

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: October 21, 2013

LOCATION: City Commission Chambers

MEMBERS PRESENT: Gerald Franciosa, Derline Pierre-Louis, Clifford Durden, Christopher Davey, Jordana Jarjura, Dr. Craig Spodak (6:04pm), Thuy Shutt

MEMBERS ABSENT: None

STAFF PRESENT: Paul Dorling, Terrill Pyburn (Asst. City Attorney) and Diane Miller

I. **CALL TO ORDER:**

The meeting was called to order by the 1st Vice Chair, Clifford Durden at 6:02 p.m. Upon roll call it was determined that a quorum was present.

At 6:04pm Dr. Craig Spodak arrived to the meeting.

II. **MINUTES:**

Motion made by Mr. Clifford Durden, seconded by Ms. Pierre-Louis, and approved 7-0 to move approval of the August 19, 2013 minutes as written.

Chair Dr. Craig Spodak 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. **ELECTION OF OFFICERS**

Chair, Dr. Craig Spodak nominated Gerald Franciosa to the Parking Management Advisory Board, seconded by Thuy Shutt and Gerald Franciosa was elected Parking Management Advisor with a seven to zero (7 to 0) vote.

Chair, Dr. Craig Spodak nominated Clifford Durden to the Alternate Parking Management Advisory Board, seconded by Thuy Shutt and Clifford Durden was elected Alternate Parking Management Advisor with a seven to zero (7 to 0) vote.

IV. **COMMENTS FROM THE PUBLIC** (*Comments on items that are not on the Agenda will be taken immediately prior to Public Hearing Items.*) - None

V. LAND USE ITEMS

A. Consideration of an extension request to the conditional use modification approval to allow interior conversion of two (2) existing automotive service bays totaling 808 sq. ft. to accommodate expansion of the existing 592 sq. ft. (total 1,400 sq. ft.) Gasland convenience store, located at the southwest corner of NE 5th Avenue and NE 4th Street.
Quasi-Judicial Hearing

Exparte Communication - None

Paul Dorling entered project file No. 2011-135 into the record.

This project is granting an extension of the Conditional Use Modification for **Gasland Convenience Store Expansion**, pursuant to Land Development Regulations (LDR) Section 2.4.4(F).

The 0.43 acre property contains a gas station with four (4) pumps with eight (8) filling positions. The site also contains an existing 592 sq. ft. convenience store and two (2) automotive service bays totaling 808 sq. ft. The service station was constructed in 1961 in the CBD (Central Business District).

On August 15, 2011 the Planning & Zoning Board considered and approved the conditional use modification request to allow conversion of the two (2) service bays to retail use for expansion of the existing Gasland Convenience Store.

On October 12, 2011, the Site Plan Review and Appearance Board approved the associated Class III Site Plan Modification to allow expansion of the existing 592 sq. ft. Gasland Convenience Store by 808 sq. ft. for a total of 1,400 sq. ft.

Now before the Board for consideration is a two-year extension request for the Conditional Use modification, to assign a new expiration date of August 15, 2015.

The request for 2/years is allowed but if it is requested it is usually 18 months unless an alternative is requested. The applicant has indicated that due to extenuating personal family circumstances and the impact on ownership of personal property, there has been no improvement to date.

The Board approved plans have not been certified to date, however, the Senior City Landscape Planner has determined that all prior outstanding landscaping conditions of approval have been addressed within revised plan sets. However, changes in the City's Landscape Code have occurred since the site plan approval in October 12, 2011.

Staff recommends approval subject to conditions 1-3 in the Staff Report.

1. The relocated sign in the northwest corner of the site shall replace the existing sign in the northeast corner of the sight which encroaches within the sight

visibility triangle and shall be annotated on the approved plans. No more than one sign is allowed per frontage.

2. Subject to the provision of a landscape plan that meets the new requirements pursuant to LDR Section 4.6.16.
3. The "Gas Station Renovation Scope of Work" noted in the upper right hand corner of the site plan shall be modified for consistency with the proposed site and landscape plan to include the proposed new paving, resurfacing and restriping of the parking lot and installation of new landscaping.

Applicant Presentation

James Gilbenbach-Architect-1239 E. Newport Center Drive, Deerfield Beach, FL.

The conditions that were set on the last approval have been made and submitted. Any other questions that you might have I would be happy to answer them.

Public Comments – None

Board Comments

Ms. Jarjura asked Mr. Dorling how long does it take usually to process building permits? Mr. Dorling said usually one month or less.

Ms. Jarjura continues by asking why an extension of 24 months when the code states 18 months. Why does the applicant need a two year extension? Mr. Dorling replied that the applicant would have to answer that. Now the project is not vested until 25% of the improvements are completed.

James Gilbenbach agreed that 18 months would be sufficient, and when I asked the person who was representing the project what is the maximum of time and they said 24 months, so that is what I put on the application.

Ms. Jarjura asked Mr. Gilbenbach when the construction would begin and he said the first part of 2014 as long as we can get the approvals.

Ms. Jarjura asked the City Attorney that this project was not setting a precedent to other projects and not deviating from the codes.

Terrill Pyburn, Asst. City Attorney asked Paul Dorling when was the extension received and Mr. Dorling said it was one (1) day before the actual expiration and I think this is not setting a precedent.

Terrill Pyburn commented that we need to look at this on a case by case basis. It seems that the applicant has some extenuating circumstances dealing with family which went to the ownership of the property and it seems that is the reason the extension was granted.

Mr. Davey commented that if they are going to start construction after the first of the year, then 24 months seems a little long.

BOARD DISCUSSION

Mr. Davey commented that he feels 18 months is sufficient time.

Dr. Spodak asked about the sidewalks and their connectivity and the northern part of the property. Mr. Dorling said that he believes that it is the location.

Ms. Shutt said that the new sidewalk is within their property line and the existing sidewalk is outside the public right of way.

Mr. Durden asked Mr. Dorling if the only change was with the landscaping. Mr. Dorling said that yes they had some conditions of approval, they have submitted plans to address those, and the only new items would be what have been submitted for landscaping.

MOTION/FINDINGS

Move **approval** of the request for an extension of the Conditional Use Modification for the Gasland Convenience Store Expansion, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, meets criteria set forth in Section 2.4.4(F)(1) & (2) of the Land Development Regulations, subject to the following conditions:

1. The relocated sign in the northwest corner of the site shall replace the existing sign in the northeast corner of the sight which encroaches within the sight visibility triangle and shall be annotated on the approved plans. No more than one sign is allowed per frontage.
2. Subject to the provision of a landscape plan that meets the new requirements pursuant to LDR Section 4.6.16.
3. The "Gas Station Renovation Scope of Work" noted in the upper right hand corner of the site plan shall be modified for consistency with the proposed site and landscape plan to include the proposed new paving, resurfacing and restriping of the parking lot and installation of new landscaping.

MOTION

Motion by Dr. Craig Spodak and seconded by Thuy Shutt. Said motion approved 7-0.

VI. PUBLIC HEARING ITEMS:

A. Corrective City-initiated rezoning from RM (Medium Density Residential) in part and GC (General Commercial) in part to RM (Medium Density Residential) for Pelican Pointe Condominium, located east of South Federal Highway, between Tropic Isle Drive and Bosun Way. Quasi-Judicial Hearing

Exparte Communication - None

Paul Dorling entered project file No. 2013-236 into the record.

The item before the Board is that of making a recommendation to the City Commission on a City initiated rezoning from RM (Medium Density Residential) in part and GC (General Commercial) in part to RM (Medium Density Residential) for the **Pelican Pointe Condominium**. The subject property is located east of South Federal Highway, between Tropic Isle Drive and Bosun Way.

Prior to 1990, the City's Zoning Map indicates that the entire parcel was zoned RM-10 (Multiple Family Residential, 10 units per acre). With the City-wide rezoning in October 1990, the northwest corner of the subject property was incorrectly zoned GC (General Commercial). This zoning designation was established in error as the site was a part of an existing residential condominium.

The mapping error was identified during the creation of the South Federal Highway Redevelopment Plan that was adopted by the City Commission on September 20, 2012. The recommendation in that Plan included that a corrective rezoning be processed from GC (General Commercial) to RM (Medium Density Residential) for this parcel.

Since the zoning boundaries of the existing General Commercial zoned area is not defined by a specific legal description and boundary lines bisects several residential buildings the entire site is referenced for rezoning. This corrective rezoning is now before the Board for action.

Required findings under Section 3.1.1 Future Land Use Map Concurrency, Consistency and Compliance, with the LDR's discussed and made in the staff report and required findings 3.2.2, that this proposal is allowable land use and compatible with the nearby adjacent land use properties.

With the required findings and that this is corrected findings the staff is recommending approval at this time.

Public Notice:

Formal public notice has been provided to the property owners within the Pelican Pointe Condominium as well as to property owners within a 500' radius of the subject property. Letters of objection and/or support, if any, will be presented at the Planning and Zoning Board meeting.

Courtesy Notices:

A special courtesy notice was provided to the following homeowners associations:

- Delray Citizens Coalition
- Pelican Harbour HOA
- Tropic Isle HOA
- Tropic Harbor Condominium
- Tropic Bay Condominium
- City of Boca Raton

Public Comments – None

Board Comments

Mr. Franciosa asked Mr. Dorling why we received a letter from Boca Raton? Mr. Dorling explained that we (the City of Delray Beach) are required to notify adjacent municipalities if we are in proximity to them.

Dr. Spodak said that we only have that one house caught in the area of GC? Mr. Dorling said actually it is a multi-family building

Motion

Ms. Shutt move a recommendation of approval to the City Commission for the City initiated request for rezoning from RM (Medium Density Residential) in part and GC (General Commercial) in part to RM (Medium Density Residential) for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and the South Federal Highway Redevelopment Plan, and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

Motion by Ms. Shutt and seconded by Ms. Jarjura. Said motion approved 7-0.

At this point in the meeting Chair Dr. Spodak made a motion for additional public comments from Mr. Jim Knight. All in favor from the P&Z Board.

Jim Knight – 10 SE 1st Avenue

Mr. Knight was here to discuss the last City Commission meeting regarding height and density. There were interesting comments made at the meeting and it was approved 5-0 supporting

69-1/2 units to the acres. The topic will be coming back to Planning and Zoning on November 18th and a lot of the controversy seems to be coming from one project. It came back from some of the commissioners that they would have preferred the previous plan which had a 60' height.

Mr. Franciosa questioned that he thought this was going to Treasure Coast for review.

Dr. Spodak said that they are suggesting a 30' maximum.

Mr. Dorling said that the LDRs allow above 30' du/ac, and above 48' by conditional use. The amendments as initiated would eliminate the ability to get a conditional use. With respect to the Treasure Coast Regional Planning Council, they will be looking for a larger and more comprehensive amendment to the LDRs. This is a short term step. The Treasure Coast Regional Planning Council process will be looking at 1-1/2 years and there is some concern that in this time frame, there would be development that could occur under the current requirement that may or may not be appropriate.

Mr. Franciosa asked if all of this will be at the next City Commission meeting and Mr. Dorling said that this will be short term LDR changes that were initiated by the commission.

Dr. Spodak asked were these changes made by the Mayor? Mr. Dorling said that the City Manager and the Commissioners met and collectively and that was the direction.

Mr. Franciosa said that he understand that what your saying is that we are going to stop these kind of projects?

Mr. Dorling replied that currently initiated, if approved, it would not allow the option to get a greater density in the downtown core. In the Treasure Coast Regional Planning Council process it is likely that in that area would scale down to certain areas.

Mr. Franciosa said that he was not clear on this and Terrill Pyburn said that it would be like a "Zoning in process".

Dr. Spodak said that clearly this means that it will not allow an applicant to get a variance for height or density.

Mr. Franciosa also asked how is this going to be advertised. Terrill Pyburn replied that it would be like any other ordinance notification.

Ms. Shutt asks that the language for the height and density be emailed to all of the board so notes can be written. Mr. Dorling explained that the language is basically going to be conditional use.

Dr. Spodak said that most is pretty prohibited but the City has paid for all this research that says in special conditions we can allow up to 100 units per acre. You see some of these projects that have already passed like Worthing Place, and it is a big decision for the strategic direction of the City.

Ms. Shutt suggested that if staff could get some data as to what has been done in the past 5 years that has exceeded this unit acre and some massing study.

Mr. Dorling said that we will have a list of what has been done over and above this. One of the disturbing trends that we are seeing is that you are getting higher and higher density request, but those are a function of the unit mix.

Ms. Shutt said that she is hearing that the process is what people are uncomfortable with as they are not seeing everything.

Dr. Spodak said that he feels that people are fearful that we are ruining the 'Village by the Sea'. They feel that more density means more traffic.

Mr. Dorling said we are going to summarize the pros and cons of density and height.

Ms. Shutt suggested that we should invite the developers to be part of the discussion.

Ms. Jarjura asked Mr. Dorling about summarizing the pros and cons of density and height, and are we going to include what the Master Plan has for recommendations? Mr. Dorling said that yes we will be referencing the language and this also reference critical components to the sustainability of the downtown. Ms. Shutt said that we had a presentation on design and density and the residents along West Atlantic did not want too much commercial.

Mr. Franciosa commented on how little commercial property is really left in the core sections of the City. After the Strand, there are not a lot left so it seems that you would have to tear something down to get any vacancy. Mr. Dorling said that the Sofa building is an example. Ms. Shutt said how much commercial would we need and is there enough residential to support this.

Dr. Spodak said with that we will either have vehicular dense or pedestrian dense and Delray is a very walkable city. But Ms. Shutt said that what we do not have the work force like other cities.

Mr. Durden asked Mr. Dorling what present recommendations are there for West Atlantic. Mr. Dorling said that the amendments you will see next month will not affect the West Atlantic area at all. The larger Treasure Coast Regional Planning Council proposal will engage the West Atlantic community and that will be 11-18 months process.

VII. REPORTS AND COMMENTS

Project Updates

Uptown came before P&Z on May of last year. Dr. Spodak asked why pocket parts were taken out. Mr. Dorling said they were not taken out, they were plazas that were functional on the street out and the P&Z Board voted 4-3 on the density to allow the increase of density and 6-1 in opposition of the height to 60'. They went forward with the staff recommendation of denial, they went to Commission with preliminary discussion and asked for it to be continue.

Also, Uptown with the 5/year Capital Improvement Plan which was enacted on September 16th, was endorsed by the commission per the budget process. In August

we did see The Strand which was recommended for approval 3-1 and the Mayor stepped down on that item.

The recommendation on community redevelopment membership, Planning and Zoning and Board of Adjustments were approved.

Terrill Pyburn asked the board if anyone has received an email from Venice Cobb in regards to public records, sunshine law and the Palm Beach County Ethics. If you have, and you have any questions please contact the City Attorney's office.

IX. ADJOURN

Adjourned: 7:08pm

The undersigned is the Secretary of the Planning and Zoning Board and the information provided herein is the Minutes of the meeting of said body for **October 21, 2013** which were formally adopted and approved by the board on **December 16, 2013**.

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.