

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: June 18, 2012

LOCATION: CITY COMMISSION CHAMBERS

MEMBERS PRESENT: Jan Hansen, Mark Krall, Craig Spodak and Gerry Franciosa

MEMBERS ABSENT: Clifford Durden, Cary Glickstein and Connor Lynch

STAFF PRESENT: Paul Dorling, Mark McDonnell, Terrill Pyburn and Rebecca Truxell

I. CALL TO ORDER:

The meeting was called to order by the Vice Chair, Mr. Krall at 6:00 p.m. Upon roll call it was determined that a quorum was present.

II. MINUTES: None

III. COMMENTS FROM THE PUBLIC: None

IV. LAND USE ITEMS:

Mr. Dorling informed the Board that the applicant for the Marketplace at Delray had requested a postponement to the next Planning and Zoning Board meeting.

V. PUBLIC HEARING ITEMS

- A. Future Land Use Map amendment from MD (Medium Density Residential 5-12 du/ac) to CC (Commercial Core) and rezoning from RM (Medium Density Residential) to CBD (Central Business District) for a vacant parcel located on the east side of SW 10th Avenue approximately 391 feet south of West Atlantic Avenue (35 SW 10th Avenue).
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Terrill Pyburn requested that anyone who had planned to speak on any agenda item be sworn at this time.

There was no ex-parte communication on this item.

Mr. Dorling entered project files No. 2012-137 and 2012-138 into the record.

The item before the Board is that of making a recommendation to the City Commission on a privately initiated Future Land Use Map amendment from MD (Medium Density Residential) to CC (Commercial Core) and Rezoning from RM (Multiple Family Residential - Medium Density) to CBD (Central Business District) for a 0.157 acres vacant parcel (Lot 12) located approximately 391 feet South of West Atlantic Avenue on the east side of SW 10th Avenue (35 SW 10th Avenue).

Mr. Dorling stated that the request is being processed as a small scale Future Land Use Map amendment, and amendments to the Future Land Use Map (FLUM) must be based upon findings of a demonstrated need (i.e. that there is a need for the requested land use), consistency, concurrency and compliance with Land Development Regulations. Mr. Dorling stated that positive findings can be made with respect to those required findings, the request has been found to be consistent with the goals and objectives of the Comprehensive Plan and also with the Southwest Neighborhood Plan that rezoning findings of LDR Section 3.2.2 were made and the request is deemed consistent with standard "B" which applies to the requested action as well as LDR Section 2.4.5(d)(5).

Mr. Dorling stated that the request was considered by the Community Redevelopment Agency (CRA) at its meeting of May 24, 2012, and they recommended approval. The CRA is the property owner of record and the rezoning is in association with Prime Delray Hotel, LLC. plans to develop a hotel on the south side of West Atlantic Avenue between SW 10th Avenue and SW 9th Avenue. The subject property will be a part of the overall hotel development, and will be used to accommodate required parking.

Mr. Dorling stated that there is a parking lot to the south of the subject parcel and the vacant parcels are proposed to be developed for parking for the area and the surrounding multiple family residences.

Courtesy Notices:

Courtesy notices were provided to the following homeowners associations:

- Neighborhood Advisory Council
- Delray Citizens Coalition
- Atlantic Park Gardens

Public Notices:

Formal public notice has been provided to property owners within a 500' radius of the subject property.

Applicant

Mr. Jay Huebner stated that the property falls just outside the commercial land use and zoning districts necessary to develop the hotel site. Mr. Huebner stated that the development plan for the parcel will accommodate parking and buffering and thus the real intensity of the property is very low.

Questions to the Applicant

Mr. Hansen inquired of the intended use of the vacant parcel to the south.

Mr. Vin Nolan, representing the CRA stated that the immediate parcel to the south is owned by the church located on SW 10th Avenue and on the parcel to the east, the CRA will construct a parking lot for the residential properties on SW 9th Avenue.

Public Comments:

Ken Colten, 1227 Laing Street, Delray Beach FL 33444 inquired as to the hotel owner property.

Mr. Nolan responded that the CRA has issued a request for proposal with Prime Development Group and is working with them to bring a Marriott-type hotel to the property.

Public Hearing Closed

Motion:

Motion made by Mr. Hansen, seconded by Dr. Spodak, and moved 4 to 0 to recommend approval to the City Commission for the privately initiated Future Land Use Map change from MD (Medium Density Residential) to CC (Commercial Core) and Rezoning from RM (Multiple Family Residential - Medium Density) to CBD (Central Business District), 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 does meet the criteria set forth in LDR Sections 3.1.1 (Required Findings), 3.2.2 (Standards for Rezoning Actions), 2.4.5(D)(5)(Rezoning Findings).

- B. Conditional use request associated with expansion of the existing 2,124 sq. ft. seven (7) room motel including construction of a new 3,204 building addition to accommodate an additional 8 rooms (total of fifteen (15) rooms), a manager's office and additional on-site parking spaces for Beachway Motel located at 655 George Bush Boulevard.
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Mr. Dorling entered project file No. 2012-078 into the record.

There was no ex-parte communication on this item.

The action before the Board is making a recommendation to the City Commission on a request for Conditional Use approval to expand an existing motel that contains 7 rooms to 15 room motel with manager's office. The subject property is located at the northwest corner of NE 7th Avenue and George Bush Boulevard (NE 8th Street) at 655 George Bush Boulevard.

The development proposal incorporates the properties consisting of Lot 12 Block 2, Sophia Frey Subdivision and Lot 10 and a portion of Lot 11, Block 2, Sophia Frey Subdivision. The property is located on north side of NE 8th Street (George Bush Boulevard) approximately 50 feet west of the intersection of NE 7th Avenue and NE 8th Street.

In 2007, the Site Plan Review and Appearance Board (SPRAB) considered a Class V site plan, landscape plan, and architectural elevations associated with construction of a 4,854 square foot mixed-use development with office space on the first and second floors and total of four residential units on the third and fourth floors. The Board approved the site plan and landscape plan with conditions and tabled the architectural elevations.

On September 10, 2007, the Site Plan Review and Appearance Board approved the modified architectural elevations associated with the approved Class V site plan application. The approved plans expired on September 10, 2009.

The current development proposal consists of the following:

- demolition of the westernmost unit to provide vehicular access to the rear of the property;
- renovation of the remaining six (6) room motel;
- construction of a new building addition with eight (8) additional motel rooms;
- provision of one (1) manager's unit with an attached manager's office;
- construction of five (5) new parking spaces in the rear of existing motel;
- new landscaping;
- alleyway improvements.

The subject property has a FLUM (Future Land Use Map) designation of GC (General Commercial) and a zoning designation of GC (General Commercial). The GC zoning district is consistent with the GC Future Land Use Map designation and "Hotel and Motels" are listed as a Conditional Use in the GC zoning district [LDR Section 4.4.9 (D)(9)].

Mr. Dorling stated that there are required findings identified in LDR Section 3.1.1 which relates to compliance with the Future Land Use Map, Concurrency and Consistency which are identified in the staff report and that there are no issues with respect to those findings.

Also, the request requires compliance with the LDRs and as identified in the staff report, there are significant concerns as it does not meet the requirements and the associated necessary findings that must be made. Mr. Dorling further stated that the site does not comply with the LDR and believes the request is premature.

The proposal is deficient in open space which requires 25%, while 16.2% is provided and complying will decrease the number of rooms that will ultimately be allowed which will require a redesign of the site. Concerns with respect to the definition of motel as some units have cooking facilities and washer and dryers are noted and that the proposal is more characteristic of permanent housing. Another concern revolves around the parking configuration on the site and staff requested that the site be redesigned to eliminate the non-conforming back out parking along George Bush Boulevard and again this would require a significant redesign.

Mr. Dorling stated that the police have significant concerns with respect to CPTED issues and the fencing along 8th Street and this needs to be addressed as a part of the site plan approval. Additionally, there are concerns with respect to compatibility required in LDR Section 2.4.5 as it relates to stability of the neighborhood, and the proposal has the potential to hinder development of nearby properties as well as not being in compliance with LDR Section 3.1.1 Therefore, the required findings with the LDRs are not met and staff recommends that the Conditional Use should be denied.

Courtesy Notices:

Courtesy notices have been provided to the following homeowner's associations or civil organizations which have requested notice of developments in their areas:

- Delray Citizen's Coalition
- Neighborhood Advisory Council
- La Hacienda
- Palm Trail
- Kokomo Key
- Martell Arms
- The Landing of Delray
- Inlet Cove Condo
- The Estuary

Public Notices:

Formal public notice has been provided to property owners located within a 500 foot radius of the subject property.

Questions to Staff

Mr. Franciosa requested clarification of the surrounding zonings.

Mr. Dorling explained the GC zoning district which is approximately two lots in depth extends from George Bush Boulevard, east, to Palm Trail.

Applicant

Jeffrey Lynne, for Coconut Creek Developers LLC, owner and the vacating tenant Denis Holmes, stated that the property is located one block east of North Federal Highway and is separated from Federal Highway by the Gas Station and was built in 1953.

The site is zoned General Commercial and requires a conditional use for expansion and redevelopment, and per Section 3.1.1, requires that certain findings be made, consistency with the Future Land Use map, along with concurrency and compliance with the LDRs. Mr. Lynne stated that the standards of the Future Land Use Map and concurrency are met, however, the two questions staff had in the report dealt with consistency and compliance with the LDRs. Mr. Lynne stated that the code addresses consistency and requires that one look at the Comprehensive Plan and the appropriate portions of Section 2.4.5.

Mr. Lynne stated that the staff was concerned that the proposal does not fulfill remaining land use needs and drew attention to the rezoning previously acted on by the Board to change the land use and zoning for a hotel parcel that is surrounded by residential neighborhoods which was supported by the CRA (Community Redevelopment Agency). Mr. Lynne stated that the Comprehensive Plan recently adopted an economic development study which addresses major economic components such as the need for tourism. Mr. Lynne stated that for the purposes of

consistency, the findings were met as there is a need for more hotels and motels in the City.

Mr. Lynne stated that the request is for conditional use and that the staff report addresses in depth site plan issues. While a site plan is submitted, the conditional use hearing does not require a site plan. Thus the two findings that must be made are per Section 2.4.5(E)(5) is whether the proposal will have a significantly detrimental effect upon the stability of the neighborhood. Mr. Lynne stated that the development will have no detrimental effect on redevelopment.

Mr. Lynne stated that the applicant had provided a hand-out addressing the responses to staff's technical comments and stated that this should have been included in the staff report.

Mr. Lynne highlighted the permitted uses allowed in the General Commercial zoning district such as an intensive outpatient treatment use, abuse spouse residence, cocktail lounges, indoor shooting ranges, group homes, residential license service providers, fortune tellers, clairvoyants, psychics etc., which are consistent and compatible with the GC neighborhood. However, for some reason, motels and hotels are conditional uses which are not a detriment to the community compared to what could go there.

Mr. Lynne stated that the second findings require that the proposal will not hinder development or redevelopment of nearby properties, however, the code does not define nearby properties. Recent development of the CVS and Chase Bank has occurred with the existing motel and redoing and expanding the motel will not hinder development or redevelopment. Also, quasi-judicial rules require that the decision is not based on personal views for or against the project but that the decision is based on whether the project meets the Law, the Comprehensive Plan and the LDRs. Mr. Lynne stated that the project meets the Comprehensive Plan, LDRs and the requirement of Law and requested that the Board recommend approval to the City Commission and that they will come back with revisions addressing the site plan.

Mr. Lynne provided a hand-out pertaining to responses to staff comments and stated that the concerns raised by the CPTED review were written over one year ago and requested that staff update the comments. The comment that the past uses of rehabilitation and half-way house cited in the report continues to be a concern and stated that the current use is a motel and the proposed use is a motel and if the facility was to be a residential license service provider it would not require action by the Planning and Zoning Board. Further, concerns of late night foot traffic are raised but one could have a night club or shooting range which are not concerns. Again Mr. Lynne stated that the hearing is a conditional use and not a site plan.

Questions to Applicant

Mr. Franciosa inquired how the open space requirement would be met

Mr. Lynne responded that open space was a site plan issue and would be addressed during the site plan action, and that it will be dependent on the parking configuration. The City does not allow the back-out parking and depending on how the parking is accommodated they will look at landscaping and waivers.

Dr. Spodak inquired that residential type inns are not allowed in GC and the plans for the new addition show that each room has a washer, dryer and kitchen.

Mr. Lynne responded that the site is not used as a residential type inn and that the Board is not approving a site plan.

Dr. Spodak further stated that the Board is approving a use and that the use as depicted is a residential type inn and a residential use and what is being stated is contradictory to the exhibits shown.

Mr. Lynne stated that the comment was brought to their attention after the fact and they would like to get the use approved prior to revising the plans.

Dr. Spodak requested clarification if the concept was for a residential type use.

Mr. Lynne confirmed that it was the concept and initially it was their vision to have those amenities but it was brought to their attention that the Code does not allow them and they will have to remove them.

Public Comments:

Kevin Warner, 248 Venetian Drive, Delray Beach, FL 33483, commented that in light of the law suit with the Caron Foundation he was concerned that the staff report contained language that could be construed as discriminatory regarding rehabilitation facilities and half-way houses. He also questioned if the data in the CPTED report is up-to-date.

Thomas Russell, 909 NE 7th Avenue, Delray Beach, FL 33483, commented that the applicant painted the area as commercial but neglected to show the area along NE 7th Avenue as residential and inquired if the use was approved as a motel it could be converted to a halfway house. Mr. Russell was concerned about the impact on the future development of the parcel to the north and objected to the proposal as it would be a detriment to the neighborhood.

John Depree, representing a client who owns the property at 817 North Federal Highway, voiced concerns if the proposal will impede his client's access to the alleyway.

Carmen Hyman, 911 NE 7th Avenue, Delray Beach FL 33483, voiced concerns about the residents in the program that do not make it, and stated that people live in the dead-end portion of the street and in their backyards.

Credle McCall, 817 Lake Avenue North, Delray Beach, FL 33483, President of La Hacienda, commented that the area is inundated with transient housing, a condo was renovated in her neighborhood and due to the economy a transient company took over, crime is escalating and it is related to transient housing and urged the Board not to allow this.

Dr. Victor Kirson, 2050 Alta Meadows Lane, Delray Beach FL 33444, President of Tierre Verde, stated that the use is a motel and inquired if everything before the Board will be a discriminatory practice against the American Disability Act and asked that the Board judge the request as a motel.

Robert Ganger, 1443 North Ocean Boulevard, Delray Beach FL 33483, inquired if the number of rooms requested can be accommodated and meet code and that it does not meet the requirement of a motel.

Public Hearing closed.

Cross-examination by Staff: None

Cross-examination by Applicant: None

Rebuttal by Staff:

Mr. Dorling stated that compliance with the LDRs will not allow the accommodation of 8-units and it is premature to consider the conditional use. The applicant needs to go back to the drawing board and come in and show how they can comply with the Code and request a conditional use that is doable under these circumstances. Also, assurances need to be given that the facility will not have stoves, washers and dryers.

Rebuttal By Applicant:

Mr. Lynne inquired of Mr. Dorling if one could just go in and establish a residential license service provider facility.

Mr. Dorling responded that it would require a change of use which requires certain findings which includes the finding of compatibility.

Mr. Lynne stated that the LDRs does not require a full site plan in order for the Board to make a decision and there has been no comprehensive evidence based on the record to state that the proposal will hinder development. Mr. Lynne further stated that in the General Commercial one would have the right to open a gun range or a residential treatment center or medical use.

Dr. Spodak commented that while one could open a gun range they could not open a residential type inn which is not allowed in the General Commercial as written in the LDRs .

Mr. Hansen requested that staff summarize the criteria for approval.

Mr. Dorling responded that sufficient information must be provided in order to make a decision and the application lacks that information. The request for an expansion of 8 rooms cannot be accomplished and meet LDR Section 3.1.1.

Dr. Spodak inquired if staff had requested a site plan that works.

Mr. Dorling responded that comments were provided to the applicant and the applicant indicated that those comments will be addressed at the site plan stage.

Mr. Franciosa inquired why a revised site plan was not provided.

Louis Trematerra representing Coconut Creek Developers, LLC stated that the motel currently have little kitchens and they were expanding on what is already there also, the City is requiring a 20' dedication and they have to relocate the back-out parking. They hope to meet the open space requirement even if it means dropping one unit. There will be a central laundry facility and there is no need for washers and dryers.

Mr. Franciosa inquired how long they have owned the property.

Mr. Trematerra responded that they have owned the property for 8 years.

Mr. Hansen inquired if the existing use as configured with washers and dryers are allowed.

Mr. Dorling responded that motels do not allow kitchens, washers, dryers so the rooms do not conform to the definition of a motel and as the request move forward staff will inquire how the existing kitchens were established.

Mr. Hansen inquired which zoning districts allows residential type inns.

Mr. Dorling responded that they were allowed in the OSSHAD (Old School Square Historic Arts District) district.

Mr. Franciosa commented if the conditional use could be approved if they comply and exclude the washer and dryers.

Mr. Dorling responded that the conditional use need to be specific as to the number of rooms requested and this would not be known until compliance with open space and parking are known.

Mr. Franciosa questioned if a motel would be detrimental to the multifamily which could be developed on the parcel to the north.

Mr. Dorling responded that the layout of the site lends itself to a more permanent type use such as a residential type inn and that there are too many gray areas with respect to the proposal to make a decision.

Mr. Krall stated that the conditional use is to expand the use from 7 to 15 rooms without being able to meet the LDRs and is an abuse of process to make a decision without knowing the number of rooms that can be accommodated.

Additional Board discussion followed

Motion:

Motion made by Mr. Hansen and seconded by Mr. Franciosa and approved on a 4 to 0 vote to continue the conditional use request with direction based on the facts presented at the meeting and the staff report.

- C. Privately-initiated amendment to the Land Development Regulations to create Section 4.5.19, "Linton Development Overlay District" and amend Section 4.4.9 "General Commercial (GC) District", Subsection (G), "Supplemental District Regulations" to limit the Floor Area Ratio (FAR) within the Lintco Development

Overlay District, located at the northwest corner of Linton Boulevard and SW 4th Avenue).

The item before the Board is to make a recommendation to the City Commission regarding a privately-initiated amendment to Land Development Regulations (LDRs) that will restrict the nonresidential development intensity on properties within a newly created **Lintco Development Overlay District**, located at the northwest corner of Linton Boulevard and SW 4th Avenue, to a maximum FAR of 0.36.

Mr. McDonnell stated that Comprehensive Plan Amendment 2010-1, adopted by the City Commission on December 14, 2010 and the LDR text amendment follow through on the Comprehensive Plan amendment to create an overlay district and secondly to establish a FAR of 0.36 in the General Commercial zoning district. This maximum intensity was set to ensure that traffic concurrency could be achieved on the property at its maximum development potential.

Courtesy Notices

Courtesy notices were provided to the following homeowner and civic associations:

- Neighborhood Advisory Council
- Delray Citizens' Coalition
- Linton Ridge
- Southridge
- Southridge Village
- The Vinings

Questions to Staff

Dr. Spodak inquired as to the desired intent in establishing a FAR.

Mr. Dorling responded that Florida Statutes require that cities establish a FAR. The City in the past had established significant FARs of 3.0, so that development would not be limited. Mr. Dorling further stated that a FAR of 3.0 is not achievable as in most cases it would require a two story building that envelope the site which could not meet open space and require underground parking. With land use changes, the City now has to justify the maximum FAR that can be achieved on a parcel. For this specific parcel, based on the traffic study, the maximum FAR that can be achieved is 0.36.

Mr. Hansen inquired what is meant by the term "privately initiated request".

Mr. Dorling stated that the City is not making this request and that the changes are requested by a private property owner.

For the record it was announced that the Applicant was not present

Public Comments

No one from the public spoke.

Public Hearing closed.

Mr. Franciosa inquired if the overlay districts are for specific parcels and what is the maximum FAR.

Mr. McDonnell responded that the staff report indicates the specific parcel and the maximum FAR allowed is 3.0, however, the request is to establish a 0.36 FAR.

Motion:

Motion made by Mr. Hansen, seconded by Mr. Franciosa and approved on a 4 to 0 vote to recommend approval to the City Commission a privately-initiated amendment to the Land Development Regulations to create Section 4.5.19, "Lintco Development Overlay District" and amend Section 4.4.9 "General Commercial (GC) District", Subsection (G), "Supplemental District Regulations" to limit the nonresidential floor area ratio (FAR) within that overlay district to a maximum of 0.36, 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).

- D. Privately-initiated amendment to the Land Development Regulations to create Section 4.5.20, "Waterford Overlay District" and amend Section 4.4.25 "Special Activities District (SAD)", Subsection (E) "Supplemental District Regulations" to limit the Floor Area Ratio (FAR) and residential density within the Waterford Overlay District, located south of Linton Boulevard, east of I-95.
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The item before the Board is to make a recommendation to the City Commission regarding a privately-initiated amendment to Land Development Regulations (LDRs) that will restrict the nonresidential development intensity and residential density on properties within a newly created **Waterford Overlay District**, located south of Linton Boulevard, east of I-95, to a maximum nonresidential FAR of 1.32 and a maximum residential density of 12 units per acre.

Mr. McDonnell stated that Comprehensive Plan Amendment 2010-1, adopted by the City Commission on December 14, 2010, that included a privately-initiated Future Land Use Map (FLUM) Amendment and associated text amendment for the subject property. The FLUM amendment changed the designation of the property from TRN (Transitional) to GC (General Commercial), and the text amendment modified the description of the General Commercial FLUM designation to limit the nonresidential development intensity on the property to an FAR of 1.32. This maximum intensity was set to ensure that traffic concurrency could be achieved at its maximum development potential. No changes were made to the residential potential of the property, so the maximum density will remain at 12 units per acre.

The proposed LDR text amendment is a follow up to the changes to the Comprehensive Plan adopted with Plan Amendment 2010-1. Under the proposed text amendment, the following two changes are being made:

- Article 4.5, "Overlay and Environmental Management Districts" of the Land Development Regulations is being modified to create the new overlay district on

the subject property. The location of the overlay district is defined within the new Section 4.5.20, "Waterford Overlay District".

- Section 4.4.25, "Special Activities District (SAD)", Subsection (E), "Supplemental District Regulations" is being amended to add a new regulation restricting development within the Waterford Overlay District to a maximum nonresidential Floor Area Ratio (FAR) of 1.32 and a maximum residential density of 12 units per acre.

Courtesy Notices

Courtesy notices were provided to the following homeowner and civic associations:

- Neighborhood Advisory Council
- Delray Citizens' Coalition
- Linton Ridge
- Southridge
- Southridge Village
- Waterford Apartments
- Tierra Verde at Delray Beach

For the record it was announced that the Applicant was not present

Public Comments

Dr. Victor Kirson, 2050 Alta Meadows Lane, Delray Beach FL 33444, President of Tierre Verde, stated that the subject property is adjacent to the Tierre Verde development and requested that the Board postpone the item to allow the Homeowners Association Board to make a determination if they will seek legal counsel.

Public Hearing Closed

Questions to Staff

Mr. Hansen inquired if there is any urgency to have the item before the Board.

Mr. Dorling responded that the staff has not had any discussions as it relates to the development of the property and any development would require input from the neighborhood.

Mr. Franciosa inquired if a public notice is required to be mailed to the property owners within 500 feet.

Mr. McDonnell stated that this item does not require the 500 foot mailed notice and courtesy notices were provided to the surrounding neighborhood associations.

Mr. Franciosa inquired as to the access to the subject property.

Mr. Dorling stated that during the Comprehensive Plan amendment the applicant had discussed accessing the property via the Home Depot parcel and/or the road that also provides access to Terre Verde.

Mr. Franciosa inquired if Terre Verde is gated.

Mr. Dorling stated that Terre Verde is not allowed to place a gate along the main entrance as it is not owned by Terre Verde.

Mr. Franciosa inquired that with the maximum number of units that could be developed would traffic concurrency be met.

Mr. Dorling responded that the FAR of 1.32 was factored into the analysis with the maximum density of 12 units per acre.

Motion:

Motion made by Mr. Hansen, seconded by Dr. Spodak and approved on a 4 to 0 vote to recommend approval to the City Commission of a privately-initiated amendment to the Land Development Regulations to create Section 4.5.20, "Waterford Overlay District" and amend Section 4.4.25 "Special Activities District (SAD)", Subsection (E), "Supplemental District Regulations" to limit the nonresidential floor area ratio (FAR) within that overlay district to a maximum of 1.32 and the residential density to a maximum of 12 units per acre, 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).

- E. City-initiated amendments to the Land Development Regulations Section 2.4.3(K)(1) "Development Applications"; Section 2.4.3(K)(3) "Permit Fees" and Section 6.3.3 "Sidewalk Café" Subsection 6.3.3(A) "Permit and Fees" to provide for an increase in certain development application and permit fees and increasing the permit fee assessed per square foot of approved sidewalk café space.
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Mr. McDonnell stated that the item before the Board is that of making a recommendation to the City Commission regarding an amendment to the Land Development Regulations (LDRs) to increase the development applications, permit and sidewalk café fees pursuant to LDR Section 2.4.5(M).

The proposed changes include increasing the project review fees for projects located within the Beach Overlay Districts from \$1560 to \$1610 to accommodate Urban Design Kilday Studios increases in their compliance review fee; as well as the creation of a new fee of \$2,760 for privately initiated modifications to redevelopment plans. The review and analysis associated with redevelopment plan modification necessitates considerable staff input and involves comparative analysis of land uses, traffic data, development intensities and concurrency evaluation. Such analysis is often akin to the review of a comprehensive plan amendment requiring the preparation of a report to the Planning and Zoning Board and the City Commission.

The amendment also proposes the creation of new building permit fees as well as modifications to certain existing permit fees. These fees are based on a comparative analysis of several municipalities including Boca Raton, Boynton Beach, Wellington,

Palm Beach Gardens, Deerfield Beach, Pompano Beach and Palm Beach County. Comparatively, the proposed fees are slightly above the mid-range averages of the municipalities surveyed. Finally, the amendment proposes increasing the sidewalk application fee from \$4.50 per square foot to \$4.75 per square foot of approved sidewalk café space.

Questions to Staff:

Dr. Spodak inquired when did the previous increases to the sidewalk café fee occur.

Mr. Dorling responded that the fees had not increased within the past two years.

Dr. Spodak commented that sidewalk cafes have become more lucrative and that the proposed increase was negligible.

Public Comments

No one spoke from the public

Public Hearing Closed

Motion:

Motion made by Dr. Spodak, seconded by Mr. Franciosa and approved on a 4 to 0 vote to recommend approval to the City Commission of the amendments to the Land Development Regulations Section 2.4.3(K)(1)&(3) and Section 6.3.3(A) regarding proposed increases to certain Development Applications and Permit Fees and increasing the permit fee assessed per square foot of approved sidewalk café space by adopting the findings of fact and law contained in the staff report and finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(M) of the Land Development Regulations.

VI. Reports and Comments

A. Board Members

Parking Management Advisory Board – Mark Krall

B. Staff

Mr. Dorling highlighted the upcoming projects.

Meeting Dates for July

CITY COMMISSION MEETINGS

Thursday, July 5, 2012, City Commission Regular Meeting, 6:00 p.m., City Commission Chambers

Tuesday, July 17, 2012, City Commission Regular Meeting, 6:00 p.m., City Commission Chambers

PLANNING AND ZONING BOARD MEETING

Monday, July 16, 2012, Planning and Zoning Board Regular Meeting, 6:00 p.m., City Commission Chambers:

1. Master Development Plan for Bellantica Gardens, located at the southeast corner of West Atlantic Avenue and Military Trail.
2. Final Subdivision Plat for Villa Sobre Del Mar Plat, located on the south side of SE 5th Street at its intersection with SE 7th Avenue (lying west of the Intracoastal Waterway).
3. Final Subdivision plat for Spodak Dental Office, located on the north side of West Atlantic Avenue, west of High Point Boulevard.

VII. ADJOURN

The meeting adjourned at 8:57 p.m.

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 18, 2012 which were formally adopted and approved by the Board on August 20, 2012.

Jasmin Allen (for)
Denise A. Valek, 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.