

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: February 25, 2013

LOCATION: ESD Training Room

MEMBERS PRESENT: Clifford Durden, Jan Hansen, Connor Lynch, Thuy Shutt , Craig Spodak and Gerry Franciosa

MEMBERS ABSENT: Derline Pierre-Louis

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

I. CALL TO ORDER:

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

II. MINUTES:

Motion made by Mr. Franciosa, seconded by Dr. Spodak, and approved 4-0 to move approval of the October 15, 2012 minutes as written.

Motion made by Mr. Franciosa, seconded by Dr. Spodak, and approved 4-0 to move approval of the January 29, 2012 minutes as written.

Chair Mr. Lynch read the Quasi-Judicial Rules for the City of Delray Beach and Ms. Miller swore in all who wished to give testimony on any agenda item.

III. COMMENTS FROM THE PUBLIC - None

IV. PUBLIC HEARING ITEMS:

A. Privately-initiated rezoning from AC (Automotive Commercial) to PC (Planned Commercial) for Delray Marketplace (former Ralph Buick Dealership property), located at the northeast corner of South Federal Highway and Fladell's Way (Avenue "F"). Quasi-judicial Hearing

Ex-Parte Communications – None

Mr. McDonnell entered project file No. 2013-083 rezoning

An application has been submitted to rezone the property from AC to PC, in association with a proposal to establish a flea market/merchandise mart type of retail use. This use will require an additional approval of a conditional use and is not part of this rezoning request.

The subject property is located on the east side of Federal Highway and the west side of Florida Boulevard west of the intersection of Florida Boulevard and Dogwood Drive. The property is the former location of Ralph Buick, and measures 6.18 acres with 3 existing buildings. The buildings are not occupied.

The proposal is to change the zoning designation of the property from AC (Automotive Commercial) to PC (Planned Commercial). The proposed rezoning would allow for the redevelopment of the property to numerous uses such as commercial plazas, retail, restaurant, and office uses. Several types of Conditional Uses are also allowed, however, these will require additional approval processing.

The City Commission recently adopted the South Federal Highway Redevelopment Plan. The plan indicates that a commercial shopping center or a mixed-use development and a zoning designation of PC are appropriate for this property. Thus, the proposed rezoning complies with reasons "b" and "c" given market trends, implementation of the redevelopment plan, and consistency with the Future Land Use Map designation.

Courtesy Notices:

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

- Neighborhood Advisory Council
- Progressive Residents of Delray (PROD)
- Presidents Council
- Captain's Walk
- Eastview Village
- Tropic Bay
- Tropic Harbor
- Tropic Isle Civic Association
- Tropic Palms
- Pelican Harbor
- Pelican Pointe

Public Notice:

Formal public notice has been provided to property owners within a 500' radius of the subject property. Any correspondence regarding the proposed rezoning, will be presented to the Planning and Zoning Board.

Mr. McDonnell said that staff recommends approval finding that it is consistent with the Comprehensive Plan and Redevelopment regulations and the South Federal Highway Redevelopment Plan.

Applicant's Presentation

Marissa Farber – DMBB Law Office – She was here on behalf of the petitioner. Ms. Farber did not want to go over all of the information from the staff presentation, but we are here to ask for the property to be rezoned to PC.

Public Comments

Ms. Morrison – resident of Delray Beach asked if the PC was only for the 5 acres? The PC at this point does not allow a flea market.

Mr. Dorling explained that the PC really relates to the size. If a flea market was there, then there would be other conditions.

Ms. Morrison stated that South Federal has been classified as PC.

Mr. Dorling said that they are supporting the rezoning. I feel that if the applicant goes forward with a flea market as a conditional use they will have to appeal my decision because they believe it is a permitted use.

Dr. (Vick) Kirson – President of Tierra Verde, Delray Beach. He stated that he thought this issue was fixed when Mr. Glickstein was here. There is absolutely nothing at this property for me to say yes or no. We need to see what actually is going to be done before we change the zoning.

Kelli Freeman – Tropic Isle Civic. We have been talking about this property for years. We are against the rezoning. It seems that nothing has been done to clean up the area. There are still dead trees and bushes; there are still code violations that have not been taken care of yet. The back entrance is still an issue and continues to be an issue.

Baron Degnel – Tropic Isle. Not impressed with the clean-up and would want to see what is going there before changing anything.

Lloyd Milner – Tropic Isle. Not happy with what is going on. Mr. Milner agrees that we should see what is happening there before changing anything.

Bob Wietille – Tropic Isle. He is all in favor in changing the zoning, but not a flea market. We need more retail like some high end restaurant and businesses. And if you look at the property you can see that it is still not cleaned up.

Ron Gilinsky – 1405 S. Federal Hwy. This property is an old car dealer and has anyone done any environmental impact studies on it?

Mr. Lynch stated that before we get into the board discussion he wanted to let people know the process behind what we are doing. We are here tonight to vote on the zoning of this property. We are not saying that a Flea Market is allowable and anything outside of the zone would have to come back to the board for a conditional use. We are here to decide the zoning, not knowing what the potential use of this property will be.

Mr. Dorling commented that a SAD is an option but what the residents have expressed is that they are looking for mixed use or proper retail use is allowed and only allowed under the PC zoning and is not allowed under the current zoning. The SAD is allowed with minimum requirements.

Dr. Spodak asked where we are getting this proposed Flea Market intent from.

Mr. Dorling said that the applicant has expressed an interest in this through the staff and on some signs (placed prematurely) of where he wants to have his business. Also I would like to be put on the record that I have supported retail to PC in the past and I have been accused of supporting only certain retail in other matters.

Ms. Shutt joined the meeting at 6:23 p.m.

Staff Rebuttal

Mr. Dorling explained that PC is appropriate and PC is necessary for commercial use. I think there is a question whether it can be SAD or PC and either item will get you where you want to go. There is a chance that my position and the position of the neighborhood will make it a little more difficult.

Applicant Rebuttal

Marissa Farber, DMBB Law said that a used merchandise mart would not complement the area, but an upscale retail development, new goods with a beach look. This property has been vacant for 7 years and it is not getting any automobile business there, so right now it is a little dangerous to the community.

Board Discussion

Dr. Spodak asked Mr. Dorling if there are any outstanding code violations on this property that need to be addressed at this time.

Mr. Dorling responded that he is not aware of any code violations, but that is not to say that there aren't any.

Mr. Lynch said that he wanted to respond to a previous environmental question about the property, and these issues are the owner's responsibility to get testing and the City has no control over.

Mr. Dorling replied that is correct that the owner would need to handle any environmental testing for the property.

Mr. Lynch asked if a site plan is required for this property and Mr. Dorling said yes it is required by the City.

Mr. Durden asked what advantages and disadvantages are there between PC vs. SAD?

Mr. Dorling said that he anticipates a SAD, but some of the arguments for the applicant are that there are minimum requirements in the SAD. There are buffer requirements and other minimums that need to be met.

Mr. Lynch asked if there is a site plan required for a conditional use and Mr. Dorling said yes it is required for this property.

Mr. Franciosa asked is it true that with PC the applicant does not need a conditional use?

Mr. Dorling said that he had heard by the attorney that they do not feel that additional steps are necessary.

Mr. Franciosa asked if there was anything written for the conditional use?

Mr. Dorling said that it is written that flea markets, merchandise marts are only allowed in conditional use with a PC and if they disagree they would have to appeal my interpretation to the City Commission.

Mr. Franciosa said what he is hearing is that the applicant is going to do this without a conditional use.

Marissa Farber – Applicant Attorney. She explained that they are trying to do this in the best way possible to achieve our end goal. We are trying to classify the best use that we are trying to accomplish here. My client is aware that if he utilizes the property as a flea market he must go through a conditional use process.

Mr. Franciosa asked if they are going to be compatible with the surrounding areas.

Marissa Farber said that there has been some back and forth conversation on what they want to do and how they want to classify it. They have talked about a new, upscale retail development. They are not looking for the traditional flea market where people come in and sell used wears. We are looking for 1 or more leases, with individual areas and upscale wears.

Mr. Franciosa commented that his concern was that this project is going back and forth between AC and PC and back in December 2012 that they didn't want PC. What has changed since then?

Marissa Farber said that we have had discussions with the property owner and they want to maintain the safety of the building. They realize that this property has been vacant for over 7 years and they want to bring someone in to clean it up.

Ms. Shutt had a question on the "use". There was a place called "Creations", and it was a bazaar not flea market. There are separate vendors, separate abilities instead of one vendor. How is this going to operate in this upscale market.

Mr. Lynch said that we are not dealing with the 'use', we are just deciding whether this property should be PC.

Let the record show that Jan Hansen has joined the meeting at 6:35 p.m.

Mr. Hansen wanted to add that going from AC to PC is something that he is in favor of.

Motion/Findings

Move a recommendation of approval to the City Commission for the privately initiated rezoning from AC to PC for the subject property, 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 South Federal Highway Redevelopment Plan and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

Motion by Dr. Spodak and seconded by Mr. Hansen. Said motion approved 5-1. Dissenting vote to Gerald Franciosa.

B. Conditional Use request to allow an increase in the building height in excess of 48 feet up to a maximum building height of 60 feet for a four-story building addition that will accommodate an expanded lobby, conference room and medical related services on the ground floor and new patient rooms on the second through fourth floors for the Delray Medical Center, located on the south side of Linton Boulevard, west of Military Trail. Quasi-judicial Hearing

Ex-parte communication – None

Mr. McDonnell entered project file No. 2013-075-Use Delray Medical Center into the record.

This proposal is a conditional use to exceed the maximum building height of 48 feet (58 feet proposed) for the **Delray Medical Center**, pursuant to Land Development Regulations (LDR) Section 2.4.5(E). The hospital is located west of the southwest corner of Military Trail and Linton Boulevard (5270 Linton Boulevard).

At its meeting of February 19, 2013, the City Commission approved on first reading the ordinance to amend the Land Development Regulations to add the hospital to areas that allow an increase in height of up to 60 feet subject to conditional use approval. The City Commission will consider this LDR Amendment on second reading at its meeting of March 5, 2013.

The applicant proposes to construct a four-floor building addition on the north side of the existing hospital that contains 140 private patient rooms. The proposed building addition does not result in additional beds since 140 of the existing semi-private (2 bed patient rooms) will be converted to single bed private patient rooms. Other improvements include the construction of a 343-space parking garage on the north side of the hospital, a helipad on the roof of the new hospital wing, and associated parking and landscape changes associated with the proposed buildings. This is not part of the conditional use.

The proposed addition is located 384 feet from Linton Boulevard and 600 feet from the nearest residence in the Las Verdes subdivision (to the north). The proposed wing will have no impact on the Country Lake to the south in terms of massing since it will be screened from view by the existing hospital. The proposed height increase will have little to no significant impact on surrounding properties. The new rooftop helipad will allow direct access from the helicopter to the emergency room rather than its current ground location, which requires a short ambulance ride to the emergency room.

Per LDR Section 4.3.3(L)(3), the required perimeter setback is 50 feet. The applicant proposes to increase the building height 58 feet, which requires an additional 20 feet (70 feet total) of perimeter setback. The proposed building addition complies with this standard since a front setback of 386 feet is provided and a side setback of 230 feet is provided. The first floor contains no residential component. The existing hospital campus provides numerous courtyards and pedestrian plaza on the north side of the building. Based on the above, the development proposal complies with all three criteria. Therefore, the development is eligible for consideration of a height increase.

Courtesy Notices:

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

- Delray Citizen's Coalition
- Alliance of Delray
- Neighborhood Advisory Council

- Country Lake Homeowners
- Citation Club
- Shadywoods
- Hammock Reserve
- Lakeview Civic
- Sherwood Park Civic Association

Mr. McDonnell recommended approval of this Conditional Use based on positive findings.
Applicant Presentation

Collene Walter – Urban Kilday Design
Robert Curto – SBAP
Jonathan Haigh – Kimley-Horn & Assoc. Inc.

This is a Conditional Use. We were required to submit a site plan and an architectural plan, and all this is incorporated into the presentation.

Some background of the hospital was that it was originally approved in 1980 under the jurisdiction of Unincorporated Palm Beach County. In 2005 a portion of the hospital was annexed into the City. Most of the development was done in unincorporated Palm Beach County. As the community grows, and the hospital grows, they need to do various expansion projects. We are here tonight for a Conditional Use to allow the hospital to build a 4-story bed tower which will allow the building to go up to 60' in height. The second request would be a 2nd helipad that will be located on the top of this bed tower.

Jonathan Haigh – Landscape Architect – Mr. Haigh started his presentation out by going through highlights of his powerpoint presentation. He stated that there is a lot of open space with room to continue to go green. The new entrance will incorporate palm trees and our green wall.

Collene Walter said that we request your recommendation of approval of the conditional use request to allow for an increase in height and request your support for eliminating any additional land improving on the Linton Blvd. buffer.

Mr. Durden commented to Ms. Walter that he had researched the hospital and found that it is the #1 trauma in the state and wanted to say what a great project this will be.

Public Comments, Staff Rebuttal and Cross Examination

Michelle Krause – Treasurer of HOA of a community just south of the hospital. She received a letter from homeowners in regards to the back side of the hospital. Wanted to know if they were going to do anything to beautify the back of the hospital. Wanted to know about water problems every time it rains. Ms. Krause's concern is that every time the hospital upgrades there seems to be no consideration to the communities nearby. We need to have better buffers when things are changed in the hospital, and Wal-Mart area.

Collene Walter replied to Ms. Krause about her concerns. Ms. Walter said that she can get her phone number so that they can discuss the problems after the meeting.

BOARD DISCUSSION

Mr. Hansen said he was in agreement that these things in the neighborhood need to be addressed to the landscaping buffer, and maybe the tradeoff would be to take some of the trees and put them along the back of the hospital to block some of the noise.

Mr. Lynch agreed that this tradeoff is a good idea, and the drainage and other comments needs to be addressed and further research.

Dr. Spodak commented on what a great addition this is to the hospital and adding another helipad is needed. Two concerns that I have is to consider a conditional use to increase height and to implement a certification process.

Ms. Shutt asked if the adjacent residential approved the county buffer.? Ms. Walters said that was correct.

Mr. Durden asked if the traffic will increase.

Mr. Dorling explained that they were increasing the height but the bed amount are just taking double rooms and making them single.

Dr. Spodak asked Ms. Walters what was the position on certification? Ms. Walters said that she would have to take this back to the hospital and discuss it with them.

Motion/Approval

Move a recommendation of approval of the conditional use request to allow for a building height in excess of 48 feet (58 feet proposed) for **Delray Medical Center**, 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, subject to the following conditions:

1. Approval of a site plan by SPRAB that is in general conformance to the submitted sketch plan.
2. That approval of the request is contingent on City Commission approval of the text amendment to allow a height of up to 60 feet for the Delray Medical Center.
3. That the photometric plan be revised to demonstrate compliance with the City's illumination standards as part of the site plan process.
4. That the landscape plan be revised to address code deficiencies or relief sought as part of the site plan process.

An addition to the motion is that the applicant will investigate the Florida Green or the Lead Certification for the development of this site.

Motion by Mr. Hansen and seconded by Mr. Franciosa. Said motion approved 6-0. No dissenting votes.

C.Conditional Use Request associated with the renovation and expansion of the existing ten (10) room motel including the construction of a two-story addition to accommodate seventeen (17) new motel rooms for a total of twenty-seven (27) rooms; construction of 871 sq. ft. addition to allow for an expansion of seven (7) of the existing rooms; and, construction of new on-site parking spaces with associated landscaping for Southgate Motel, located approximately 500 feet north of NE 14th Street, between North Federal Highway and Old Dixie Highway. (Quasi-judicial Hearing

Ex-Parte Communications – None

Mr. Dorling entered project file No. 2013-080-Use Southgate Motel into the record.

The expansion of the existing 3,937 sq. ft. Southgate Motel proposes 9,614 sq. ft. of additional use area for a total of 13,551 sq. ft. Seven (7) of the existing motel units will be expanded and an additional (17) rooms will be added for a total of twenty-seven (27) rooms. The motel will operate for twenty-four (24) hours and will have an on-site manager's office and manager residence. All rooms will offer daily rental rates for the general public ranging from \$49.99 to \$99.99 per night. There will be a total of two (2) employees for the proposed twenty-seven (27) rooms. On-site amenities offered for motel guests include laundry facilities and continental breakfast facilities.

Now before the Board for consideration, is the renovation and expansion of seven (7) of the existing ten (10) motel rooms and construction of a two-story addition to accommodate seventeen (17) new motel rooms for a total of twenty-seven (27) rooms and associated new on-site parking spaces and associated landscaping.

The vacant parcel to the west of the existing Southgate Motel is to be utilized for the expansion. No unusual physical conditions exist that would prevent development of the property. The conditional use request to allow expansion of the existing motel is not inconsistent with the LDRs. The subject property is to be developed in a manner that would be complementary to the adjacent land uses. Positive findings with Future Land Use Element Objective A-1 can be made, if the site is developed and operated as a motel. There are concerns that the operation functions as long-term stay rentals rather than a motel. It is noted that long-term stay rentals similar to residential-type inns are not allowed within the GC zoning district. Further, minimum unit sizes would not be met and density maximum would be exceeded if these were long term rental units versus motel units. Conditions have been recommended that would limit this possibility including restrictions on full size appliances and the electrical service needed to accommodate them.

The site proposes a two-story manager's residence with a garage. It is noted that an owner's unit can only be provided as an on-site standalone single family dwelling unit or on the upper level of the structure with commercial use on the ground level of a mixed-use development. The proposed configuration does not meet either requirement. Further, if the two-story unit with the attached garage is considered one of the twenty-seven (27) motel units, it would not be allowed to have full-size appliances or electrical service to accommodate them. This issue will need to be resolved if the conditional use is approved

The Goodwill Industries immediately abuts the property to the north. Rear access via two (2) new access ways will connect the new Southgate Motel to Old Dixie Highway. One access way will provide access for a two-story motel unit's garage to be utilized as a manager's unit and the other will be an egress only provided for the one-way traffic flow through the site. It is noted that plans reflect a 5' limited access easement along Dixie Highway which will have to be abandoned before any access can be constructed. This is attached as a condition of approval.

Similarly, the Southgate Motel will also need permission to place a trash enclosure within the existing 20' lift station easement along Old Dixie Highway. This is also attached as a condition of approval. Pending permission to construct in easement areas, the proposed improvements could be implemented. Based on the above, the proposed use will not have an adverse impact on the surrounding area and will not hinder development or redevelopment of nearby properties, if the conditions of approval previously noted (i.e. granted access to construct in easements and removal of full-size appliances from all units) are addressed.

Also there is a shortage of parking spaces for the motel. The required parking is 21 spaces, so a maximum of six (6) compact spaces are allowed. Seven (7) compact spaces are proposed which is not in compliance. Therefore, one (1) proposed compact space shall be converted to a standard parking space. This is attached as a condition of approval.

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
- Tropic Palms
- Kokomo Key
- La Hacienda
- Martell Arms
- Estuary

Mr. Dorling said that staff recommends approval for conditional use for the Southgate Motel, based upon positive findings with respect to Section 3.1.1 and Section 2.4.5(E)(5)(Compatibility) of the Land Development Regulations, and the policies of the Comprehensive Plan, subject to the conditions identified in the attached "Appendix A".

Applicant Comments

Bob Currie – Currie, Sowards, Aguila Architects – Representing the owner and with the exiting motel, the owner wants to expand and has already made some upgrades. In regards to the owners living situation, he has a building in the front with appliances, which he is going to eliminate it and put it in the corner. The owner has also been to see the DOT to talk about expanding the sidewalk. Ultimately, the owner wants a better motel and more rooms.

Public Comments

Mike Borsos – 1601 N. Federal Hwy. - Mike lives at the property right across the street from the motel. He is concerned with the activity that goes on at the motel. The police are there a good part of the month dealing with drugs and other problems.

Scott Toupkins – A resident of Delray for some time and very concern with the activity that goes on at that motel. Police there over 100 times and with this you are not going to get any out of town people to stay there for their vacation. Mr. Toupkins showed a police report that he acquired and showed how many times the police were there.

Cerene Browne – 1628 Old Palm Lane, a resident of Delray Beach and they also see the activity that goes on at the motel. People park across the street and walk to the motel not to stay there for the night.

Steve Gorowsky – 1551 N. Federal Hwy., Mr. Gorowsky concur with the other residents. He welcomes the improvements but there are just too many incidents.

Applicant Rebuttal

Mr. Currie is sympathetic with the residents, but the need to improve the motel is necessary. Onu Hoque – owner of Southgate Motel – Mr. Hoque understands the concerns of the residents, but he wants to improve the motel. If he doesn't clean up the existing motel for sure no one will come to the motel. The only way to get a return is to invest.

Staff Rebuttal – None

Mr. Hansen commented that the applicant is clear on what he wants to do, but can his investment give him a return.

Mr. Franciosa asked what the investment would be.

Mr. Hoque said it would be \$1 million dollars.

Mr. Franciosa said the motel is in a bad location and a little bit of a distance to walk to the beach. Also, what is the nightly cost per room?

Mr. Hoque said it is \$59-\$69 a night. He wants to have cash ONLY for the rooms.

Dr. Spodak would like to know how long he has owned the property.

Mr. Hoque said that it has been 7 years.

Dr. Spodak commented that if after all this time, and all the problems that are happening, why if he added on more rooms, would it be a bigger version of what he has.

Mr. Hoque feels that it would all change and by having the police there it is his protection.

Mr. Durden asked what the timeline will be.

Mr. Hoque is looking at 8 months.

Mr. Durden said that if improvements would take 8 months, what happens in the meantime.

Mr. Hoque said that he would keep the police coming so things would improve.

Motion/Approval

Recommend **approval** of the request for a conditional use for the Southgate Motel, based upon positive findings with respect to Section 3.1.1 and Section 2.4.5(E)(5)(Compatibility) of the Land Development Regulations, and the policies of the Comprehensive Plan, subject to the conditions identified in the attached "Appendix A".

Motion by Mr. Francisco and seconded by Mr. Hansen. Said motion approved 5-1. Dissenting vote by Mr. Durden.

VI. Reports and Comments

A. Parking Management Advisory Board (PMAB) - The next meeting is on February 26, 2013

B. Meeting Dates for March – Meeting on March 18, 2013 City Commission Chambers.

Project Updates

We have 8 items that will be addressed and 4 plats.

Adjourned: 8:50pm

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 February 25, 2013 which were formally adopted and approved by the Board on May 20, 2013.

Diane Miller

Diane Miller, Executive Assistant

If the Minutes that you have received are not completed as indicated above, then this means that these are not the official Minutes. They will become so after review and approval, which may involve some changes.