

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: June 17, 2013

LOCATION: City Commission Chambers

MEMBERS PRESENT: Jan Hansen, Connor Lynch, Thuy Shutt, and Derline Pierre-Louis

MEMBERS ABSENT: Clifford Durden, Dr. Craig Spodak, Gerald Franciosa

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

I. **CALL TO ORDER:**

The meeting was called to order by the Chair, Mr. Lynch at 6:18 p.m. The meeting was delayed as we were waiting on the arrival of Jan Hansen so a quorum could be met.

II. **MINUTES:**

Motion made by Ms. Pierre-Louis, seconded by Mr. Hansen, and approved 4-0 to move approval of the April 15, 2013 minutes as written.

Motion made by Ms. Pierre-Louis, seconded by Ms. Shutt, and approved 4-0 to move approval of the May 20, 2013 minutes as written.

Chair Lynch 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. **COMMENTS FROM THE PUBLIC**

Jim Smith – SAFE – Our goal is to have a bike friendly city as suggested by the 2020 vision, we must start by having enough space to ride and walk. It's time to put our travel lanes on a diet and reduce them from 12' to 10'. How can we change all this?

Sue-Ann Levy – 603 Lakewood Circle W. - Journalist from Canada – Sue-Ann lives in the Hamlet but resides most of the year in Toronto, Canada. We are here tonight to comment on the Seagate HHC application of rezoning Lakewood, Section 1, Tract A, Open space to open space recreational. We are here especially for this project to find out it has been postponed. We were informed of the renovation of the golf course and create a putting area behind our home in late April. It was just a fluke that we found out about what was happening. To this day, we have never been advised of the plans by Seagate. We have not seen any plans even though we live 500 feet away from where this is proposed. Despite this change, the HHC was prepared to come to you tonight to request a rezoning change. They are only required to let the club members know of the changes.

Terrill Pyburn

This item being discussed (Seagate) is coming to the next board meeting. Comments are welcome now, but board members are not allowed to comment.

Denise Alexander – 603 Lakewood Circle W. – I am looking for comfort as I am ill with a neurological disorder in my face. There is another person that cannot be here tonight, Maria Helmick, so I am reading her letter for her. Ms. Alexander is reading her concerns.

Jim Knight – 10 SE 1st Avenue – Mr. Knight was here at the meeting to talk about an exciting give away event coming up in the Oseola neighborhood. Madam Gary and Albert Jerome had a giveaway for the under privileged children in the Haitian community and we had a great turnout and gave away over 200 bicycles and food and small appliances. On July 26, 2013, from 12:00pm to 10:00pm we will be having a Back to School Giveaway giving away 200-300 backpacks and other school supplies. Just wanted to let you know of this project.

IV. PRESENTATION

West Atlantic Avenue Redevelopment Coalition

Paul Dorling mentioned that Reginald Cox WARC Chair was here at the beginning of this meeting to present a request to the Planning and Zoning Board but had to leave to attend another meeting. They are proposing that a new committee be established. We are postponing this presentation to another date not yet decided.

V. PLANNING AND IMPLEMENTATION ITEMS:

Annual Infrastructure Hearing – Acceptance of public comments pertaining to Citywide infrastructure improvements.

Jim Smith – SAFE

SAFE certainly understand Planning & Zoning board responsibility to accept public comments. Except SAFE encourages each board members to support all of SAFE's recommendations and to also make your own recommendations. If there is anyone in the City that should understand what our infrastructure improvements should be it is this board.

Lane Carlee – 734 S. Lake Avenue

I have a few issues but my main one is the North Federal Highway Redevelopment Plan that the city approved in 1999. I feel things are lost, and even the sign as you come into Delray on North Federal Highway starts right before George Bush. It doesn't even start where the line is and that area sure doesn't look at all good. I feel that the corridor has been forgotten.

Marie Gardella – N.E. 7th Avenue

One of my concerns is going east on Atlantic near Atlantic Crossing, there is no left turn signal. On N.E. 7th traffic has increased and if there were 4 way stops, that would help.

Genie DePonte – 24 Marine Way

I think that we are at a point for the city to add another dimension. We have the walkway from Veterans Park to Marina, but we are still in neglect, i.e. the asphalt is in poor condition. Gas lights were proposed some time ago, the thought of putting benches in, were all proposed but nothing has happened.

Jim Knight – 10 S.E 1st Avenue

I am excited about the infrastructure improvements that are coming to the Osceola area. They are going to be fixing up ally ways and repaving, and street lighting. We hope this is going to encourage more people to come to this area.

Alice Finst – 707 Pl. Tavant

In our neighborhood we have had some new sidewalks and some traffic control situations. It is so confusing in this area of how you get in and out of driveways. It would be good to have someone take a look at this and see what can be changed and improved. Also, it would be a help if right turn ONLY could be put at Congress and Lake Ida and Congress and Atlantic. You just sit there if the person in front of you is not turning right.

Georgianna Cerola – 3510 Sherwood Blvd.

At 3610 to 3692 Lakeview Blvd., is underwater anytime that we have any amount of rain. Hopefully someone can come out and look at it. They did do some changes, but it is still not working.

PUBLIC HEARING ITEMS

(A.) Conditional use request to allow a free-standing multiple family housing development within the GC (General Commercial) and RM (Medium Density Residential) zoning districts for St. George, a proposed 38-unit townhouse development located on the east side of North Federal Highway, approximately 360 feet north of George Bush Boulevard. Quasi-judicial Hearing -

At the Applicant's Request this item has been postponed to July 15, 2013

(B) Conditional use request allow outside entertainment limited to a Disc Jockey in an open-air porch of the Sandbar at Boston's on the Beach, located on the west side of South Ocean Boulevard, south of Atlantic Avenue (40 South Ocean Boulevard). Quasi-judicial Hearing

Mr. Dorling entered project file No. 2013-156.

On November 9, 2011, the Site Plan Review and Appearance Board (SPRAB) approved a Class V site plan (Phase 2) associated with provision of additional on-site parking, construction of three (3) new accessory structures for storage and men's and women's restrooms, construction of a new outdoor bar, platform deck, lobster cooker hut and outdoor seating and dining areas on property previously occupied by Bermuda Inn (south of existing Boston's Restaurant). These improvements included an outside entertainment stage (platform deck) that was intended to provide opportunities for outside entertainment. While the venue (stage area) was **approved**, the applicant was informed that any outside entertainment would require a conditional use approval.

On December 13, 2011, the City Commission denied a request by Attorney George Brannen to appeal the SPRAB approval of the Class V site plan due to concerns with the negative impacts on their adjacent residence in Unit #1 of the Bahama House which abuts the south property line of Boston's Restaurant and the proposed new outdoor seating and dining courtyard.

On January 3, 2012, the City Commission considered the appeal of an administrative interpretation of the Director relating to the outdoor entertainment function. The City Commission agreed with the Director's interpretation and denied the appeal.

The Boston's Restaurant is now requesting conditional use approval to allow outside entertainment. The request is limited to a Disc Jockey situated on an existing open air porch

located within the outdoor Sand Bar. However, having an experienced DJ on-site who is able to adjust the song selections in response to the particular group they are playing for is an important component to the overall success of the Sandbar establishment.

Currently the DJ will play pre-recorded music from 12:00 p.m. to closing, which is now midnight and additionally, the DJ will not be permitted to use a microphone to amplify their voice and the DJ will ensure the City's noise guidelines are adhered to.

Required findings in the staff report are made to the Future Land Use Section 3.1.1(A) as it relates to concurrency and also as it relates to consistency, there is an analysis that this property shall be developed or redeveloped in a manner so that the future use and intensity is appropriate and complies in terms of soil, topographic, and other applicable physical considerations, is complimentary to adjacent land uses, and fulfills remaining land use needs.

There is a housing policy noted in your staff report that for a proposal for new development or redevelopment, the City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If it is determined that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.

There has been a number of complaints regarding noise and parking associated with motorcycles (i.e. see attached City Code Enforcement violations). Currently, there is no designated motorcycle parking on-site. Given the demand for motorcycle parking, it is recommended that an area on-site (i.e. preferably on the northernmost part of the site next to commercial uses on Atlantic Avenue) be designated for motorcycle parking that accommodates this demand and reduces the impact on adjacent residential properties.

Installation of an acoustifence noise barrier has been deemed successful for similar restaurants offering outside entertainment and shall be installed to reduce or eliminate negative impacts to the adjacent residences to the south. These items are attached as conditions of approval.

Also, suggested for on-site activities, inclusive of the proposed disc jockey, are subject to compliance with Section 99 "Noise Control" of the Code of Ordinance for the City of Delray Beach. We have had some recent changes with the Noise Ordinance but things have not been enforced because it has been going through this process and it is nearing completion and this project will be subject to this ordinance.

If approved, the subject outdoor entertainment in the dining courtyard area will cease at 12:00am midnight on Friday and Saturday and 11:00 p.m. on all other nights. No 24-Hour or late night operation hours for Boston's Sand Bar will be permitted without the processing and approval of a separate conditional use request. Other than the weekends, 11:00pm is definitely more reasonable than 12:00 midnight.

And then the outside entertainment is limited to a Disc Jockey without an amplified microphone. Any other on-site entertainment (i.e. live band performances) will require processing and approval of a separate conditional use request.

The DDA (Downtown Development Authority) will at its meeting of July 8, 2013, will consider the conditional use request for outside entertainment (i.e. DJ) at the Boston's Sand Bar and make a recommendation. However, the (CRA) Community Redevelopment Agency at its May 23, 2013

meeting did review the development proposal and recommended denial of the conditional use request for outside entertainment (i.e. DJ) at the Boston's Sand Bar.

Courtesy Notices:

Courtesy notices have been sent to the following homeowner's and/or civic associations:

- Neighborhood Advisory Council
- Beach Property Owners Association
- Delray Chamber of Commerce
- Delray Citizen's Coalition
- Bahamas House
- Windmere House
- Jardin Delray
- Bermuda Inn

Courtesy notices have also been sent to adjacent property owners, including but not limited to the following:

- George W. Brannen, Casey & Brannen Attorneys at Law
- Sun Prop of Florida Group
- Salina Beach House
- Salina Development
- 350 T Street

Exparte Communication

Connor Lynch said that he has not communicated with anyone on this project, but I am a longtime friend of the owners of the property and other employees, other than that I have no financial gain from knowing them and I feel and I can be totally independent.

APPLICANTS PRESENTATION

Allan Ciklin – Attorney for the Applicant

I would like to make some clarifications from Mr. Dorling's presentation. In November 2011 SPRAB unanimously approved the SandBar for outdoor dining in the bar area. At that time it was supported by Bahamas House association. At the time of opening, pre-recorded music was permitted and DJ is not. It was indicated that DJ is considered live music and we disagree. We feel that a DJ using a microphone is not live music.

Let me explain what we have done preemptively to deal with any noise coming from the Sand Bar. First of all an acoustical architect was retained to minimize the noise. On the south property line there is a wall that goes up to 11 feet and 2 feet thick which is landscaping.

Off duty policeman are on site Friday and Saturday night. The SandBar closes at midnight and we are aware of the new noise ordinance. We have moved the motorcycle parking to the other side of the restaurant and they are in the valet area.

Also, some information that I would like to relay tonight about the Marriott as both the hotel and Boston's are owned by the same person. People that stay at the hotel comment that the hotel is great and having Boston's near is convenient for them.

PUBLIC COMMENTS

Patricia Healy – 19 Andrews Avenue

I am surrounded by the hotel and yes the experience for these people is great, but what about the people that live here. We need to look at the big picture, and not just the applicant but the residents. I agree with limiting the hours. I look at the Sandbar as a daytime operation. As a resident, I like the quiet at night and not all the drinking and loud music. The thing that comes to my mind is just say 'NO'. What about all these problems that we are having in our city with our alcohol rehab centers. Why do we want to encourage people to stay longer and drink longer.

Linda Bates – 120 S. Ocean – Resident & President of Ocean Place Condo Association Board of Administration

I live 500 feet of the subject property and myself and the owners of 120 S. Ocean strongly oppose the request from Sandbar at Boston's on the Beach as it is presented in public notice 2013-156. The thought of having a DJ from noon to 11:00 pm is an awful request. Since the opening of the Sandbar we have experienced increased noise and increase traffic. When I sat on my balcony I would have to put in earplugs in order to read. I have called them several times and ask that they lower the music. If their current music is loud what is the outdoor entertainment going to be like. A DJ doesn't control the music they are there to get the crowd going. An additional violation since the Sandbar opened is the continued violation of parking at the Sandway parking lot.

Bob Victor – 120 S. Ocean

As a member of the trustees I support Linda Bates and her comments. I feel that the DJ will cause more music and does not fit the area. We hope that the beach front will be preserved and that the Conditional Use is not approved.

Genie DePonte – 24 Marina Way

I am very concerned about the new noise ordinance and the outdoor music in our city. Restaurant bars are becoming closer and closer to our residential neighborhood and not the other way around. The Sandbar is here with a conditional use to have outdoor music. The Sandbar shares common property line with residential neighborhood and is no more than 25 feet from the Bahamas House and very close to a condo building to the north. The Sandbar has a large following of motorcycles riders which increases the noise in the area. These condos were here long before the Sandbar was established and when we bought the condo we were looking for quiet. I feel when these restaurants are being built they should take into consideration that if they want music, they need to have it inside. We ask for denial of this request.

Gary Shusas – 120 S. Ocean Blvd.

I live in a condo association of 29 units and I am here tonight to represent the other 26 units that cannot be here tonight as most of these people are seasonal residents. We like Boston's, we like SandBar, we eat there a lot. But to have an open aired DJ is a bad idea. As residents we should not have to put up with this noise.

Jim Smith – SAFE

The Sandbar is a wonderful thing for the neighborhood and for the young people. As for SAFE, I took a walk around the property and I see signs that say "No Motorcycles Parking". It seems they are keeping their end of the agreement. The problem is 3 items:

1. I don't think the applicant has a plan for where these motorcycles and bicycles are going to go. When you come in from the back street or the ally, you see signs for valet parking

only, but where are the motorcycles going to park. Unless I missed something I did not see bike racks, or specifically designated motorcycle parking.

2. As far as the DJ is concerned, it is great, but when you have a DJ you are going to attract more motorcycles. What is the plan?
3. We need a NO LEFT TURN sign when coming out the ally going onto A1A.

We ask the applicant to agree to these things and if not we need to direct them to do this.

Steve Blum – Venetian Drive

I have been going to Boston's for many years and enjoy the place. I'm concerned with the introduction of the DJ, and if all these people are having these great thoughts about the music, from the Marriott or surrounding places, and bringing in a DJ without a microphone, to monitor the music, what else will they be bringing in. Why do you need a DJ just to monitor the music. I think this is a prelude to other things to come. I sympathize with the surrounding neighborhoods.

Matt Gracey – 72 S. Ocean Blvd.

I own (2) units at the Bahamas House. My comment is that Boston's is out of control. If you come into the parking lot of Bahamas House you can hear the noise now...you don't even have to get out of your car. I met with the applicant/owner about the noise and they said volume control will work. They have had at least 50 violations and no enforcement. We need to draw a line and find a solution so we can all be good neighbors.

Marie Gardella – NE 7th Avenue

I am a part time musician and I have lived in Delray Beach for 31 years and I am thinking of moving because of this noise issue here. I am thinking of moving to Naples, and I have a contact of a person that you can talk to about how they deal with their sound in their downtown area. One thing they have to do is apply and get a permit for each season that they want music.

Dr. Vic Kirson – Tierra Verde

I have 300 units, 650 residents and my people like the Sandbar. I sympathize with these people but if you were in a court of law your testimony would not be allowed. This issue will go to City Commission and they will look at all the information and it will be passed.

Tom Grihm – General Manager of the Sandbar

I have the DJ of the Sandbar here, my wife Cheryl. I think we are getting crazy about the music. We are here tonight to have the DJ, Cheryl, to choose the next song instead of a computer. I control the volume, whether it is Pandora, which is the system that we have playing or she is playing. I am in control of that and the volume stays the same.

Cheryl – DJ at the Sandbar

I have been a DJ for 20 years at corporate events, etc. and I did not know of the noise ordinance. Some of the comments I agree with and yes, a DJ is a motivational tool for the people that come to Sandbar. The Sandbar already has music there whether I am there or not.

Mark Dentley – General Manager of Boston's on the Beach and 50 Oceans

I am appreciated of all the positive things that the neighbors have said. We have been responsive to comments that have come our way. We have police detail for more than 25 years, and what we are in tune to be is that we work within the guidelines.

CROSS EXAMINATION/REBUTTAL

Jan Hansen asked Paul Dorling is there was a definition of a DJ and he said that there is not one at this time. Also, Jan Hansen asked if Paul Dorling would tell us the difference between the existing ordinance and the decibels. And also, if you could comment on the 50 citations that were issued.

Paul Dorling said that in regards to the noise ordinance, I will have the Asst. City Attorney comment on that. To comment on the citations, the noise ordinance is in process of being updated and at the time of the citations no enforcement was issued.

Terrill Pyburn commented that she has not dealt with the new noise ordinance; it has been Janice Rustin and other attorneys that have been doing research on the ordinance and has been advised by the City Commission. It is my understanding that we are going from a decibel level to an audio level standard. I believe it is 100 feet and there are certain penalties if you do not comply.

Jan Hansen asked Alan Ciklin if he had any objections to the new ordinance and you will comply?

Alan Ciklin said absolutely that they will comply with request.

Jan Hansen finally asked Alan Ciklin what are the plans for the motorcycles.

Alan Ciklin said that one of the conditions that Paul Dorling wants is to move the motorcycles from the south property and move them north away from the south property line. They used to enter close to the south property line and we are willing to and have started to implement no entrance there but to enter on the driveway north of Boston's where the valet person is and they can monitor the motorcycles. Another important thing is this condition is for an acoustifence which we are willing to install.

Jan Hansen asked how we can be comfortable that if we approve this conditional request it will be fully enforced.

Terrill Pyburn asked if what Jan Hansen was saying was could we approve the conditional use for a temporary time. Terrill said that she would like to hear staff comments first before I commented.

Paul Dorling would refer to Terrill Pyburn to whether we can do that but it is a novel idea and we need to see if legally we can do that. It has not been done in any other conditional use in the city and that might be the reason.

Terrill Pyburn said that her only concern is that if this was to be done strict parameters would have to be in place for what period of time and then how would this be enforced. Let's say after 30 days if they are not in compliance we would cite them? Would we have them come back before the board and present their case? In regards to the acoustifence, and not knowing the cost, would the applicant be willing to spend the money to do this? In order to try this conditional use on for size, we would need to implement all the moving pieces.

Jan Hansen agreed and a 30 day trial would not work out but to have a period of time to justify the initial investment, maybe 6-9 months.

Thuy Shutt had some questions for the attorney. When having a DJ you get followers and I am sure Cheryl has them. Who would be the person that would monitor and enforce the maximum occupancy of the SandBar? If there are more people than allowed who is watching this.

Alan Ciklin replied to the question of occupancy, and the fire code limits the number of people that can be in the Sandbar at one time and people will come in from time to time to, especially when it gets crowded and monitor the number of people there.

Thuy Shutt asked does this mean that there are people standing at the door counting how many people go in and out?

Tom Grihm said that over Memorial Day weekend I started a line outside of the Sandbar for people coming into the bar. Also, in regards to the nightclub DJ, that is a totally different thing. What we are looking at is to start at 1:00 pm in the afternoon on a Saturday and go until 8-9 p.m. at night. Thuy Shutt referenced that what you are saying is that this will never change in the future. Mr. Grihm said that it would not matter if we went longer, our music would not be any louder than the noise ordinance will allow. Ms. Shutt said that one of her main concerns is the hours of when the residence can enjoy their homes. And finally, can we do a re-visit of this conditional use and the fence.

Alan Ciklin said in regards to the fence, it hangs so it can probably be removed when needed. The noise will be there whether the DJ is there or not but with the DJ there it would control the noise.

Thuy Shutt said that there is no definition between a day DJ and a night DJ, I am trying to understand how we can address the residence concerns and address future concerns should we have changes. I am trying to be very specific, because we don't have anything that we can point to.

Alan Ciklin stated some conditions that we already have:

1. No microphone for the DJ
2. Only pre-recorded music
3. Fencing
4. New bike location.

Connor Lynch ask Paul Dorling the question of how have we gotten to this point of the Conditional Use.

Paul Dorling said that any outside entertainment is thought to be anyone up there facilitating the music and helping to entertain them.

Derline Pierre-Louis commented that there is a lot of concern with the decibel level...the noise. From the staff there has been complaints and citations, but the residence say yes, the owner say no. Not sure of what is going on. Paul Dorling said that there is a whole list of them in the staff report. I am not sure if the owner is aware of this.

Connor Lynch wanted to make it clear that the police have been called, but the owner says that they have not received any violations. These are two totally different things. Paul Dorling again says that we do not have an updated code and the new ordinance is different now.

Before we continue, Connor Lynch wanted to specify in the staff report that on Page 8 the timing is meant to be 11:00 p.m. The hours right now are 11:00am to midnight, 7/days a week and it is

being requested that they have a DJ at this time. If approved you are asking for 11:00 am to midnight, Saturday and Sunday and 11:00 p.m. all other nights.

Terrill Pyburn addressed the board and the audience to point out that this is a conditional use and the only thing that the P&Z Board can do is make a recommendation one way or another to the City Commission and ultimately it has to be decided by the City Commission.

MOTION/FINDINGS

Mr. Hansen made a recommendation of **approval** to the City Commission for a Conditional Use to allow outside entertainment (i.e. DJ) associated with Boston's Sand Bar, 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 meets criteria set forth in Sections 2.4.5(E)(5), and Chapter 3 of the Land Development Regulations, subject to the following conditions #1-5 as follows:

1. Installation of an acoustifence noise barrier to reduce the impact on adjacent residential properties. This will require subsequent processing and approval of a Class II Site Plan modification application and should include landscaping on both sides of the fencing.
2. Given the demand for motorcycle parking, it is recommended that an area on-site be designated for motorcycle parking that accommodates this demand and reduces the negative noise impact on adjacent residential properties to the south. The preferred location would be at the northernmost access point closest to commercial properties on East Atlantic Avenue.
3. All on-site activities, inclusive of the proposed disc jockey, are subject to compliance with Section 99 "Noise Control" of the Code of Ordinance for the City of Delray Beach.
4. If approved, the subject outdoor entertainment in the dining courtyard area will cease at 12:00am midnight on Friday and Saturday and 11:00 a.m. on all other nights. No 24-Hour or late night operation hours for Boston's Sand Bar will be permitted without the processing and approval of a separate conditional use request.
5. The outside entertainment is limited to a Disc Jockey without an amplified microphone. Any other on-site entertainment (i.e. live band performances) will require processing and approval of a separate conditional use request.

Also,

6. Subject to only pre-recorded music being used as stated by the applicant, similar to Pandora.
7. Subject to a recommendation to resolve the motorcycle issue as stated in the staff report.

Connor Lynch said that we are adding Items #6 & #7.
Motion by Mr. Hansen, seconded by Ms. Shutt (with discussion)

Ms. Shutt added the changes from 11:00 A.M. to 11:00 P.M. in Item #4 and also to revisit this Conditional Use in 1 year after the noise ordinance has been put into place.

Connor Lynch replied that this Conditional Use is not grandfathered in and anything that is done after the noise ordinance is put into effect, could restrict the applicant further from whatever is decided.

Terrill Pyburn said the applicant would have to comply with the noise ordinance which is currently proposed and I believe the current language and conditions are in draft but they would still have to comply with the future noise ordinance.

Jan Hansen said with this information, we should recommend a 1/year condition.

Terrill Pyburn said that the best way to enforce the Conditional Use is if there is an issue that they are not complying with in the conditions, we will cite them and revoke the Conditional Use. But I would suggest that you can have staff look at it within a year once they have all these things in place, and make sure they are complying, but at the same point in time I would think it would be more effective to be as specific as possible in your conditions to what you really want out of this as you might not be on the board when this condition comes here again.

Connor Lynch said that when you are determining this Conditional Use for a year, are you leaving this up the applicant coming back to the board, or staff discussion so they can review this? There is a level of concern that was mentioned on whether this will get out of hand during this time.

Thuy Shutt commented that there should be no noise violations during this 1 year of condition and should there be, the applicant should be brought back to the Planning and Zoning Board for re-evaluation and it could mean limiting time. What I don't want to happen is if they are doing what they are supposed to be doing, I don't want them to have to go through this public hearing again. I think it needs to be more than staff discretion.

Terrill Pyburn explained that what they were discussing earlier was that the restaurant Chez Mika, where if they had 3 violations their Conditional Use would be revoked.

We have an amended motion for Items #6, #7 and #8 (# 8 to read 'If they have a maximum of 3 violations in a year their Conditional Use would be revoked').

Amended motion by Mr. Hansen, amended seconded by Ms. Shutt. Said motion passed with a 4-0 vote.

VI.C.City-initiated amendment to the Land Development Regulations by amending Section 2.4.3 "Submission Requirements", Subsection (D) "Preliminary Engineering Plans" and Subsection (F) "Final Engineering Plans" to provide for bus shelters; enacting a new Section 6.1.14 "Transit" to provide for bus shelters (Continued from May 20, 2013)

Mark McDonnell presented to the board and said that the board had questions at last month's meeting, and staff did the research and provided answers to them in the background section. We added a clause under the transit stop to provide sufficient lighting. Staff recommends approval.

PUBLIC COMMENTS – None

BOARD DISCUSSION – None

MOTION/FINDINGS

Move a recommendation of approval to the City Commission of the amendment to Land Development Regulations, **Section 2.4.3 “Submission Requirements”, Subsection (D) “Preliminary Engineering Plans” and Subsection (F) “Final Engineering Plans”, and enacting a new Section 6.1.14 “Transit” to Provide Criteria Associated with Transit Stops**, 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. Hansen and seconded by Ms. Shutt to. Said motion approved 4-0.

VI.D.City-initiated amendment to the Land Development Regulations by amending Section 4.6.9(D)(3)(c) to reduce the stacking distance for parking lots with 51 or more spaces when there are multiple access points.

Mark McDonnell presented to the board that currently when we have parking lots being designed, and we have 51 or more spaces, they automatically require a minimum stacking from the street system to the parking lot be a minimum of 50 feet. When staff has an application of a parking lot with more than one access point, we consistently support waiver requests that they be reduced to 20 feet. When this consistently happens it is time to change the code. We recommend approval.

PUBLIC COMMENTS – None

BOARD DISCUSSION

Connor Lynch wanted to comment that if there are multiple ingress or egress points in a parking lot, but there is one that is clearly heavily used. There is really nothing to give staff a reason to look at this. Is there something we can do?

Mark McDonnell said that we are going to look at it on a case by case basis.

Thuy Shutt asked if we could do a traffic study in this parking lot, but it was suggested that the parking lot is really too small to do this.

Mark McDonnell said that we already have something in the code about this which allows us to do this. We could analyze the performance of the circulation with reduced stacking under the current code.

MOTION/FINDINGS

Move a recommendation of approval to the City Commission of the amendment to Land Development Regulations, **Section 4.6.9 “Off-Street Parking Regulation”, Subsection (D), “Design Standards”, Subsection (3), “Point Of Access To The Street System” To Reduce The Stacking Distance For Parking Lots With Two Or More Access Points**, 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) subject to a staff performance analysis.

Motion by Mr. Hansen and seconded by Ms. Shutt to. Said motion approved 3-1. (Thuy Shutt dissenting).

VII. REPORTS AND COMMENTS:

BOARD MEMBERS

Parking Management Advisory Board (PMAB) – Mr. Franciosa is not present at meeting.

STAFF

Meeting Dates for July

Project Updates

Uptown Delray – Recommend denial and they went back with changes.

Church at Congress Square approved by City Commission.

Abandonment of the Fairfield Inn approved by City Commission.

VIII. ADJOURN

Adjourned: 8:45pm

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 **June 17, 2013** which were formally adopted and approved by the board on **July 15, 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.