue - We keep talking about uses and what is allowed and what we have is a bunch of drug users in this area. This keeps coming back to the Historic Board because it makes sense and I will tell you why. I am the author of the building that Ms. Alvarez says is approved. There is an approved building on that site, but it has not been built because it does not make economic sense.

Jim Knight – 10 SE 1st Avenue – I do walk the streets and I walked to this meeting tonight and walked by those houses in question. Please take consideration to this request and look at other areas and how we want it to flow.

Vin Nolan – Economic Director for the City of Delray Beach – I cannot say more than what Mr. Weiner has already said and it seems that the only thing we are preserving is the derelict properties with no one wants to do anything with or that people cannot get financing of what they want to do. What we need to do is think out of the box.

Rebuttle – None

Board Discussion

John Miller – I do not disagree that the area does need attention and redevelopment. Going back to Worthing Place and that is being held up in court for at least 10 years and that was not a slam dunk. On Swinton this is a clear case of demolition by neglect and they should have been prosecuted but this area has been in decline for years. I do believe that the current zoning does allow for a buffer area between the higher elevation allowances and what the neighboring areas are. We have seen this in the Marine Historic District and along Federal there were 4 or 5 story buildings right next to single story homes. There seems to be some step-down strategy and this to me seems it. I have not seen anything come before this board that attempts to redevelop this area using the existing guidelines or even asking for a variance and I think the board would be willing to look at that but not giving up all the leverage that we have now. I don't think just giving it away is the means to justify this. This area will be redeveloped, it is inevitable, and it's going to move further south, but not to give up our leverage.

Ronald Brito – I am in approval of old things, I like old house but then there is hoarding. I have restored many here in the city, but how many things can we hold onto. Delray is a trend setting city, and why because we think outside of the box. We need to keep our heads above water and keep moving forward, in a positive direction and holding onto the old houses. This town is filled with talented people and they have to come by use and we get to see what their ideas are and what they are building and we should not pass it by. We need to keep doing what we are doing.

Annette Smith – This is all very interesting and there is a fine line between development and preservation and we know that things will be developed, there is no doubt about it. I think we have a fear of over development as Michael Weiner was saying, but we also have progress. As Francisco Perez-Azua was saying a lot of these houses are in very old conditions. And I think with that said, in making this an overlay, I think I am for this because it's going to happen, progress is going to happen and we would rather see it developed properly rather than having these homes just sitting there. So I think this is a good presentation for the overlay.

Samuel Spear – Before I start, I have had a walk through with Jim Knight and had full disclosure on this, I got a call and I accepted for the record. This is a tough decision but I think those of us who live here we like our preservation, we like our old flavor, but at the same time in certain areas we want to keep it growing and I have been very hesitant on which way I was going to go. But, after I have look at it and spent some time around it, it's important that something has to be done about it. If you have someone that wants to fix it, good, but something is better than vacant lots and torn down houses and we can preserve what. We have been leaning this way on a lot of projects, by having a developer, fix it up and we can help them out. I think what it comes down to is to accept someone's vision to do this, accept that this town is growing and taking someone's vision and putting themselves out there. I am leaning toward the variance.

John Miller – I want to add another comment that I would half argue that the reason we are here and why we are concern about Delray as a whole, is people have a vision 20-30 years ago to preserve some of the landmark areas and keep the neighbors nice. We have the height limit, and when I was in school they wanted to tear down the old school and put up a movie theater and then a Kmart but fortunately people back then had a vision. I am not saying that this would be developed poorly, but we have some leverage over this area right now so we can have more control of what is to go in this area. If Planning and Zoning or the Commission chooses not to accept a recommendation then that is their choice to do so. At this point I feel that I will be voting against this tonight.

Samuel Spear – I would like Mr. Miller to explain what he meant by '*leverage*' at this time.

John Miller – At this time the height is 35' but more restricted with what can be built at this time. So I know that the way it would work is that you would loosen the rules to go to the CBD Overlay, we have the flexibility now, we don't have the setbacks that we use to have, we have the height limit so we have to build out from that, so the ROI (Return of Investment) will dictate by building as much as you possibly can in that space. If you had someone go in now, and they try to fit something in that will meet the current guidelines, with a variance here or there, then we can look at that. At that time it would then tie into the surrounding neighborhoods. If it's all vacant land, then that would be a different discussion. Right now you drive along Swinton Avenue and see single story buildings and you are going to see 48' behind it with half the mass and that is what I am concerned about as a Historic Preservation Board and as a seat on this board I voice my opinion.

Samuel Spear – I am more concern about the sidewalks, setbacks vs height. To me whatever they come back with I hope they have decent setbacks that don't come too close to the street.

John Miller – I hope that the area does get rebuilt, it needs to get rebuilt, it needs investment, but let's not throw the baby out with the bath water.

Annie Adkins Roof – Well we are here, we are on this board, we do give our time voluntarily because we do care about Delray. I am inclined to approve.

MOTION/FINDINGS

Move a recommendation of approval to the Planning and Zoning Board of the amendment to Land Development Regulation Section 4.4.24(B)(12) and 4.4.24(F)(1)(a), allowing the permitted uses and development standards excluding the exceptions to additional height in the CBD for Lots 16 – 18 of Block 69, and Lots 11-12 and the North Half of Lot 13, and Lots 23-25 of Block 70, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M).

Motion by Mr. Brito, seconded by Ms. Smith. Said motion passed with a 4-1 vote. Dissenting was Mr. John Miller.

REPORTS AND COMMENTS

PUBLIC COMMENTS – NONE

BOARD MEMBERS COMMENTS – NONE

STAFF – Next Meeting will be on March 5th, 2014.

VII. ADJOURN

The meeting adjourned at 7:30pm

The undersigned is the Secretary of the Historic Preservation Board and the information provided herein is the Minutes of the meeting of said body for **February 19, 2014** which were formally adopted and approved by the Board on **April 16, 2014**.

Diane Miller

Diane Miller, Executive Assistant

If the Minutes that you have received are not completed as indicated above, then this means that these are not the official Minutes. They will become so after review and approval, which may involve some changes.