

**MINUTES OF THE PLANNING AND ZONING BOARD  
PUBLIC HEARING/REGULAR MEETING**

CITY OF DELRAY BEACH  
DELRAY BEACH, FLORIDA

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MEETING DATE: March 19, 2012

LOCATION: City Commission Chambers

MEMBERS PRESENT: Mark Krall, Cary Glickstein, Al Jacquet, Gerry Franciosa, Clifford Durden, Connor Lynch, and Craig Spodak

MEMBERS ABSENT:

STAFF PRESENT: Paul Dorling, Mark McDonnell, Ronald Hoggard, Brian Shutt, and Denise Valek

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I. CALL TO ORDER:

The meeting was called to order by Chairman Glickstein at 6:00 p.m. Upon roll call it was determined that a quorum was present.

II. MINUTES

None

III. COMMENTS FROM THE PUBLIC:

Mr. Kevin Warner, 248 Venetian Drive, advised it would be nice to look at the minutes on the City's web site. It is a disservice that someone cannot come here and have the previous minutes. Someone should start putting them on the web site. Mr. Dorling advised you need to draw the line as to what Boards that extends to. In the past it was a decision to put the City Commission minutes on and nothing else. Mr. Dorling advised we could take a look at that and bring it back to you at the next meeting. The City Commission minutes go back a very long time and scanning historic Minutes is a very involved process. Mr. Warner advised at the City Commission meeting there was a discussion about the recent P & Z Meeting in February regarding rezoning property at the southeast corner of Linton Boulevard and Federal Highway. As I recall, Mr. Harden was interpreting what the Planning and Zoning Board meant. There were no minutes. Mr. Dorling was at the City Commission meeting but not at the February P & Z meeting. There are some important Boards and it would help a lot of people to have the minutes in a more timely manner. Mr. Dorling advised those minutes are not approved until the P & Z Board sees them and since the item is before Commission before they are reconsidered by the Board it would not have been helpful in this situation.

IV. PUBLIC HEARING ITEMS:

- A. City-initiated amendment to the Land Development Regulations (LDR), by amending Article 7.9, "Docks, Dolphins, Finger Piers, and Boat Lifts", by amending Section 7.9.5, "Standards for Approval"; to clarify current language regarding docks. (Continued from February 27, 2012)
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Mr. Dorling entered the project file into the record.

The item before the Board is to make a recommendation to the City Commission regarding a city-initiated amendment to Land Development Regulations (LDRs) that will clarify setback provisions regarding docks.

The purpose and intent of Article 7.9, is to permit in and upon certain waterways the construction of docks, dolphins, finger piers, and boat lifts which do not cause a hazardous interference with navigation, endanger life or property, or deny the public reasonable visual access to public waterways. Section 7.9.5 of the LDRs includes standards for docks. The current language states “a dock, exclusive of dock pilings, shall not project more than five feet into a waterway from the property line or seawall or bulkhead or seawall cap, whichever is nearest to the waterway. The current requirement also limits the dock from extending more than eight (8) feet beyond the property line”.

As previously reported, the strict/verbatim interpretation of the current language would prohibit the construction of docks in those cases where the property line lies in excess of eight feet landward of the waterway; or when the property line lies within the water channel. Additionally, the utilization of the seawall cap as the basis of measurement without any restriction as to the size of such cap could potentially give rise to the unlimited extension of the dock into the waterway.

The proposed ordinance was considered by the Board on February 27, 2012. After significant discussion the Board tabled the ordinance on a 4 to 0 vote. The Board raised concerns with excluding the seawall cap as a basis for measurement. The Board stated that since the seawall cap is cantilevered seaward, the dock would have to be reduced in order to maintain the five foot maximum distance from the seawall surface. This would result in boats being very close to the support pilings. The Board recommended that additional input be sought from the Community Improvement (Building) and Engineering Departments.

Upon further review by the Engineering and Building Departments the following modifications are proposed:

- Where there are no seawalls, measurement will be established at water’s edge and the current width of five (5) feet will be maintained. However, clarification is provided that the basis of measurement is at the established low tide;
- For existing or proposed seawalls without batter piles, a dock projection of five (5) feet as measured from the face of the seawall is proposed; and,
- For existing or proposed seawalls, with or without seawall caps, constructed with batter piles an increased distance for the dock projection is proposed. In this case the dock projection (including cap) is allowed up to a maximum of seven (7) feet as measured from the face of the seawall.

The proposed amendment eliminates the use of the “property line” as a basis for measurement and replaces the term “nearest the waterway” with the term “water’s edge”. The current requirement for a dock projection of five (5) feet will be maintained in those cases where there are no seawalls or seawalls that do not have batter piles. An additional projection of two (2) feet is proposed to accommodate a dock construction with batter piles.

Courtesy Notices:

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

- Neighborhood Advisory Council
- Delray Citizens Coalition

Mr. Jacquet inquired if this item would be coming before City Commission what happens if I vote now and have to see this again at the Commission meeting. Mr. Shutt advised you can do that.

Mr. Glickstein advised the problem we had was based on making the measurement from the sea wall face particularly if you had a cap cantilevered over the sea wall. Mr. Dorling advised if you had 3 feet sea cap you would have a dock of 2 feet and there was a concern the boat would be too close. Under the revised measurement you can be 7 feet total from the sea wall face. Mr. Franciosa said some caps may be 3.5 feet to 4 feet. If you have a 100 foot wide canal you should be allowed to extend further into the waterway. I don't know how the Building Department interprets finger piers. There is a lot of sludge by the sea walls and to get further away from the wall is essential. If you eliminate the ability to construct a large dock people will start putting in finger piers. Mr. Dorling advised the maximum dimension is not necessarily different for the larger canals or smaller ones. Mr. Dorling advised 5 to 7 foot docks are adequate in each case regardless of canal width. Mr. Franciosa advised you want to move your boat away from the sea wall. They put whips on the boat beyond the sea wall and it causes problems. Why limit a 7 foot pier in a 100 foot canal? Mr. Dorling advised this is to clarify current regulations and what is allowed now.

Mr. Glickstein advised the genesis for this is not to deal with nuances and canal width, it was to deal with inconsistencies in the current LDRs regarding the Building Department.

Mr. Dorling advised this deals with that issue. It also addresses the unique situations that I described and what I showed in the slide where you have property lines in the water or on land.

Public Comments: None

Mr. Glickstein advised to be clear on this, we are not looking to revise it, and this Board's task is to look into whether or not this works for all canals. We are not looking to create a sliding scale for various canal widths. Mr. Dorling advised we are not. This is to clarify unique situations and maintain consistencies in the regulations currently out there. Mr. Glickstein advised back to the genesis, to clarify this because there have been concerns in the Building Department of what currently is allowed in the City.

Mr. Franciosa asked Mr. Dorling how he got the 2 foot figure. Mr. Dorling advised the normal cap on a seawall is 3 feet, 2 foot overhang from the sea wall face. If you don't have a piling you don't get the extra 2 feet in width 5 feet vs. 7 feet. Mr. Glickstein advised you don't build a sea wall without a cap. Mr. Franciosa advised a lot of people have existing sea walls without a cap. Mr. Dorling advised if you have a piling (cap or no cap) you get the extra 2 feet. If you have a sea wall without the piling you get 5 feet. Mr. Glickstein advised he wants to encourage people to put caps on sea walls.

Mr. Glickstein advised we are not here to increase or decrease what people can get now, it is to clarify so there is no ambiguity. Mr. Dorling advised that is correct. If there is a push for a sliding scale based on canal width it can be considered later.

Motion:

Motion made by Mr. Lynch, seconded by Mr. Jacquet, and approved 6 to 1 (Mr. Franciosa dissented) to recommend approval of the Recommend approval of the amendment to Land Development Regulations, Article 7.9, "Docks, Dolphins, Finger Piers, And Boat Lifts", By Amending Section 7.9.5, "Standards For Approval"; to update current language regarding the construction of docks, 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).

- B. Conditional use request for Delray Gas Station (formerly known as Valero Gas Station) to allow the re-establishment of the gasoline station with attendant food sales, at 14111 South Military Trail (west side of South Military Trail north of Conklin Drive. Quasi-judicial Hearing

Mr. Dorling entered project file no. 2012-079 into the record.

The subject property is a one acre site which is located south of the Public Self Storage Facility on the west side of Military Trail, south of Lake Ida Road. The property is bounded to the south by Tire Kingdom, to the north and west by the Public Self Storage Facility and to the east (across Military Trail) by High Point of Delray East (Condo Development).

The subject property contains a vacant Valero Gas Station, which was legally established by Resolution No. 81-1212 approved on September 29, 1981 by the Board of County Commissioners. This approval granted a special exception to allow an auto service station on the property. The property was developed with a gasoline station use in 1983.

The property was annexed into the City on September 6, 2005 via Ordinance 63-05. The Future Land Use Map Amendment was part of Comprehensive Plan Amendment 2005-2 which was adopted via Ordinance 76-05 on December 6, 2005, while the Zoning was approved via Ordinance 56-05 on December 6, 2005.

The gasoline station use vacated the property in late 2009, and the property has been vacant since. Pursuant to 2.4.5(E)(6), if a conditional use is discontinued or abandoned for a continuous period of 180 days, the conditional use cannot be reestablished without a new application being filed, reviewed and approved. The current property owner is actively marketing the property to potential end uses that would rehabilitate the property and utilize it as a gasoline station with a convenience store. If the conditional use approval is granted, a site development plan consistent with the LDRs will be required. It is noted this will require extensive improvements and upgrades to the landscaping, driveway connections and signage.

Courtesy notices have been provided to the following associations that have requested notice of developments in their areas:

- Neighborhood Advisory Council
- Del-Ida Park HOA

- Delray Citizens Coalition

Public Notice:

Formal public notice has been provided to property owners within a 500' radius of the subject property. Additional letters of support or objection, if any, will be presented at the Planning and Zoning Board meeting.

Public Comments: None

Applicant:

Mr. Michael Sanchez, Johnston Group, advised he got this property from the FDIC. They are actively marketing it and there is a lot of interest. The site is dilapidated. Before the bank does anything they have to go through the appropriate development process through the City.

Mr. Krall mentioned that a lot of these gas stations want to incorporate food.

Motion:

Motion made by Mr. Durden, seconded by Dr. Spodak, and approved 7 to 0 to move approval of the Conditional Use request to reestablish a gasoline station, based upon positive findings with respect to Section 2.4.5(E)(5) (Conditional Use Findings) and Chapter 3 (Required Findings) of the Land Development Regulations, and consistency with the policies of the Comprehensive Plan, subject to the following conditions of approval:

1. That a site development plan be processed which shall include significant landscape improvements as noted in the attached landscape Technical comments (Appendix B) signage and drive way modifications be included.
- C. Future Land Use Map amendment (small-scale) from CMR (Commerce) to TRN (Transitional), rezoning from LI (Light Industrial) to NC (Neighborhood Commercial), and text amendment to the General Commercial Land Use Description for 10th & 10th Center, located at the southeast corner of SW 10th Street and SW 10th Avenue. Quasi-judicial Hearing

Ex-parte Communication:

Mr. Jacquet drove by the site.

Mr. Hoggard entered project file nos. 2012-080 and 2012-081 into the record.

The 1.49 acre subject property is located within the Esquire Subdivision, recorded in Plat Book 23, Page 43 of the public records of Palm Beach County, Florida on February 27, 1950. It, was annexed into the City on June 28, 1988, via the Enclave Act (Enclave #31A) and is currently undeveloped after two (2) residential structures were demolished. This property and the surrounding area are located within the Wallace Drive Industrial Area, which is subject to the "Wallace Drive Redevelopment Plan", adopted by the City Commission on January 6, 2004. The Plan encourages the development of light industrial, limited commercial and office uses in an urban setting.

The Plan recommended a Future Land Use Map (FLUM) amendment and rezoning for the subject property from Redevelopment Area #2 (RDA-2) to Commerce (CMR) and from Single-Family Residential (R-1-A) to Light Industrial (LI), respectively. The recommended FLUM amendment and rezoning were also approved by the City Commission on January 6, 2004.

Several LDR text amendments, which were recommended in the Redevelopment Plan, were initiated immediately following approval of the Plan and adopted by the City Commission on February 3, 2004. These text amendments created the "Wallace Drive Overlay District" within the area east of Wallace Drive. Within the overlay area, the development standards of the Light Industrial zoning district were modified to reduce the minimum development area, lot size, lot dimensions and tenant space requirements. Although aggregation of parcels is encouraged in the Plan, this accommodation was necessary to allow redevelopment of smaller parcels. The modified development standards are the same as those in the MIC zoning district. The overall effect of these modifications is to provide front and side building setback along the major roadways consistent with the adjacent MIC zoning district, but restrict the more intensive uses allowed in that district.

At its meeting of June 23, 2004, the Site Plan Review and Appearance Board (SPRAB) approved a Class V site plan and landscape plan associated with the construction of an 18,248 square foot industrial building for "House of Floors" and postponed the architectural elevations. The architectural elevations were later approved by SPRAB at its meeting of November 10, 2004. Four (4) Class V site plan extensions have since been granted by SPRAB for the project. The current extension will expire on December 14, 2013. It is noted that this project approval does not include the south 91 feet of the subject property, which has since been added to the site.

The current proposal for development of the property is to abandon the "House of Floors" project and develop a neighborhood shopping center at this location. The small-scale comprehensive plan amendment and rezoning, currently before the Board, are necessary to accommodate the proposed use.

It is also noted that the proposed Future Land Use Map and zoning changes are not consistent with recommendations in the adopted Wallace Drive Redevelopment Plan. To address these conflicts, the applicant is seeking a concurrent amendment to the Redevelopment Plan. The intent is not to incorporate the modifications directly into the existing sections of the Plan, since this would give the impression that the changes were always a part of the original Plan and would result in a loss of historic perspective. Instead, the proposal is to add a new "2012 Modifications" section to the Plan that will include updated recommendations for amendments to the Future Land Use Map, Zoning Map and Land Development Regulations, as well as a description of changes in conditions that make these modifications necessary. To maintain continuity, this new Section will be referenced in the existing "Executive Summary" and "Implementation" Sections of the Plan.

#### Review by Others

The proposed rezoning is not in a geographic area requiring review by either the Downtown Development Authority (DDA), or the Community Redevelopment Agency (CRA).

Courtesy Notices:

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

- Neighborhood Advisory Council
- Delray Citizens Coalition
- Southridge
- Delray Beach Heights
- Groves of Delray

IPARC Notice:

On February 27, 2012, notice of the Comprehensive Plan Amendment was provided to the Interlocal Plan Amendment Review Committee (IPARC) which distributes the information to adjacent municipalities. No objections have been received to date.

Public Notices:

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

Mr. Glickstein inquired why we are not seeing the amendment to the Wallace Drive Redevelopment Plan first. Mr. Hoggard advised that all the components will be considered in the appropriate order.

Applicant:

Bonnie Miskel, Esquire, agent for the applicant, advised she is qualified and testifies as an expert in zoning matters on behalf of the property owner and applicant, Mr. Jim Zengage. I represent both the public and private sectors. When Mr. Zengage first approached me I was a little surprised as I did the research that it was zoned what it was. The property is rectangular, it is not square, and there is a bit of a jog. There is a church to the east, cemetery to the north, and single family around it. The area seemed to be predominantly residential. When the property was annexed there was a mix of uses. This is not something that is unique to South Florida or Delray Beach. The City of Boca Raton is adjusting the amount of industrial acres they have. The way we do business has changed, and therefore the need for industrial property is diminished.

Ms. Cecelia Ward, President, J.C. Consulting, 102 NE 2<sup>nd</sup> Street, Boca Raton, FL, advised she has over thirty years of experience in planning, ten years in the private sector, and ten years with the City of Fort Lauderdale. My specific job in that role was to update the City's Comprehensive Plan which was more than ten years old. When the plan was developed it was to be an industrial plan and result in redevelopment, enhance employment opportunities as it relates to manufacturing, storage, and distribution. Seven years later and the intent has not come to fruition. We revisited the Wallace Drive development plan and how it relates to the neighborhood. The proposal provides a transition that we believe are more appropriate. There has been a 17% decrease in jobs since May 2010. Delray Beach leading industries does not include manufacturing, storage, and distribution uses. There are ten acres of existing industrial use west of Wallace Drive. This property is not directly accessible to I-95. The FLUM does not change the amount of the existing

industrial use that exists west of Wallace Drive. When you look at the Palm Beach County Plan White Paper and industrial development that was done by Palm Beach County, all sources were from the northeast and Midwest (Washington, DC, Maryland, Chicago). The only source from Florida was Osceola County, Boca Raton, and Boynton Beach have changed their industrial land use categories to allow commercial, residential and public school facilities. There is a demand for neighborhood retail and commercial on SW 10<sup>th</sup> Street. The development would be smaller and more compatible with the surrounding residential uses.

Mr. Jim Zengage advised he bought this land back in 2006. We developed the Wallace Drive commercial that consists of 40,000 square feet. The economy crashed and burned. I am not against industrial. I was approached by a developer who wants to do a Dollar General store. He would put in a parking lot, landscaping, and trees. There is another 3,500 square feet that could be a restaurant, beauty parlor, nail salon, etc. I hope you support this.

Mr. Jacquet inquired if this property affected the church. Mr. Zengage advised it does not as there is a street between the property and the church. The road has sewers, and there is a plan for future sidewalks on both sides.

Ms. Miskel advised she received an e-mail (attached) from Mr. Vin Nolan, Economic Development Director of the Community Redevelopment Agency (CRA) advising of the merits of this project.

Public Comments: None

Ms. Christina Morrison, Park Ten Seneca Group, advised their property is Park Ten zoned for warehouse. Our Industrial zoning is next to another Industrial zoning in foreclosure. Mr. Zengage's property is fronted by residential. There is 100,000 square feet of vacant LI zoning available and the vacancy rate is 15%. The LI zoning classification was very hard hit by the recession. We support the subject property being changed to commercial. With the present ingress/egress, you would have trouble pulling trucks in and out of the site to get back on I-95 as they would have to cross opposing traffic. LI use with that much residential would have a negative impact. We do support this change.

Ms. JoAnn Peart, 107 NW 9<sup>th</sup> Street, advised her husband, and son own a lot in that area. I don't like to go against a neighbor. There are just as many vacancies in commercial we well as LI. I don't know how this will affect our property I think the LI will come back once the economy turns around. The reason we have not utilized the property is that we found a place to rent closer to our job. We were hoping to have roads put in the area. It was very hard to find LI property in the City when we bought the adjacent site. I have reservations about this.

Mr. Jacquet inquired how would it affect your property. Ms. Peart advised she did not know if this would affect her property. Dr. Spodak inquired what was your concern if it were to be changed. Ms. Peart advised she does not want to be land locked. When it changes from LI we don't want to be forced out. When the recession is over are they going to need the LI zoning?

Mr. Jeff Kelly, Commercial Real Estate Broker, advised he has known Jim Zengage for many years and has handled his property for the last 4 to 5 years. There has been

little or no interest in the property as LI and the vacancy rate is 15%. I support the project and the zoning change. It could enhance the area by bringing activity into that area of the City.

Mr. Glickstein inquired why do you think the area has struggled. Mr. Kelly advised that the access from I-95 wasn't the best. It has gotten better over the years. The residential areas around there is mixed in with industrial. I am talking about South FL. There is plenty of supply of existing space. There are many options. We have been working on vacant land. I handle property on Congress Avenue. Why was this property never developed as LI then.

Mr. Kelly advised access to and from I-95 wasn't the best then. The residential area around there is mixed in with the industrial. The person would want to go into a corporate park. Mr. Glickstein noted that staff is longer term thinking. If that was never used for the prominent light industrial in one of the more remarkable building periods within the last five decades prior to 2006 what is different going forward. Why was that property never developed? Delray Beach might not have been the preferred location. Pompano Beach has a great location close to the I95. There are corporate parks down there. Boynton Beach has large parcels of LI. Mr. Hoggard said it was because prior to 2006 that section was zoned R1A residential .

Mr. Mark Gregory, past member of the Site Plan Review and Appearance Board (SPRAB), advised he was familiar with this neighborhood. This is going to be a good fit for the neighborhood. This area tends to be land locked for this type of commercial service. You have to go on Linton Boulevard or Congress Avenue to find this type of service that is being offered. I would support it.

Ms. Catherine Khidirian, H & B Commercial Realty, advised we have quite a few industrial uses that are empty. A lot of industrial units are being used for other things. People are purchasing or leasing these units and using them for internet car sales and schools are going into these units. I think in this area with the church and cemetery in the area that the use would be best rezoned in my opinion.

Mr. Christopher Brown, 218 NW 9<sup>th</sup> Street, advised he has been a resident for twenty years. This is the first time that I have ever seen some much industrial space. Palm Beach has 30 million dollars of property space. We have lost every builder's yard in Palm Beach County. There are 8 million square feet of vacant buildable space. What do we do with so much industrial. There is a lot of vacant land as well. We are no longer the largest warehouse development county in the United States. I began to realize that people who are in the industrial business are people who can self-finance. We are going to have to be flexible and permit other land uses. I was interested in Centura Park in Boca Raton I think the development industry does not have a huge concentration. Their position to reduce LI makes a lot of sense.

Mr. Fred Fetzer, 932 Evergreen Drive, advised as a resident he is interested in what is being proposed. Delray Beach has a very strong history of doing some very good land use planning. I think the Wallace Drive redevelopment plan was a very important and well done plan. Things have changed greatly since 2004. We really need to consider the change in circumstances and what has happened to this particular area. I think it makes sense in this neighborhood and I support this change.

Mr. Perry Ashon, 10<sup>th</sup> Avenue, advised he lives across the street from the property. I came to find out what is going on. A lot of the residents are working and could not be here tonight. Whatever you put on that corner will bring a lot of traffic. Mr. Krall inquired how long he had lived there. Twenty years. Mr. Krall inquired what was going on with the mini mart. Ms. Miskel advised she didn't know they were creating a problem.

Mr. Glickstein inquired this would go to the City Commission. You and your neighbors will have an opportunity to learn more about it at the City Commission meeting and you can support it or not. Ms. Miskel advised twenty-five years ago there was a gas station on that lot.

Dr. Vic Kirson, 2110 Tierra Verde, advised he frequents the convenience store that is on that corner. It is a family operated small store. I have never seen drug sales. It is very well utilized. I would like to have a study done to see what kind of taxes are being paid. What is the income to support this? Can it stand the traffic? We are talking about a Dollar store. There used to be one a mile away and it failed. Do you want another Dollar store? I have never seen so many heavy hitters speak for so long about a Dollar Store. What is going on?

Muhammed Kaeran, advised he manages the Karin Convenience Store very efficiently. I do not allow anyone to hang out at the store. The Police Department knows me very well. I try to keep the store clean. My concern is the traffic as Wallace Drive is very narrow. The Mercedes Benz dealership is always driving cars around that area. They are not saying what is going to be built there. As Dr. Vic said a Dollar store with all these heavy hitters. Building a Dollar store is my concern.

Ms. Miskel advised staff already reviewed the traffic and it has an FAR of 0.25 which is less than that generated by a mixed office/retail development. Mr. Jacquet inquired if it will take away truck traffic. Ms. Miskel advised under the NC you will have less.

Mr. Jim Zengage advised the approved use was for House of Floors. This proposal is for two stores one with 9,000 sq. ft. and 3,000 sq. ft. The tenant that is interested is a tenant called Dollar General. They are a 9,800 chain store and (Fortune 500) Fifteen Million dollars in sales annually. They will carry groceries, hardware, clothing, etc. This is a variety store, not a 99¢ store.

Mr. Hoggard advised there was a market for LI before the crash. We are not talking about just heavy manufacturing here, this is light industrial that allows warehousing, storage distribution centers, manufacturing, office and repair, and assembling. I heard about the vacancy rate in industrial. There is a lot of vacancy in commercial space also. The other center on the south corner of 10<sup>th</sup> and Sherwood has 7,400 sq. ft. vacant commercial space. There are some other vacant areas in the area of commercial too, not just industrial. We do long range planning and evaluate our Comp Plan on a regular basis. We will look at the area comprehensively like we did in 2004.

Mr. Glickstein advised there is a lot of truth in planning for LI for long term needs. I am trying to get to the gist of why Planning wants to retain it other than it is good to retain and it is good to keep light industrial available. Taking off your Planning hat, do

you really see that area being used for LI given the history of that area and what is around it. Why would it go to there.

Mr. Hoggard advised it does allow other mixes of uses. The whole corridor there is in this type of zoning. Would it kill us if we lost an acre and a half, no. Our intent is to try to preserve this type of zoning. I don't know what could happen here in the future.

Dr. Spodak asked Mr. Glickstein if he was concerned if this gets rezoned that it would be a catalyst? Mr. Hoggard advised no, he does not see that happening because the parcels to the south of this is the City's drainage area. We are trying to maintain our Comprehensive Plan policies dealing with this type of use.

Mr. Durden inquired what the reason was for changing that little parcel and rezoning it from R to LI in the first place. Mr. Hoggard advised it wasn't just that little parcel it is the whole area on the east side of Wallace Drive

Mr. Franciosa inquired how much of the development area has been redeveloped since 2004? Mr. Hoggard advised warehousing, Profiles in Concrete, and plumbing supply. Mr. Franciosa asked how much is still available. Mr. Hoggard advised most is vacant or has older houses on it.

Mr. Glickstein advised he understands the concept why is it important to keep that LI. Other than planners like to keep things the way they are planned because you have a longer range outlook. If you look at the whole area and from a bird's eye perspective It has more of a residential character. If you drew the line at Wallace Drive we have this little pocket right there. Why is it that important to keep that LI? Mr. Hoggard advised it is important because we are trying to retain this land use within the City. We already eliminated quite a bit since 2004 with the creation of the Congress Avenue Overlay District (MROC). We think the market will come back.

Dr. Spodak advised his concern was during the boom of our time it didn't get developed. Mr. Glickstein advised it did not have the proper zoning then. Dr. Spodak advised there are residential communities that drive through that area and then you see light industrial. It does not suit the character of the area.

Mr. Glickstein advised you don't want the tax base to be necessarily driving a planning decision. I am all for keeping LI in places where they can serve the industry. It is an area that has a bit of a no man's land. It does not have the critical mass. I am not thrilled about seeing a Dollar General either. I think we can expand the tax base in a way that is consistent with logic. We have to take a hard look at this. That area needs some type of catalyst. It is still development and it is still tax base. I have always had a problem with rezoning property without a site plan attached to it.

Mr. Lynch mentioned a lot of concerns that were brought up they would have a more critical interest in the site plan when it comes forward. The way it is designed and access on 9<sup>th</sup> is what will make or break that deal. The site plan is going to be the critical issue.

Motion:

Motion made by Mr. Lynch, seconded by Mr. Durden, and approved 7 to 0 to move a recommendation of approval to the City Commission for the request for the small-

scale Comprehensive Plan amendment, including a Future Land Use Map amendment from CMR (Commerce) to TRN (Transitional) and an associated text amendment, and rezoning from LI (Light Industrial) to NC (Neighborhood Commercial) for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan, and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

- D. Amendment to the Wallace Drive Redevelopment Plan to allow neighborhood commercial retail and service uses as a principal use at 10th and 10th Center (southeast corner of SW 10th Street and SW 10th Avenue).

Mr. Hoggard entered project file no. 2012-081A into the record.

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

The Wallace Drive Redevelopment Plan creates the framework for the future redevelopment of an area which was originally identified as Redevelopment Area #2 in the City's 1989 Comprehensive Plan. The Redevelopment Area is bordered by SW 10th Street on the north; Milfred Street on the south; SW 9th Avenue on the east; and Tangelo Terrace on the west. Two-thirds of the area is located west of Wallace Drive, which bisects the area, running diagonally from northeast to southwest. Development within this area began in the late 1940s when the area was located on the fringe of the City of Delray Beach, in unincorporated Palm Beach County. Residential development continued at a slow pace into the 1970s with a development pattern that was rural in nature with unpaved roads and no public utilities. In the late 1970s, industrial uses began to be developed west of this area along the Interstate 95 corridor. Automotive-related uses including repair, towing and storage facilities, along with other industrial uses in this area generated noise and commercial traffic through the residential neighborhood. This had a significant effect on the character of the area and the neighborhood declined.

The area was annexed into the City via the Enclave Act (Enclave #31A), on June 28, 1988. By this time, under County jurisdiction, the area had evolved into a mix of incompatible land uses with limited public infrastructure and little or no code enforcement. As a result, most of the area had deteriorated to a point where private investment had virtually stopped. The area east of Wallace Drive (then Germantown Road) was characterized by single family homes, a few vacant lots and an abandoned gas station site at the southeast corner of SW 10th Street and Wallace Drive. Except for a convenience store located at the southwest corner of SW 10th Street and Wallace Drive, the area west of Wallace Drive was primarily single family homes and vacant lots bordered on the west by industrial uses.

The Redevelopment Plan was adopted by the City Commission on January 6, 2004. Recommendations in the Plan on Future Land Use Map designations and zoning for the area were initiated and adopted the same day. The Future Land Use Map designation for the area east of Wallace Drive/SW 10th Avenue, which includes the applicant's property, was changed to CMR (Commerce) and the area was rezoned to LI (Light Industrial). It was the intent of the Plan to make the Wallace Drive Redevelopment Area a unique place that will encourage the development of light industrial, limited commercial and office uses in an urban setting. This would, in turn,

serve as a catalyst to increase property values and increase the City's employment base in the industrial, manufacturing and trade sectors.

The applicant wishes to develop a neighborhood commercial center, including a "Dollar Store" at the southeast corner of SW 10th Street and SW 10th Avenue. To support the proposed use, the applicant is seeking a Future Land Use Map amendment from CMR (Commerce) to TRN (Transitional) and an associated rezoning from LI (Light Industrial) to NC (Neighborhood Commercial). These changes are not consistent with recommendations in the adopted Wallace Drive Redevelopment Plan. Since the Comprehensive Plan mandates that all Future development must be in accordance with the provisions of this Plan, the applicant is seeking a concurrent amendment to the Redevelopment Plan to address the conflicts. A copy of the proposed Plan amendment is attached. The intent is not to incorporate the modifications directly into the existing sections of the Plan, since this would give the impression that the changes were always a part of the original Plan and would result in a loss of historic perspective. Instead, the proposal is to add a new "2012 Modifications" section to the Plan that will include updated recommendations for amendments to the Future Land Use Map, Zoning Map and Land Development Regulations, as well as a description of changes in conditions since 2004 that make these modifications necessary. To maintain continuity, it will also be necessary to reference this new Section in the existing "Executive Summary" and "Implementation" Sections of the Plan.

#### Review by Others

The redevelopment area is not within a geographical area requiring review by the Community Redevelopment Agency (CRA), the Downtown Development Authority (DDA) or the Historic Preservation Board (HPB).

#### Courtesy Notices

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

- Neighborhood Advisory Council
- Delray Citizens' Coalition
- Southridge
- Delray Beach Heights
- Groves of Delray

It is also noted that formal public notice was provided to property owners within a 500' radius of the subject property for the proposed FLUM Amendment and Rezoning.

#### Applicant:

Bonnie Miskel, Esquire, advised she is here to answer any questions.

No discussion on this item. See Item IV. C.

#### Motion:

Motion made by Mr. Lynch, seconded by Mr. Mr. Krall, and approved 7 to 0 to move a recommendation of approval to the City Commission of the proposed amendment to the Wallace Drive Redevelopment Plan, by adopting the findings of fact and law contained in the staff report, and finding that the amendment and approval thereof is consistent with the Comprehensive Plan.

- E. Annexation, Future Land Use Map (small-scale) amendment from County MR-5 (Medium Residential 5 units per acre) to MD (Medium Density Residential 5-12 du/ac) and establishment of initial zoning of A (Agricultural) for a 3.13 acre parcel located at 13038 Barwick Road, (southeast corner of Barwick Road and LWDD L-30 Canal).  
Quasi-judicial Hearing
- 

Ex-Parte Communications:

Mr. Jacquet drove by the site.

Mr. Dorling entered project file no. 2012-76, and 2012-77 into the record.

The subject properties are not in an area that requires review by the Community Redevelopment Agency (CRA) or Downtown Development Authority (DDA).

Palm Beach County Notice:

On February 27, 2012, Palm Beach County Administrator and Palm Beach County Planning Division were notified of the City's intent to annex this property. The County has not yet responded in writing.

IPARC Notice:

On February 27, 2012 a notice of the Future Land Use Amendment was also provided to the Interlocal Plan Amendment Review Committee (IPARC) which distributes the information to adjacent municipalities.

Lake Worth Drainage District:

On February 27, 2012, Lake Worth Drainage District (LWDD) was notified of the City's intent to annex this property. LWDD has disputed the actual area owned by the petitioner. While this unresolved issue regarding the north 25 feet of the property does not affect the recommendation to the Planning and Zoning Board, final resolution will be necessary to ensure the legal description for the property being annexed is accurate.

Courtesy Notices:

Special courtesy notices were provided to the following homeowners and civic associations:

- |                                 |                     |
|---------------------------------|---------------------|
| ▪ Neighborhood Advisory Council | ▪ Sabal Lakes       |
| ▪ Delray Citizens Coalition     | ▪ Country Manor     |
| ▪ Barwick Ranch Estates         | ▪ Lake Forest South |

Public Notice:

Formal public notice has been provided to property owners within a 500' radius of the subject property. Additional letters of support or objection, if any, will be presented at the Planning and Zoning Board meeting.

Annexation of the subject property into the City will further reduce the amount of land included within this existing enclave and furthers the objective to incorporate pockets of

currently unincorporated land. However, as this parcel is contiguous to County land north of the L-30 Canal, the argument could also be made that this is not an existing enclave. The County, as discussed later in this report, has indicated that their preliminary assessment is that it is not considered an existing enclave.

Accommodating the annexation of this property is consistent with the City's program for annexation of territory within its planning and service area. For 13038 Barwick Road, the City's advisory Future Land Use Map Designation of MD (Medium Density Residential, with a density of 5-12 units per acres) is consistent with the County's MR-5 (Medium Residential with a density of 5 units per acre) designation, and the adjacent development pattern to the east which includes the Banyan Creek Elementary School and the Bexley Park Planned Residential Development to the west, residential property to the north, and the unoccupied property to the south. This Future Land Use Map designation is being proposed concurrently with a request for initial zoning of A (Agriculture) zoning as a holding designation. The annexation will provide better Police, Fire, EMS and Code Enforcement services than under County jurisdiction. The property will experience a slight increase in overall taxes. The City will receive additional revenue from property taxes, in addition to storm water assessment fees, utility taxes, and franchise fees. Additional revenue will be realized upon redevelopment. Based upon the above, the proposed Annexation, Future Land Use Map Amendment and associated Rezoning application should be approved.

Mr. Dorling advised there are two issues regarding this property:

That this property will not create an enclave. We have sent it to the County, and they might be opposing it. We will meet with the County and see if we can come to a resolution otherwise we will end with this action and not take it forward to City Commission. We have had other situations where they have taken that position and reversed it. We are taking the approach that this is reducing an existing enclave. The other issue relates to LWDD.

On February 27, 2012, LWDD was notified of the City's intent to annex this property. The LWDD has disputed the actual area owned by the petitioner. While this unresolved issue regarding the north 25 feet of the property does not affect the recommendation to the Planning and Zoning Board, final resolution will be necessary prior to consideration by City Commission to ensure the legal description for the property being annexed is accurate. This issue is being worked out with the applicant's attorney and the LWDD. If that occurs, the legal description would have to be modified.

Mr. Franciosa inquired if the zoning would be Agricultural. Mr. Dorling advised we apply Agriculture as a holding zone only pending redevelopment under RM later. We have an underlying land use of medium density and this zoning would be a holding zone at this time. The applicant has sought that zoning designation for tax purposes.

Mr. Franciosa questioned what is the land use? Mr. Dorling advised the proposed future land use is medium density. The zoning would be City agricultural residential and eventually change from Agriculture to RM.

Mr. Jacquet inquired if a Notice was sent to the Bexley Park residents. Mr. Dorling advised signs were posted and owners within 500 feet received a mailed notice. We have heard from several residents and they were primarily concerned the home would turn into a transient residential facility. Mr. Jacquet inquired what does this mean for us

as a city regarding the cost for fire and services. Would this generate additional dollars in our tax base. Mr. Dorling advised it would mean an additional \$2,872.00 to the City which is an increase of \$1,000.00 to property owner. We already provide services in the area so it is not a significant drain on services. One of the incentives is we maintain future land use control over it. If they come in and get water we still maintain control through Water Service Agreement.

Applicant:

Brian Lipshy, Esquire, representing the property owner, advised there is a legal dispute with the LWWD regarding a title claim. This is the first time I have seen it. They advised the 25 feet in dispute come into the City with the annexation.

Mr. Jacquet inquired what will be done with the property. Mr. Lipshy advised Agriculture/Medium Density and later a town house project would be developed. I have gotten a lot of phone calls inquiring if it would be a rehab house. My client is also attempting to purchase the property south of it.

Public Comments:

Ms. Christina Morrison advised she is all for increasing the tax base.

Motion:

Motion made by Mr. Krall, seconded by Mr. Glickstein, and approved 7 to 0 to move approval of a recommendation of approval to the City Commission for a Voluntary Annexation, Future Land Use Map (FLUM) Amendment from Palm Beach County MR-5 (Medium Residential with a density of 5 units per acre) to City MD (Medium Density Residential, with a density of 5-12 units per acre), and rezoning from County AR (Agricultural Residential) to City A (Agricultural) for an approximate 3.138-acre site located at 13038 Barwick Road, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with F.S. 171.044 in that the property is contiguous to the City, reasonably compact, and does not create an enclave, and further finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

VI. Reports and Comments

A. Board Members

Parking Management Advisory Board

Mr. Krall advised direction was given by the City Commission that the Parking Management Board take a look at the valet parking system for different alternatives including whether the City should take over and run everything. Basically a bunch of restaurateurs showed up (Mr. Fran Marincola, and Mr. Butch Johnson) advising that they each run their parking queue and have control over everything. Most of them lose money. They do not see how anybody could take it over and make any profit unless you raise the cost.

B. Staff

Meeting Dates for April

City Commission Meetings

Tuesday, April 3, 2012, City Commission Regular Meeting, 6:00 p.m., City Commission Chambers

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

Planning and Zoning Board Meeting

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

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1. Master Development Plan for Bellantica Gardens, located at the southeast corner of West Atlantic Avenue and Military Trail.
  2. Conditional use request to allow the expansion of the Beachway Motel, located at 655 George Bush Boulevard.
  3. Conditional use for EL Cubetazo to allow a late night business (proposed bar/night club) to operate until 4:00 a.m. within a tenant bay at Linton Square.
  4. City initiated amendments to the Land Development Regulations primarily to provide clarification of the Historic Preservation Board's (HPB) duties, review of variances and development review.
- Project Updates

VII. ADJOURN

The meeting adjourned at 8:45 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 March 19, 2012 which was formally adopted and approved by the Board on April 16, 2012.

*Denise A. Valek*  
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.