

**MINUTES
PLANNING AND ZONING BOARD
CITY OF DELRAY BEACH
REGULAR MEETING**

MEETING DATE: July 20, 2015

MEETING PLACE: City Commission Chambers

MEMBERS PRESENT: Robin Bird, Jay Jacobson, Christopher Davey, Steve Mackey, Mark Krall, Joseph Pike, Gerald Franciosa,

MEMBERS ABSENT: None

STAFF PRESENT: Tim Stillings, Director of Planning and Zoning, Mark McDonnell, Scott Pape, Janice Rustin, Assistant City Attorney and Diane Miller Board Secretary

1. CALL TO ORDER

The meeting was called to order at 6:11pm by Robin Bird Chairman. Upon roll call it was determined that a quorum was present. Chairman 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.

2.MINUTES – May 18, 2015, APPROVED

3.CHANGES TO THE AGENDA

Christopher Davey

When I looked at the minutes of May 18, 2015, I had noted that we had discussed at the meeting that we would defer Items 8B and 8C, would it be a new application if there was additional land added to these projects. I wanted to find out before we approve this agenda should these be on the agenda this evening because there is an additional lot as part of this application now, and if so is it an application that would be a new application, because I think that was the consensus of the board at the May meeting.

Robin Bird

Is there anyone on the board that would like to speak about this?

Gerald Franciosa

Is this the property south of the project?

Christopher Davey

Yes, the additional lot which the applicant is under contract to purchase according to the documents in our packets.

Gerald Franciosa

Also, I was wondering why we got this packet so late. I got it at 2pm this afternoon, and to go through all the documents?

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Tim Stillings, Director of Planning and Zoning

The package that you received last week was the full package. This weekend one of the board members requested a larger scale of the plans, and in the interest of providing all the board the same information I had the same plans distributed to all the board members. You did get the full information in your packet, just in a smaller scale.

Gerald Franciosa

So I am to read all these questions and answers in this booklet. How am I to read all this information 4 hours before the meeting.

Tim Stillings

Actually it should have not been attached to the packet; it should have only been the 24 x 36 set of plans.

Gerald Franciosa

Why then should this have been submitted? This wasn't important in order to make a discussion on this project?

Tim Stillings

In terms of the conditional use approval, one of the problems is traffic concurrence approval, and within the TCEA (Traffic Concurrence Exception Area) they already meet that. So the traffic concurrence was submitted for informational purposes only.

Joe Pike

That was my original question and maybe the city attorney opinion on this.

Janice Rustin

Tim Stillings will answer that question.

Tim Stillings

They are not adding this piece of property known as the Martini Property to the development site.

Christopher Davey

So we are not considering that this evening?

Tim Stillings

As part of the alley abandonment to provide connectivity of the alley so that you have two (2) access ways and not create a dead end alley, that is being offered and the applicant can speak on that. However it is not included in the overall development proposal.

Christopher Davey

But it is included on their plans.

Tim Stillings

I think it is referenced on their plans.

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Christopher Davey

I would like to say to you when we looked at this previously the board was clear, and reviewing the minutes if there was any additional land included in this it would result in a new application. When you look at this they are absolutely adding and it is on the plans, they have done studies on it.

Robin Bird

Let me ask this a different way, was that land included in the advertisement? Did we not re-advertise and re-post this, put it on the agenda. Is this part of that agenda item as part of the legal description for conditional use?

Tim Stillings

No. It would have been for the alley abandonment portion and for the property boundary which is not included (Martini property) that we are discussing.

Robin Bird

So it is not listed as part of the application and the legal description included for the agenda purposes or the advertisement and we did do a mailing.

Tim Stillings

That is correct.

Robin Bird

Was the legal description included with that mailing?

Tim Stillings

Yes.

Robin Bird

There was no legal included in that.

Christopher Davey

Then why are we even looking at this. In fact at the meeting in May, the chairman was adamant that the fact the applicant's attorney said that they would have no problem bearing the cost of re-advertising.

Tim Stillings

Which we did re-advertise?

Christopher Davey

But the alleyway that is on these plans and the lot which it says, this person owns and it's the justification of why we are here tonight. This alley should be abandon and because they are going to make a change under adjoining properties that they are under contract for. That is their justification as to why we should be granting that?

Tim Stillings

It is being proffered a way to insure that the alley is not dead ended.

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Christopher Davey

So basically it is being included as part of their application.

Tim Stillings

For the alley abandonment not for the conditional use.

Janice Rustin

Under the abandonment process we can add conditions to help satisfy those findings. The Martini property as I understand it, is to support a condition that may or may not be added to the abandonment. So it is not part of the initial application I believe.

Robin Bird

I don't believe the addition to the property makes any difference one way or another for the alley abandonment. It is specifically for the conditional use and we gave specific direction that if the property was to be added there is a new conditional use application to include with that property.

Tim Stillings

It is not part of the project boundary that would include a theater or other uses within that site.

Agenda approved as presented

Approved unanimously

5. COMMENTS FROM THE PUBLIC NOT ON THE AGENDA - None

6. PLANNING AND IMPLEMENTATION ITEMS

Public Annual Infrastructure Public Hearing Review

THIS ITEM IS POSTPONED TO A DATE CERTAIN OF AUGUST 17, 2015.

7. PUBLIC HEARING ITEMS

A. Fido's Play N Stay

Exparte Communication – None

Mark McDonnell, Asst. Director Planning and Zoning - Mr. McDonnell then entered into the record 2015-187 Use and presented the item through a review of the staff report.

Applicant Presentation

Michael Weiner for the applicant.

Tom Petro – Owner

We don't have any objections with the conditions and please adopt all five (5) conditions.

Public Comments - None

Board Comments

Gerald Franciosa

Will there be a dumpster enclosed and also sufficient sound proofing in the walls?

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Michael Weiner

Yes, all that will be taken care of.

Robin Bird

Is there a certain material that you use for sound for the adjacent tenant?

Steve Siebert – Architect for the project

The current tenant has masonry and it is a higher STC than anything we could build. I don't believe there will be a problem but if so we can add sound bats and sound boards to help.

Robin Bird

Are you going to have any pick up or drop off?

Thomas Petro

No drop off.

Steve Mackey

Any plans to expand?

Thomas Petro

Not at this time.

Motion was made by Mark Krall and second by Gerald Franciosa to recommend approval to the City Commission for a Conditional Use to allow a kennel for Fido's Play-N-Stay, 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 Section 2.4.5(E)(5), and Chapter 3 of the Land Development Regulations, subject to the following conditions:

1. Approval of a Class I Site Plan Modification that is in general conformance to the submitted concept plan and satisfies any outstanding technical comments from City Departments and includes plan notations, including but not limited to the following:

a. Transfer the parking data chart in this report to the concept plan which summarizes that no additional parking is required.

b. Notation: Include on concept plan the method of collecting and disposing of animal waste, and the frequency.

c. Notation: Include on concept plan that per LDR Section 4.4.20(D)(10), no on-site disposal of carcasses is allowed.

d. Notation: Expansion of any use area outside of the two bays within which the kennel is proposed will require a modification to the conditional use.

2. Provision of a dumpster enclosure for the refuse container intended for this conditional use, prior to issuance of a certificate of occupancy.

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3. Ensure common wall with adjoining tenant includes sound attenuation, if needed.
4. No pick-up or drop-off in any travel aisles.
5. If waivers are needed to satisfy any of the above conditions, then the site plan will require approval by the Site Plan Review and Appearance Board (SPRAB).

Motion approved 7-0

B. Fourth & Fifth Delray: Conditional use requests to allow an increase in the building height to exceed 48 feet (59.5 feet proposed) and to allow the establishment of a movie theater (iPIC Theater), to be located south of East Atlantic Avenue, between SE 4th Avenue and SE 5th Avenue. (Quasi-judicial Hearing)

Robin Bird

I had a request through the Planning and Zoning Department to also have Item C presented at the same time and a extension of 10 minute courtesy for a total of a 30 minute presentation.

Also, my opinion would be that the abandonment should be considered first when it comes time for a vote or during the process. If they don't get the abandonment the conditional use is not relevant. It is going to be difficult to have one without the other.

Janice Rustin

Even if you don't have positive recommendation on the abandonment I suggest you go forward with the conditional use. And are you going to take it to the board for additional time?

Joe Pike

I certainly don't have a problem with that otherwise we will have two (2) 20 minute presentations. If we consider them as separate motions then they will be 20 minutes apiece.

Christopher Davey

In the past we have granted people an additional 10 minutes for a total of 20 minutes.

Robin Bird

Before I grant this will I have to have two (2) sets of public comments?

Janice Rustin

You will do one presentation with 30 minutes if that is the boards pleasure, the public will still be entitled to 3 minutes and the board can grant more time.

Christopher Davey

One of the items is Quasi-judicial and the other one is not. They are entitled to 10 minutes on each one.

Janice Rustin

As we are combining the two, it becomes one item, one set of public hearing and then we don't have to stop.

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Robin Bird

Mark are you prepared to make one presentation?

Mark McDonnell

I will go from one project into the other in whatever order you choose.

Janice Rustin

To clarify, there will be Mark's presentation on the conditional use, the applicant will make their presentation, the public will comment on just conditional use.

Robin Bird

They can respond accordingly.

Janice Rustin

When is staff presenting on the abandonment?

Robin Bird

They would present immediately at the next hearing.

Joe Pike

Regardless of the presentation the votes will be taken separately and the presentations combined.

Steve Mackey

I like the combined presentation from the applicant and if the city wants to make 2 presentations that is fine.

Robin Bird

One of the items is quasi-judicial and the other one is not, but by combining them they will fall under the quasi-judicial rules.

Janice Rustin

I agree on that.

Joe Pike

Essentially you will provide the applicant with more time.

Robin Bird

The matter before the board, we will go to public comment for 3 minutes and more if needed,

Janice Rustin

In regards to cross examination, our procedures are that questions are submitted in writing to the Chair, the Chair then ask the public for cross examination. Applicant if you have cross examination of the public only, provide the questions in writing to the Chair and then the Chair will ask the questions. The goal is to be as fair as possible to all speaking.

Exparte Communications

Jay Jacobson – emails

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Mark Krall – emails, and numerous people I have spoken to.
Robin Bird – numerous people I have spoken to and emails
Christopher Davey – emails
Gerald Franciosa – numerous people and emails
Steve Mackey – emails
Joe Pike – emails

Mark McDonnell, Asst. Director Planning and Zoning - Mr. McDonnell entered into the record 2014-143 Conditional Use for the Fourth & Fifth Delray and presented the item through a review of the staff report and file number 2014-146 Abandonment for the Fourth & Fifth Delray.

The staff recommends approval of the request of the *abandonment* for a portion of the north/south alley right-of-way located within Block 101 of the Town of Linton Plat as referenced, 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 Section 2.4.6(M)(5) of the Land Development Regulations, subject to the following conditions:

1. That the Martini property be acquired and redeveloped to provide vehicular access to SE 4th Avenue from the alley prior to issuance of a building permit.
2. That the applicant resolve any concerns of the affect and utility service providers prior to issuance of a building permit.

Applicants Presentation

Bonnie Miskel – 14 SE 4th Street – Representing iPic.

I am going to reverse the order and start with the abandonment. This project is called 4th and 5th Delray, it is a project comprised of approximately 43,000 sq. ft. of office with a significant portion of which iPic intends to move their corporate office. It also includes about 43,000 sq. ft. of theater which is located on the first floor and it includes on the Southeast 4th Avenue about 7,986 sq. ft. of retail.

(Bonnie points out on the screen the subject property of abandonment and describes the overlay from a survey)

This is primarily the north portion of the north/south alley and the area of surplus right-of-way on the north side of what will be our parking garage. It amounts is approximately 4,832 sq. ft.

We are also offering this evening a couple of additional easements and dedications that the City doesn't already have. There is a 4' strip along the north side, abutting Southeast 5th Avenue to make what is currently the substandard 16' wide alley to bring it to 20'. So we are agreeing to convey that to the City in order to make this alley more conforming. You will note in your packet some of your letters or one that referred to the congestion and problems when the property that is fronting on Atlantic Avenue have deliveries and other service vehicles that serve their properties, the 16' wide alley does not serve them properly, so it is our goal to give them an additional 4' which will make access much better for them. Also, we are asked to convey 2' over on the north/south alley, which is substandard to bring that up from 16' to about 18'. There has also been much discussion on the Martini property. *(Bonnie points on the screen where the property is located)* So the sum total of all the area that we are agreeing to convey or provide easements to equals 6,301 sq. ft. So although we are asking today for 4,832 sq. ft., we are giving back to the City 6,301sq.ft. to improve existing conditions that are substandard. So with the introduction of the Martini outlet, this north/south alley will be able to continue out so that vehicles for delivery,

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utilities, fire services, etc. will not be in a position where there is a dead end for them and they have to back out but rather be able to move on and out to SE 4th Avenue.

I am going to invite Shawn McKenzie, Traffic Engineer to speak how the configuration will work.

Shawn McKenzie –McKenzie Engineering and Planning – representing the applicant.

We would like to first say that there is not detrimental or negative impact from the alley abandonment itself. The alley currently serves the parking lot for the old Chamber of Commerce and the library and once that parking lot is redeveloped the need for that north/south alley is significantly reduced and essentially goes away. Additionally, deliveries and utilities need access to those back alleys and with the profering of the Martini property they will have full circulation in and around that area. Also, that north/south alley provides for circulation for the properties to the south and one of the main reasons is that 1st Street is one way and that is planned in the very near future to become a two way street and that will help the circulation problems. The applicant is adding 4' to the east/west alley on the north side of their property creating two 10' travel lanes which are the same width that you find on any collector road to a county standard.

Bonnie Miskel

As Mark McDonnell had mentioned the first criteria that we have to provide or meet is that we have to show is that there is no longer a need for that section. With the new introduction of this outlet and the improved access with the wider alleys, there is no longer a need. The alley was originally designed and platted for service vehicles and we are expanding the conditions so that actually we are improving the width in order for what has happened. The next standard that we must meet is that we are not depriving anyone of any legal access. They will have the same access as they did before but with improved access as the turning movement and the width of this particular outlet is standard not sub-standard. We are also dedicating additional land along our property line in order to widen the alley. And also, finally, we are not depriving or creating any detriment to provisions of public utilities or other access that we have described by not dead-ending the north/south alley. One last thing, the reason that we designed like this, and some people will remember that participated in the RFPs back in 2013, but when the RFPs went out it advised all of the applicant that they should design with the abandonment of the north/south alley. So we have designed in accordance with what the CRA has asked for. Also to remind everyone in case you did not know, the two prior RFPs that went out before had the same language. The respondents to those RFPs, it was more of a mixed use with a hotel component and they designed with the similar outlet to SE 4th Avenue however it went through the parking garage. We feel this is much improved.

Joe Pike

In respect to the alley, on our version of the site plan, it shows about where the radius is, it shows 16' on the alley width going north and south. Is that the case or is it going to be expanded to 20'.

Bonnie Miskel

On the north/south we are adding 2' on the east side of that alley and I believe it was 16' before so it is going from 16' to 18' on the north/south and 16' to 20' on the east/west.

Joe Pike

Shown highlighted in yellow on the plans, it still showing a 16' width there and it is typical in Delray Beach for alley that are below 16' platted alley, they usually look for 2' and 2'. So what I

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am suggesting since you have Martini parcel I would think you would have a full 20' width for the extent of the Martini parcel and beyond that we would have the width.

Bonnie Miskel

We would be happy to do that.

Joe Pike

On the dedication, as far as the east/west alley, that is showing, and Mr. McKenzie had testified to 20' width, it is only 16' of drivable width and the curb is on the outside. Typically the City wants the curbing on the outside of the 20' of asphalt.

Shawn McKenzie

It is my understanding it will be 20' of pavement width plus there will be a sidewalk and curbing on the outside of that.

Joe Pike

That is not shown on the plans.

Bonnie Miskel

We will revise that.

Robin Bird

If it is 20' where are you going to put the curbing?

Bonnie Miskel

Our intention was that the sidewalk will be on our site. The site plan has yet to be finalized yet.

Bonnie Miskel

Moving on to the condition use approval, iPic is not like any other theater I have ever gone to. It is a boutique, intimate, small theater environment and it is intended to make you feel like you are in your home.

(Bonnie shows pictures on the screen of the Boca Raton iPic and describes some of the amenities)

Our proposed theater is a theater only, and our theater is on the first floor. Our first floor is not typical as we have stadium seating. It would be impossible to have the grade where the seats are and have your 12'-14' floor to ceiling, so it has to be taller.

(Bonnie points out pictures of theater as she speaks)

The first floor is 29.75' so we are almost double what the standard office would be because of the stadium seating and the risers. It is not significant as a regular movie theater, ours are between 40-90 seats per theater, about 528 seats. The reason we are asking for the height, we are asking for a little less than 12'. If we did not have a 30ft first floor I would not be here right now.

(Bonnie goes into explaining about the interior of the building, ie. Bars, where the movie theaters are, food, etc.)

The principal entry to this building is actually on SE 4th Avenue, through the parking garage. Our valet is on the west side of the building and the entrance to the valet is off of SE 4th Avenue, a right turn onto the alley and a right into the main building area. All other parking will come off of SE 4th Avenue and enter and go up the ramp. We are required to incorporate into the parking garage 50 public parking spaces and we have increased that to 72. Our times for the movies are staggered and they are down from 45 minutes to an hour for provisioning. So no two theaters will

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be leaving at the same time. So the ingress and egress whether it is pedestrian or vehicular will be staggered.

To talk about the 2nd floor office, we have step back the 1st floor significantly on all sides except for this alley. At our last meeting in December it was mentioned a couple of problems. One was how the parking was going to work and our traffic engineer will get into that, and the other was are we asking for something more than we could have done under the new code. The new code allows us to go to 54' in height. So the difference between the two codes, or what we are asking for, is about 5'5". But what we ended up doing is designed a building mass under the new code because you need to know what the differences really are. What we learned, under the new code it doesn't have some of the percentages of frontage and the step movements we actually would get more square footage under the new code than the old. The problem that we have is the 30' floor to ceiling on the first floor for the movie theater and that is something we can't eliminate due to projection systems and stadium seating.

Joe Pike

I have some parking questions.

Robin Bird

I would like the presentation to be complete.

Bonnie Miskel

We did last week an analysis, and realize these figures are on our peak season.

(Bonnie showed charts on the screen of ticket sales vs cars and showed the math of it. It was a comparison to Misner Theater. All this can be obtained from Bonnie's presentation. This analyzed from July 7th – 10th)

Shawn McKenzie

What we did was analyzed everything from City code, and not satisfied so we took a more detailed look at how a iPic Theater would work within the parking garage that we have proposed.

(Shawn went through his pictures on his presentation and showed the comparison from different times of the day)

Robin Bird

Who are the office tenants?

Bonnie Miskel

Right now we just have the iPic corporate office so they are expecting somewhere between 20,000 – 23,000 sq. ft. So there is a balance of 20,000 for Class A office space. Also what this chart that you are looking at does not show is the 72 spaces that we are giving to the City and will always be public and will be posted.

Public Comments.

Bob Ganger – 1443 N. Ocean Blvd.

I don't have a point of view on whether you should approve the Conditional Use and/or alleyway. Listening to these presentations this place is very close to Atlantic Crossings and their restaurant use is about 40,00sq.ft. and will probably have about 1000 seats and having people arriving about the same time as the movie theater. And thinking about this traffic I was reminded of the board chairman some time ago made a great statement that 'Gridlock is good, it means we are hot'. And

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we need to look at everything and see if we can live with this or not. I also think that people have concerns in regards to dropping off people on Federal Hwy. and they will think that this is the primary entrance. Regardless how this all comes out, please push the Commission to really examine this project and the City.

Karen Granger – President and CEO of the Great Chamber of Commerce of Delray Beach

We are really thrilled about iPic because of jobs that this project will bring to Delray Beach. Not only the job but that the corporate offices will be here. The jobs that will be available for our college students coming home for the summer will be great. We are also excited about the office space and how it is much needed in our downtown area and how we lose some large corporations because we don't have the accommodations. Please try and work out any issues that you have with this project.

Gary Eliopoulos – 314 NW 7th Street

I am speaking as the former architect and/or RFP team that worked on this site. We worked on a hotel library and it had retail, hotel and 40,000sq.ft of office space. Everything that this developer is going through is the same thing we had. The abandonment was never a question, you always had to do that. In regards to the north/south the developer approached the Martini property to purchase it as it was more for the emergency vehicles to get in and out. Here is a project that will feed our downtown in many ways which is very important.

Ryan Boylston – 2 NW 24th Street

I am a business owner in Delray and I know that you are going to hear about the likes and dislikes about this movie theater. I get myself around town and don't have to worry about parking. There was a RFP that was put out for this and it is the lowest impact in comparison to what other people wanted to do on that land. We need office space in downtown and with this we also get iPic headquarters. We said no restaurant, or apartments and we got that. No traffic study is required but they did one and are working with FDOT on changes. This company is bringing a concept that is opposite to our season which is the summer.

Cindi Freeburn -371 Mallory Circle

There are a lot of good aspects to this project, and I am not anti iPic, but a lot of the PR efforts have been focused around the movie theater and the jobs. Jobs and a movie theater are not going to support those young people that will live downtown. I think my concerns are more with the CRA and their RFP than the iPic people that pretty much followed what we asked for. I think there is an ownership that dates back to the Linton family from this property and some usages that they had with this property remaining in the public realm. Please vote against this project as it is too big. It does not fit in our City and stick to the rules and say NO.

Deborah Schwartz – 115 NE 12th Street

It seems this is all very expensive and too big. It doesn't belong in this town, but a movie theater would be great but too massive with everything else that is going on in our town. The height is too high and the staggered parking is in question of how it will work. By the statistic by the developer they are anticipating 400,000 new visitors to Delray Beach to see movies at this theater. Where are all these people going to park, on peoples lawns? They are also talking about abandoned the alley. Why are we giving these alleyways away. I don't understand, isn't this your property, isn't this my property. Where does the CRA have the right to give this property away. My suggestion is to put

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the headquarters on Congress Avenue or Atlantic Avenue West. Have a small movie theater downtown for the visitors and the residence.

Richard Bay – 2175 S. Ocean Drive

This is about two different visions for our community and our community because we live here. We have heard the “Gridlock is hot”, “Density is the utmost importance”. If that is true we can go live on Las Olas, we can live in South Beach, there are alternatives. We are not anti-growth, we want responsible growth. I happen to not like the iPic experience, I happen to like films and cinema. And lets talk about parking. When people come out of the theater they go downtown for a drink or a walk and their car stays at the iPic, and their parking space has still a car in it. What I see here today are people that don’t follow the rules and keep asking for more. Support a vision of Delray.

Ari Whiteman – Washington Road

The decision is split, but residents, business owners, P&Z all had the opportunity before to get involved and reference to this development. At this point this thing is going through. The developer has done everything you have asked and just go ahead and approve it.

Robert George – Ft. Lauderdale

I live in Ft. Lauderdale but I have family that has been here since 1911 and we still own property. A lot of things I have already said but in regard to this project, the east/west alley is a commercial alley as is the north/south alley which is put up for abandonment. These alleys are heavily used, and not like any other alley where there is grass growing and no one uses it. These are used by supply trucks to our businesses. Some of these trucks are very large and have nowhere to park. I know that they want to widen the alley but 4’ is not enough. Cars coming through have nowhere to go when the trucks are there. You have to understand that this building is going to be a City block wide and rise 3 story. You don’t think they will not have trucks coming to the theater to deliver. You are going to have an extra load of trucks and how is this going to be alleviated, dump it on 4th Avenue. One more thing to remember, these allies were given to us by W.S Linton. He gave them not to the City, not to a developer; he gave them to the public to be used as roads and perpetuity on July 25, 1896, written on the plat map.

Michelle Soudry – 226 S. Swinton Avenue

This has been an interesting 4 days here being on social media communicating facts to the public. Its a great process where people can have their own opinion but the facts are the facts. There was a man here tonight talking about iPic ‘breaking the rules’. There are some people here in the world that believe that the greatest visionary in the world are visionary that have thought of unique ways to do something in a very different manner and that is what iPic is all about. Cities are dying to have the iPic come to their city because of the visionary aspect of the project. Yes, this is a very comfortable experience, this is a home that everyone wants to go to. This iPic is what the City of Delray Beach needs. I have spent years servicing the majority of restaurants on the avenue of Delray Beach and some of these people will be speaking tonight and they are crying for business. They do not build self-sustainable parking, but this parking is what iPic is building. Yet you have people here tonight saying that they are hiding information. I have spent so much of my time in the last few days trying to inform and educate people on Delray Raw and Take Back Delray because of misinformation. You have a quality South Florida developer who is doing everything that he can possibly do to show that he has worked with City officials, elective officials, listened to

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residents, and has met with Jim Smith on (3) separate occasions and he said that they have refused to meet with them and that is not true.

Ron Luko – owner of the Blue Gallery

I have been in this City for 10 years and I see the development of the City and I think this is a good thing. I support the iPic coming to the City. I have spoken to other business owners and they all want this iPic to come to this City. Bring a lot of good traffic to the avenue.

Jim Smith – Chairman of SAFE – 1225 S. Ocean Blvd.

I would like to start and talk about the alley way abandonment. Yes the north/south alley way is an asset to our City as people have said. The difficulty that it is an asset is that it does have value, obviously because it is being taken from us. Another difficulty is the traffic and the big trucks and now they have to exit on Federal Hwy. which is exactly what we want them to do and not go on the City streets. That alleyway will adjacent to the entrance and exit of their parking garage. So many conflicts with this route and this would be a traffic zoo.

Density, everyone wants a movie theater and more jobs, but the bottom line is that iPic is trying to squeeze 8-screen multi-plex in a 40,000 sq.ft. office with 320 parking spaces into the most traffic sensitive corridor of Delray by taking over the public alley way to build it. This would not happen if they didn't have the alley ways. There is no turning lane for 4th or 5th Avenue and traffic will be backed up and clogging the avenue. All this does not take into consideration the freight trains, All-Aboard Florida, Tri-Rail. But what we need is a traffic count, we have never had one and we need to know how many cars we have now than we can take all the plans and add to it and then we can forecast it. An what about the traffic on 7th that will be moved to Federal because we are going to close the street.

Other things to address, the height is not compatible or will it be in the future and the Master Plan has completely been disregarded. We ask here tonight to postponed your decision, ask for more outreach.

Kevin Warner – Venetian Drive

I am not sure if they mentioned if a traffic study will accommodate Sofa and the other monsters that are going up a couple blocks south of Atlantic. I would like someone here to verify that....does the traffic study you have completed accommodate the buildings that are south of Atlantic and Atlantic Crossings. It seems that it is crazy to talk about traffic study for iPic without what is happening in the area. With that , when are we going to get the County to comment on that traffic study because this could be the biggest problem with this project.

Rita Vana – 50 East Road

I love the passion on both sides, and we are a big family trying to keep this project alive. Everyone is comparing iPic to Mizner Park in Boca Raton but Boca does not have the challenge of a two lane road near a bridge that goes up and down every half hour. Around the corner is Atlantic Crossings with the same square footage as Mizner Park but with no comparison of the ingress, egress.

Please, pay attention to what is happening to Old School Square, don't let what happened to Atlantic Crossings slip underneath us, and the iPic slip underneath us....start getting involved now.

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Dr. Victor Kirson – Tira Verde

We have another Atlantic Crossings. I was here in the beginning and I advised the beach property owners that they should get an attorney because the vote was in the bag. Now looking at the project you have to realize that this will not fit and anyone can understand that. I will be eager to see how you vote (the board) and who put you there.

Bruce Gimmy – 439 E. Atlantic Avenue

I would like to talk about public safety and common sense. If the CRA had notified near by business and property owners we would not have to be here tonight. It seems that CRA's do not have to notify business and property owners. I have a business 1000' feet, I own the property and business and none of us in 300-400 block knew anything about this. I call this criminal. Congestion on the avenue is why people shop on the internet and parking. Public safety will be impacted by gridlock for police, emergency and fire trucks. People on the barrier island will be forced to use George Bush or Linton Blvd. They will have no option because of the length of time it will take to get down Atlantic Avenue.

The building is too big, too massive and the abandonment of the alley is just unacceptable.

Carl Wells – 425 E. Atlantic Avenue

The words that I have heard here I have not heard in awhile is 'common sense'. But one thing that bothers me is the contemporary design of the project. I fell it will spoil the charm of the 'Village by the Sea'. There is a point that you just have too much. One thing that was not addressed here tonight was the valet parking and the system of dropping off your car.

Christina Morrison – 2809 Florida Blvd.

I was originally against this project and I was very vocal about it, the parking and the impact on Federal Hwy. Because I liked the idea of having an entertainment facility in the downtown I got involved with it and got the facts and I am now for the project. Some people ask why this cant go on Congress and we want it in the thriving downtown. iPic will bring back that local theater feeling and it will complement the surrounding restaurants. This is a good plan for the future of the City.

Joanne Harrison – 65 SE 5th Avenue

I live right across the street from the project. I want to honor this commission that has been listening attentively all night. I think that iPic theaters are great, but the location here in Delray is not good. The stacking is a problem, the parking is a problem and I have never seen a RFP process where you have allowed an applicant to make so many changes and so many delays. My main issue is safety and security for the residence.

Brad Winny – 1515 N., Swinton Avenue

I have not been to all the meetings and I have only been in Delray for 12 years, but I have been fortunate to live in other cities and but they have been messy and congested but vibrant job producing cities. Delray is at the crossroads and we are changing. I vote yes.

Rett Talbot – 515 NW 12th Street

Concerned about the parking and how it is going to be segregated for the public vs the patrons. How is the applicant going to account for patrons who do not go straight to their car and us up a space that they expect to turnover to the next patrons. I am skeptical of the parking math. I have a hard time understanding that with this many people coming through that there will be adequate

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parking on site to handle them. Concern about the entrance off of the east/west alley. I would like to support Mr. Smith's comments on the east/west alley. I agree that Atlantic Plaza and many other will enhance an already bad traffic situation. Also, on the plan is there any proposal for below ground parking. I am not in favor of the height, and that needs to be adhered to in respect to the CBD Regulations that are in place. I think they did a good job on the alley treatment but I am sensitive to the historical connections that Dr. George referred to. Unfortunately we might be able to have everything we want. I would like a iPic, but I think it needs to be looked at in regards to size. And last, I have a significant concern about flow on southbound Federal when it appears that this will be the main façade of the project and people wanting to drop off and pick up.

Christina Bilenki – 3015 Florida Blvd.

As a resident and not having lived here for 12 or 30 years, but I moved here 2 years ago and selected Delray as a place I wanted to live. I spend most of my time in the downtown area, but I do go to Boca Raton to see a movie. I think this iPic will be great in Delray.

Roy Simon – Resident of Delray Beach

My concern in the downtown is trying to find parking for the shoppers and employees and we see them now being removed in place of some structure that brings more people. It seems we are taking land that is serving a purpose. What I am trying to say is that it is nice to have a movie theater but let's think this whole downtown process out.

Vin Nolan – 5220 Casa Real Drive

I was your Economic Developer for several years and the early phases of this RFP I helped to underwrite the actual RFP itself. In regards to the abandonment of the alley it was previously let with the same conditions in two prior occasions and here tonight the staff has given it favorable report. One thing that I have found very disquieting is how often staff recommendations are ignored and overlooked. On the conditional use why would you grant height and use (the use is the reason to grant the height). The use is what we need to ask, do we need a theater in the downtown area. My outlook is it is sustainable and what makes sustainable. What they are doing is bringing new dollars into our community at times of the year when our restaurants want customers. One thing that was looked at when we were looking at this project the entertainment us that is currently lacking in our downtown. There are (3) things that a economic developer are looked at:

- Jobs
- Tax Revenue
- Wealth Retention in the community

Keep the money in the City.

Dan Castillon – Chairman of the Greater Delray Beach Chamber of Commerce

All I am hearing is parking and parking and no one is listening. The developer has gone back to fix the problems and have spent a lot of money and it doesn't seem to see that people are listening. People are saying that we are losing parking but it is being replaced. So its not a parking issue it is people are scared of change. We are trying to make Delray more family friendly and adding these things it creates that. I encourage all to come together and make this project work.

Steve Herring – CEO of Livingroom Theaters, Portland Oregon

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I just happened to be in town and extended my trip to be here tonight. I didn't realize this project has been so delayed as it has. I don't know the iPic people that well but I do know that we are similar. I have been in Florida before, but this is the first time I have been in Delray Beach and the vibrant downtown, walkable town. However you look at that, I would encourage you to find alternatives to cars. If I had the choice I would support you people and allow iPic here in your community. It is a great fit.

Terro Spero – 417 NW 7th Street

I am speaking as a private citizen. How fortunate are we to have a problem like this. How often do we have business that want to come into our community, but to have someone here tonight as a competitor and listening to how bureaucracy gets in the way is disappointing. I have been to at least (6) movies this summer and all of my money has gone to West Delray or Boynton Beach. As a business owner my office was in the Martini building and the only thing I can say about the alley behind it is dangerous. Dealing with the alleyway, I also sit on the board of the Chamber of Commerce, so when the Chamber was there I had a lot of experience with this. So hopefully you can ask the questions tonight.

Jeff Costello – CRA

This project has been in the work for about 15 years. It goes back to an agreement between the City and the CRA, library and the Chamber. The CRA acquired property on West Atlantic to relocate the library and to assist with the court house. The City was involved in 2006 RFP that was written, and it was identified that the north/south alley should be abandoned. CRA will take ownership of that, but in lieu of that it was identified that it was appropriate that the east/west alley should be 4' and the allies north of that ally should not be dedicated the right of way. The CRA looked at the Master Plan, and Re-Development Plan and both was adopted by the City Commission. This was identified as a use in that location so there was thought put and that is the reason our board as they look at the response this was the best. All this was a collaborative partnership of years, but it gets to this point.

Jim Chard – 401 SE 4th Avenue

I think one thing that has been overlooked is that this company is bringing their corporate headquarters to Delray Beach. This is a commitment to Delray and how many companies that do business in Delray that had no presence. This is going to set a trend where more companies are moving from the suburbs and moving into the inter communities. So with this we are having more diversity and that it represents in terms of economy is very important. So when there are ups and down in the economy there will be the diversity to help and support it.

Connor Lynch – 115 NW 16 Street

I don't want to go over what everyone else has been saying, but our town is food and beverage based and there are not a lot of other activities to counter it. iPic is definitely something I do with my family on a regular basis but I am driving to Boca to do this. I think it is unlikely to find another type of business developer model where within in you have half of the building is in day time usage and the other half in night time usage. And also having the use of a corporation who is driving the traffic during the (3) summer months. The likelihood is that this project will be developed, and if you're going to develop it this project offsets a lot of the concerns more so than any other development. I am supported of the project.

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Robert Macintosh – 1120 Foxwood Drive

All good points by other people, but Atlantic Avenue has been far too congested for several years. I beg to differ with the iPic people with that 60% figure that we heard earlier. I have lived here all my life and the Regal in the winter time is far busier than the Regal in the summer time. So to hear that the summertime is peak season it hard to believe. With the Atlantic Crossings coming about it is far too congested and with the railway traffic coming into play it will be too much. In any case I would have to vote no.

Staff Cross Examination – None

Robin Bird

The Vice Chair has asked how long will they get to answer the questions or is that part of the rebuttal.

Janice Rustin

Cross examination is limited but the rebuttal is not. It is the pleasure of the board.

Robin Bird

We had an hour of questions, so if we can make this very brief.

Rebuttal

Bonnie Miskel

Mr. Granger had concerns about people being dropped off on 5th as the street has been narrowed. We have a membership program at iPic where we do communicate on a daily basis to the members and we do have a lot of control through social media, in fact every Tuesday the movies open up and if you don't book on Tuesday you probably won't go on the weekend. Another thing my client is willing to do if necessary they would be happy to enlist an off duty officer to manage any potential negative impacts that could arise.

Janice Rustin

I was incorrect, it is limited to 2 minutes for rebuttal.

Robin Bird

What we are doing is specifically answering questions first. If we can get a few out of the way now.

Bonnie Miskel

Deborah Schwartz asked why we need to give away the alley, but although we are asking for a little over 4,800 sq.ft. of abandoned alley we are giving back over 6,000 sq.ft. so its not just a take it is a given back.

Mr. Bay thought that it was us that dropped the package off at the board members, but it was not us.

Dr. George questions the legality of the request of abandonment and Chapter 177 in Florida Statutes as well as the code and comp plan allow for application to abandon the street. By law the street is now owned by the public unless it is conveyed by the public. If it is dedicated by plat the unlining abutting owners hold the feet of the road so if it is ever vacated it will goes to the fee owners.

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Mr. Warner asked if the traffic study accommodated the other traffic, I will get back to that. We were not required to do the fiscal notification, someone asked that question, but it was done through the City, however, not one agency within the City was opposed to the abandonment. Mr. Wells said that we did not talk about the valet parking and if you would like me to go over it for his benefit I will.

Robin Bird

I think we will wait for questions from the board.

Bonnie Miskel

Ms. Harrison talked about the drop off and we had just spoken about that.

Mr. Talbot asked how we would segregate patrons and public so the 1st floor parking will be public parking. It will be posted by signage for public parking. There will be a gate at second level and that will be for patrons and tickets that they will take when entering will be validated inside or pay when vacating.

The 60% figure is based on facts. When they calculated last year on their tax return they made more money in the summer.

Shaw McKenzie

The traffic study that we preformed included all of the approved developments in and around Delray Beach.

Rebuttal

Bonnie Miskel

Thank you for all your patience and we have done to the best of our ability to get out in the community and we have talked to 100s of people and everything that we learned were things we learned and some not. But what we do know is that people are passionate about this City and that is why we want to be here. We think we are a perfect fit for the City and there is no such thing as a perfect plan but.....this is a movie theater. The first floor is not a restaurant, not a nail salon it's a movie theater and it has a 30' ceilings and we have to fit our motion picture equipment into a room on the first floor. Your decision is not the height but do you want the movie theater or not. I want to thank you all for coming out tonight.

Board Comments

Joe Pike

Could I get clarification on that last statement that there are a 100 more valet spots that are not included in the 320.

Bonnie Miskel

You can stack with valet and we have spoken to Boca to get an idea. We have 70 spaces on the upper deck and we intend to use that area for stacking. At a minimum you are able to double your parking spaces so we are adding another 70, but more likely it will be 100-120 and it is how you manage your valet.

(Bonnie went into a description/ scenario of how the cars would park)

So we have 320 live spaces in the parking garage and we have bike parking. On the upper deck (6th deck) we will be stacking cars in the order that they need to be in to get in and out of the building. So we estimate another 70-100 extra spaces that will be able to be accommodated.

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Jay Jacobson

What happens at the end of the movie...how do you get your car?

Bonnie Miskel

You go back down and you hand your ticket to them, they run up to the 5th floor and get your car. But they already know when you will want your car.

Jay Jacobson

Where does it come out?

Bonnie Miskel

It will come down the ramp, make a right onto 4th and a right turn back into the alley.

Jay Jacobson

So the car will come down the ramp, out to 4th, north on 4th, back onto the alley, then where?

Bonnie Miskel

You pick it up in front where you dropped it off.

Jay Jacobson

So you come back down to the valet drop off and then I head south, go west to mingle with the rest of the traffic to go back out onto 4th.

Bonnie Miskel

You actually will leave and go straight out to 4th, and by the way the old view had it reversed where the valet would actually have to cross 4th. Staff recommendation was to avoid the movement across 4th.

Jay Jacobson

(it was asked to pull up a large plan of the parking route)

Bonnie Miskel

This is pretty common wherever you valet park where there are one way streets. The same movements are at Mizner Park, they come out of the garage, they go down Mizer Park Blvd. and make a right and another right.

Jay Jacobson

So I am going to valet, I go down Federal, take a right and a left and drop car off, or I am somewhere along 4th coming off of Atlantic. I pull into the alley and come into here. Is that the only way you can valet? Do we have signs that say valet? The kid picks it up goes to the 5th floor, I come out give someone my ticket, he runs up to my car, comes down the ramp, *(Jay is describing how he would get out with his car)*. But you are going to try and get people to come off of Atlantic on to 4th and take a right and go up the ramp, and the 72 spaces that the CRA has, or they have the option to park wherever they want to and run the risk of getting charged a onerous fee if the overstay their allotted time in a town where a valet charges \$20 to get your car.

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Joe Pike

I understand how we are going to control our patrons and their allotted spots, these public spots, what is it to prevent movie goers occupying one of those spots.

Bonnie Miskel

We have been told, we do not control the public spaces that will be a CRA-City discussion but we have been told there will be a charge.

Robin Bird

I do not see why they should not be metered.

Jay Jacobson

Didn't the City just pass something through the Parking Review Board about metering spaces?

Robin Bird

In current parking garages we are charging people to go into them and now we are doing the opposite.

Jeff Costello

As part of the agreement there is a separate parking management agreement that would prove once the adjustments are made of the plan it will involve the City. The City has made a decision not to move forward at this time a fee base program so that needs to be worked out.

Joe Pike

My concern is if you have some low rent spaces on the first couple of levels, why would we keep going up.

Paul Safrin – Sr. VP-General Council for iPic

In our discussion with the City, it was concern of theirs and they were advised not to have those spaces occupied by iPic. That is part of the negotiations.

Bonnie Miskel

One thing that we are doing, that the iPic customers tickets are validated, and even if they went to the movies and dinner, it would be cheaper than parking in the public parking spaces.

Jay Jacobson

The flip side of this you to make this more onerous than someone leaving and parking down the street for \$20 plus tip, that turns into expensive parking.

Christopher Davey

In regards to the Traffic Analysis on Page 8, it says, *'Eastbound through movement at SB Federal Hwy. and Atlantic Avenue is failing in the over capacity in the pre-development condition. Eastbound through movement is a one way approach and the only way to improve its operation is to provide more green time. The City may need to consider peak hour left turn prohibition or left turn prohibition in locations to improve east bound traffic flow. The current westbound turn traffic could travel south on 7th and west on SE 1st Street to accomplish this.'* So basically what is being said here that these intersections are over capacity.

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Jay Jacobson

Well take it to the next page *“The following road segments are projected to be over capacity and are significantly impacted by the project:*

- *Atlantic Avenue – I-95 to Federal Highway*
- *Swinton Avenue – SW 10th Street to SE 1st Street during the PM peak hour.*

Then it goes on to say: *“Atlantic Avenue from Swinton Avenue to Federal Highway is constrained purposely to facilitate and encourage alternative modes of travel”.*

I have a question with your choice of words, I don't think that anyone has purposely “constrained” anything on Atlantic Avenue. This has been this way for over 90 years, so nothing has been constrained.

Then you go on to say, *“Drivers have multiple east-west options within the downtown grid including NE 4th, NE 2nd, NE 1st, SE 1st, SE 2nd, and SE 4th Streets”.* These are all one-ways in the wrong direction to get here.

In the Traffic Generation section on Page 3 says, *“Palm Beach County and ITE do not have a parking generation rate for parking garage spaces. Since the spaces are less convenient than other downtown parking and will have a fee, we projected a lower daily turnover rate two times per day per space resulting in an estimate four daily trips per space”.* I would take great exception with the assumption that this garage is going to be less convenient than any other garage downtown. I think it will be more convenient. Some of these assumptions with the overall traffic generation numbers and conclusions can be well debated. So I don't have a problem with the stacking of the cars I have a problem with how do you get here and the impact those cars will have on Atlantic Avenue and 4th.

Christopher Davey

What I am really focused on is the driveway volume of 2,691. You are predicting that there will be another 850 cars a day coming out. I drove through that alley last night and traffic was backed up about 4 cars and you can't get out of that alley.

Joe Pike

I have another question for Shawn, and thank you for the traffic study, but having problems with the numbers. *(Joe goes through calculations of the numbers)* I need someone to walk me through all this.

Bonnie Miskel

(Bonnie went through and explained and showed on map how all the numbers work)

Jay Jacobson

I think this is a great idea but how can it work. But the thought of having a theater that you can walk to is fantastic. The parking and the valet is something that you will figure out later, but my concern is what happens outside of those boundaries.

Shawn McKenzie

There has been a lot of questions posed, so first of all iPic will be widening the alley. Service trucks in the morning will have no problem as there will be nothing going on in the morning at the theater. A big component of all this is the new two-way of SE 1st Street.

Jay Jacobson

Is that a done deal on SE 1st?

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Jeff Costello

It is supposed to happen next month and the decision has been made.

Shawn McKenzie

Another component that we didn't take into account because we were being conservative is that so many residences will be able to walk to the theater. Another issue is the valet queuing, and we can easily queue at least 6 cars at one time.

Robin Bird

The 20' alley, how many more people are loading from this alley? All your loading is going to coming in from the south side.

Bonnie Miskel

Our loading is inside before theater peak hours.

Robin Bird

My biggest issue is loading and unloading and I have existing business that are highly dependent on this and cut through traffic.

Janice Rustin

Can I just remind the board that this is going through the SPRAB.

Paul Safrin

Our delivery trucks cause we don't have a restaurant here, we make arrangements with the vendors that they arrive at certain times.

Joe Pike

One of the requirements of the height is that we need to be demonstrated that this could be done within the 48'. I have not seen how this could get accomplished.

Scott Pape

There is a plan in your package that identifies how they are going to provide this same development in 48' or less and basically they took the garage area and took a half level down and where they are asking for the 60' is on the east side of the alley, and they filled in the terraces and far exceeded the set back.

Jay Jacobson

I looked for that and could not find it.

(all chatter between the board and Scott Pape)

Bonnie Miskel

There was a lot of discussion on how the building was to be designed, but our contract is for what we presented and we tried to adhere to their meeting.

Robin Bird

To Scott, how are we preventing to this stop and drop off *(pointing to the front of the building)*

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Scott Pape

That is a concern. That is one thing that will come back around in the site plan process, some signage.

Jay Jacobson

The problem is the design wise that is the front door.

Scott Pape

Visually it is, but it is the valet and the drop off.

Board Discussion

Jay Jacobson

Before us is:

- Alley vacation
- Height
- Condition Use

My feeling is I like the idea here in Delray, I have never been a opponent of height as long as it is a reasonable design that makes it work. I think they have done a good job at this but I am sensitive to the 15 year history of this property whereas our CRA acting at the best of the Commission, voters, tax payers has already agreed numerous times to vacate that portion of the alley and additional 2' or so for a 20' dual lane alley behind the Atlantic Avenue shops is a nice thing. I am leaning toward that, I don't want to give an opinion of what SPRAB is going to do with this but I don't think the site plan works, I think there are too many touches of cars coming down 4th to the alley to Atlantic. I don't know how you resolve that at all but that is not what is in front of us tonight.

Christopher Davey

When you looked at the constraints of this site at 1.6 acres, it is just too much. 42,000 sq.ft of office, 43,800sq.ft. of movie theater, almost 8,000sq.ft of retail, and waivers. Its not the movie theater, but the constraints of the movie theater and this design and trying to put in so many different things. This is an interesting building but the full length of this building along Federal Hwy has nothing but building. The waivers go from 75% to 0- and the landscaping is limited and I keep looking at this and it comes down to trying to put 10 pounds of something in a five pound bag. We should not be encouraging this type of development, this type of intensity on this type of site because the next guy will come in and want the same. Traffic concerns, from December to now there has been nothing to lesson my concern with traffic. Also, on your plans you have cars parked along Federal Hwy. and if you are letting people out along Federal Hwy is kidding themselves. I just think this is to much for this location.

Steve Mackey

When I look at this project starting from a high level, I am a huge supporter of the urban life style, walking, biking, etc., and with that in mind I have some major reservations about the actual use of a movie theater in that location. Our City's core has a handful of holes that we need to fill. We talk about Class A office space to bring jobs here and that is great but I think what we are looking at here is a movie theater, and oh yea lets put our people somewhere and here is some retail. When I look at this project the primary point of this whole thing is entertainment and is this one of the things that our downtown core is missing, and I don't think so. When we are looking at the

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long term and you pole everything I don't think that a movie theater outweighs the rest of the baggage that comes with it.

Mark Krall

With the 3 criteria, where we have to meet 2 out of the 3 for height, the very first one, set back, they did not meet that .

Scott Pape

That is correct they will be seeking relief.

Mark Krall

So they are hanging their hats on the other two which is the 50% requirement which was met, and the other one is the open air courtyards. They seem to have doubled it from the first time to the second.

Scott Pape

They were showing the park area on 4th, now they have doubled that size and taken out some of the retail area.

Mark Krall

In evaluating it, the third criteria where it say open area, courtyards, plaza, where they are trying to get the extra height. If you compare that to other ones is that minimum, adequate, a lot?

Scott Pape

I express a lot of concern and I didn't feel at your last meeting that not having this area, I didn't feel comfortable suggesting to you that they had met that criteria.

Mark Krall

So they haven't done the setbacks and that is a little ify. Historically when we have granted increase in height, with the new design guidelines done in the past several years, one of the great things of why we were granting the increase in height was because of the step backs which they have not done.

Scott Pape

In some area they have far exceeded the step backs and others they haven't and partly because of the use.

Mark Krall

Your main entrance is on Federal Hwy, that is what it looks like to me, and now there is only two lanes, so you can't have a valet there. There is a fundamental flaw there. One of the criteria of the abandonment is you have this alley and does this alley serve a public purpose. The theory is you have acquired this property as a way to come in and out and it alleviates it so it is not a public purpose. I think that based on all those things I think it fails from a condition use aspect, a height aspect and fails from the abandonment aspect.

Discussion by the whole board

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Joe Pike

I struggle with this because this is a unique use and it is different and enjoyed by many in this location but as my fellow board members have stated I also struggle with traffic flow and I think there is a flaw internally with the valet. I would love to get behind this but it will take a number of things, but as Mark said it does fail in a number of things. Height overall doesn't concern me as it does some, but I do have issues with the coming and going of the traffic and we know that we have problems with certain areas. I do like the use, I want to get behind it but I am not quite there yet.

Gerald Franciosa

The design is good, I like it, but design wise it is just too big. When I looked at the plan I could not believe there was an ingress and egress in a alley way. I look at the size of the building and it just doesn't fit here.

Mark Krall

Things come and go and I have been in this town since 1987, I have served 4 different times on Planning and Zoning, back when a lot of the residents came up we used to sit around the Chamber of Commerce and Boca was kicking our butt, and we would try to come up with ways to get people downtown and I was pro development, I do a lot residential/commercial real estate and sadly for the most part in the last 30 years this is the first project that I am going to vote against.

Robin Bird

Scott if we applied density or mixed us what level would it be if it could be done.

Scott Pape

Residential is permitted 30 units per acre

Robin Bird

When it came in about wealth retention I can tell you my daughter will be going. Regardless, what I am struggling with is the circulation and I can't see it getting any better. I do have a problem with the length of the building which is an entire city block that is uninteresting and you have a cool building.

I will ask staff in the future before we get the report that the parking inventory that Mr. Simon asked for we desperately need. We forget that at the Marriot there is parking, Seagate there is parking. Lastly this length of walk you have here, why can't the building be flipped and there is retail on Federal Hwy as well. Also, the circulation I just don't get and needs to be fixed. My personal preference and it has always been the interpretation to make the site viable, the alley something has to be done, I would suggest that we move the alley abandonment forward providing that there is relief and we have equal or better loading in that area. If they didn't need any waivers I think I would go for the movie theater.

Joe Pike

In fairness for the applicant they have adhered to just about every request that has been throw to them from the RFP and the RFP along has asked for a lot these things. That is why I am trying to get this thing pulled together and pushing the abandonment through, I necessarily don't have an issue with that as long as it is tied to circulation that they have suggested.

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Robin Bird

I am not sure that this circulation is the answer.

Christopher Davey

I can't abandon the alley without knowing what exactly is going on the site.

Jay Jacobson

In the end they need a bigger bag.

Christopher Davey

As crazy as it sounds when I heard the applicant's attorney talk about 29-1/2 feet, and if the office space was not upstairs they could make 60' and put the theaters above each other. There are other ways to lay this out.

Motion was made by Christopher Davey seconded by Mark Krall of the **conditional use** request to allow for a building height in excess of 48' (59.5' proposed) for Fourth and Fifth Delray, 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), 4.3.4(J)(4)(b), and Chapter 3 of the Land Development Regulations

Motion Failed 0-7

Motion was made by Mark Krall and seconded by Christopher Davey of approval of the **conditional use request to allow a movie theater** for Fourth and Fifth Delray, 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;

With said approvals to be subject to the following conditions:

1. Approval of a site plan by SPRAB that is in general conformance to the submitted concept plan.
2. That the Palm Beach County Traffic Engineering Division review the revised traffic analysis and provide comments accordingly prior to approval of the site plan.
3. That the property immediately south of the subject development be acquired and redeveloped with vehicular access to the north/south alley, include a public access easement, and additional landscape area prior to issuance of a building permit.
4. That a cross section of the conceptual plan that demonstrates the project could be built within a height of 48 feet be provided prior to consideration of the conditional use by the City Commission.

Motion Denied 2-5, Dissenting Christopher Davey, Mark Krall, Gerald Franciosa, Joseph Pike and Steve Mackey.

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Motion was made by Christopher Davey, seconded by Jay Jacobson approval of the request of the abandonment for a portion of the north/south alley right-of-way located within Block 101 of the Town of Linton Plat as referenced, 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 Section 2.4.6(M)(5) of the Land Development Regulations, subject to the following conditions:

1. That the Martini property be acquired and redeveloped to provide vehicular access to SE 4th Avenue from the alley prior to issuance of a building permit.
2. That the applicant resolve any concerns of the affect utility service providers prior to issuance of a building permit.

Motion Denied 2-5, Dissenting Christopher Davey, Mark Krall, Gerald Franciosa, Joseph Pike, Steve Mackey.

Mark McDonnell reminded everyone that this is a recommendation that the board is making to the City Commission.

VI. REPORTS AND COMMENTS

- A. Staff – The next meeting is August 17, 2015
- B. Board Comments - None

ADJOURNED

There being no further business to come before the Board, the meeting was adjourned at **11:00pm.**

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 **July 20, 2015** which were formally adopted and approved by the Board on **August 17, 2015**

Diane Miller

Diane Miller

If the Minutes 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.

(These notes are abbreviated version of this meeting. The full dialog is available in audio at City Hall for anyone that would like the full information)