

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: November 19, 2012

LOCATION: CITY COMMISSION CHAMBERS

MEMBERS PRESENT: Clifford Durden, Derline Pierre-Louis, Thuy Shutt, Craig Spodak and Gerry Franciosa

MEMBERS ABSENT: Jan Hansen, Connor Lynch

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

I. CALL TO ORDER:

The meeting was called to order by Vice Chair Dr. Spodak at 6:03 p.m. Upon roll call it was determined that a quorum was present. No changes to the agenda.

II. MINUTES:

Motion made by Mr. Franciosa, seconded by Mrs. Shutt, and approved 5 to 0 the August 20, 2012 Minutes as written.

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

III. COMMENTS FROM THE PUBLIC

Bob Ganger – Chairman of the Florida Coalition

I have made comments at the past two (2) public hearings about Atlantic Plaza II. There is considerable resident confusion here in Delray as what is a Conditional Use Wavier and why is it granted so often, or so people believe. We are led to believe that Conditional Use Waviers is used for projects that are very difficult to build. It seems that if it is so easy to acquire the wavier, why have the rules. Atlantic Plaza seems to be the '*Poster Child*' of these problems. The biggest problem for this project is that there is one way in and one way out. Increasing the density will do nothing to solve this problem. Is the precedence that we set for each Conditional Use, helpful or harmful?

IV. PUBLIC HEARING ITEMS:

A. Privately initiated Future Land Use Map amendment (small-scale) from MD (Medium Density Residential 5-12du/ac) to LD (Low Density Residential 0-5 du/ac) and rezoning from RM (Medium Density Residential) to R-1-A (Single Family Residential) for the properties located on the north and south sides of Bermuda Gardens Road. (*Quasi-judicial*)

Before the presentation began, Terrill Pyburn, Assistant City Attorney stated that because this project was a 'rezoning', it is Quasi-judicial and Dr. Spodak should read the Quasi-judicial Rules.

Ex-parte communication – None

Mr. McDonnell entered project file No. 2013-007 – CPA – CCA into the record

The neighborhood consists of nine residential lots with a total of 2.40 acres. A portion of the lots have been subdivided by two plats. The Bermuda Gardens Plat No. 1 contains two lots and the Bermuda Garden Estates Plat contains two lots. The remaining five lots were created by metes and bounds description. The neighborhood consists of eight single family residences (one house occupies two lots).

At its meeting of September 28, 2005, the Site Plan Review and Appearance Board approved a Class V site plan application to construct three townhouses at the southwest corner of Bermuda Gardens Road and Ocean Boulevard. This prior approval for a multiple family use at the entrance to their single family neighborhood raised concerns for the remaining property owners. The neighborhood is now collectively seeking the change in land use and zoning which would not allow multiple family uses. The site plan approval was granted an extension to September 28, 2009. The site plan was never certified and the site plan approval ended on the expiration date.

The proposed changes are not associated with any redevelopment proposal. Each of the property owners have applied together to change the FLUM and Zoning Map designations which are consistent with the existing single family uses in the neighborhood. These changes are not associated with any land redevelopment, and each have applied together for this change and it is consistent with this single residential family development.

An analysis of the traffic impacts associated with the maximum development potential of both the existing and proposed Future Land Use Map designations was conducted. The existing development potential of the multiple family designated properties (29 dwelling units) is a peak hour trip generation of 19 vehicle trips in both the a.m. and p.m. The trip generation of the existing single family homes is 8 peak p.m. trips. Thus, the proposed FLUM and rezoning would result in the reduction of potential vehicle trips by decreasing the development potential. Since the proposed Future Land Use Map designation will represent a net reduction in maximum potential traffic volumes, a positive finding with respect to traffic concurrency can be made

There is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply to FLUM changes associated with annexations when the City's Advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the Advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.

The existing uses of all properties along Bermuda Gardens Road are single family. The multiple family FLUM and Zoning Map designations are inappropriate for these properties given their

existing uses. Therefore, this built-out condition represents a change in circumstances that warrants the proposed changes.

Looking at the rezoning analysis, Item D, the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use. Also, the proposed R-1-A zoning designation would not create an incompatibility with the surrounding multiple family uses. However, it is noted that the rezoning of the subject property creates a further nonconformity (building currently exceeds 35-foot height maximum) with two of the multiple family buildings (located north of the Bermuda Gardens Road neighborhood). Per LDR Section 4.4.6(l)(c), the required setback for the third floor of these condominium buildings is 37 feet adjacent to a lower density zoning designation while the existing setback is 30 feet.

Courtesy Notices:

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

- Neighborhood Advisory Council
- Delray Citizens' Coalition
- Beach Property Owners
- Bermuda High
- Delray Beach Club Apartments
- Bermuda High West
- Coastal Delray
- Coastal House

Staff recommends approval of the land use and the rezoning.

Applicant Presentation

Beth McGwyn – Agent representing the homeowners

First want to say that this is a private road, and it is only 18' wide. When any truck or service vehicles come to this road they have to back down because there is a dock at the end of the street. One of the concerns is when vehicles come down to the end of the road they have to turn around in residents driveways. That is one of the biggest reasons that we wanted to make sure that these are going to be single family homes.

Public Comments - None

Board Discussion

Mr. Franciosa ask to make sure he understood, that homeowners are together to stop the construction of townhomes.

Mr. McDonnell said that is what he understood. There was an application for townhomes and it was approved, but not built but the residents prefer it not to go through. To prevent this they are re-land using and rezoning so there will not be any townhomes in that area.

Beth McGwyn explained that the developer that originally wanted to put the townhouses on sold the property and that property now has brand new 4 bedroom homes.

Ms. Shutt asked if the previous approval runs with the land or is it extinguish?

Mr. McDonnell answered saying that it has expired.

Beth McGwyn explained that the previous approval expired in 2009.

Ms. Shutt feels that this is not an issue at all.

Motion/Findings

Mr. Durden 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 MD (Medium Density Residential 6-12 du/ac) to LD (Low Density Residential 0-5 du/ac) and rezoning from RM (Medium Density Residential) to R-1-A (Single Family Residential) 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

Motion by Mr. Durden, seconded by Ms. Shutt. Said motion passed with a 5-0 vote. No dissenting votes.

B.Conditional Use Request to allow a density in excess of 30 units per acre (62.2 du/ac proposed) for Sofa Building 1, located on the east side of SE 3rd Avenue, between SE 1st Street and SE 2nd Street in conjunction with the construction of 117 residential units within a 4-story structure.

Ex-parte communication

Ms. Pierre-Louis spoke with Mr. Handler.

Mr. Franciosa spoke with Mr. Handler, developer and architect (Rich Jones).

Dr. Spodak spoke with Mr. Handler, and architect. Also, Richard Jones is my architect of record on my existing building, and I am not influenced by the outcome of this project in any way.

Ms. Shutt met with Mr. Jones, Mr. Handler, and a call from Mr. Knight, both representing the applicant. They met with me a showed me a presentation and I showed some concerned on the density and some of the waivers that were given. I told them that I would withhold comments until I hear from the staff.

Mr. Durden spoke with Mr. Handler.

Mr. McDonnell entered project file No. 2013-001 Use – Sofa 1. This is Quasi-Judicial

The request is associated with a proposed 117-unit residential development located on the east side of SE 3rd Avenue, between SE 1st Street and SE 2nd Street. The action before the Board is making a recommendation to the City Commission on the following request for conditional use for increased density approval pursuant to Land Development Regulations (LDR) Section 2.4.5(E): The development proposal comprises a 1.88 acre site which combines four (4) separate parcels. A conditional use application has been submitted to construct a 117-unit

residential development on the combined 1.88 acre site. The proposed density of 62.23 units per acre exceeds the maximum thirty (30) units per acre allowed as a permitted use in the Central Core area of the CBD. Densities over 30 units per acre require conditional use approval.

There are 7 waivers being proposed. Six (6) of these deal with design elements and they are the design guidelines for the downtown design. These are going to be emphasis when we move forward to SPRAB. The one waiver that should accompany this conditional use is number 1 which is: A waiver to LDR Section 4.7.9(i) which requires that the total number of one bedroom (1BR) units shall not exceed 30% of the total number of all units for the project. The applicant proposes a total of 56% one bedroom (1BR) units which exceeds the maximum allowance by 26%, thus a waiver is requested.

To summarize the conditional use review, pursuant to LDR Section 5.3.2, a park impact fee of \$500.00 per dwelling unit will be collected prior to issuance of a building permit for each unit. A total fee of \$58,500.00 will be required of this development for parks and recreation purposes, prior to building permit issuance. A traffic statement has been provided which indicates that the proposed multi-family development will generate 863 net new vehicle trips per day (two-way). Specifically, it will generate 64 AM net new peak hour trips and 85 PM net new peak hour trips. Verification from the Palm Beach County School District is pending and waiting on a written finding of approval from the School.

In the Downtown Delray Beach Master Plan there are a couple of sections that are important and Mr. McDonnell read the following to the Board. These are excerpts from the staff report.

On page 36 - "Increasing residential density is absolutely crucial to ensure a healthy and lasting life to the Central Core District. The residential component will be the element that will make the Central Core District evolve from a high-end leisure area for a few, to a true downtown that serves the needs of the community as a whole. It will be the factor that induces the proliferation of services for locals, today very scarce or even non-existent."

On page 38 - "In order to maintain the overall "Village Atmosphere" of the City, but at the same time create enough density to encourage a variety of local services and a more balanced mix of retail in downtown, the Master Plan's recommendation in all the reviewed cases consistently supports higher densities within the CRA's downtown district, especially in the four blocks north and south of the Avenue. It is this Plan's additional recommendation to include a minimum density requirement in the zoning code. Within the downtown area, low, suburban densities will cause more harm than slightly higher ones. Within a downtown area, density is directly associated with the health and success of downtown."

In regards to the transportation issues the City is asking that they pay for half of the bus shelter at an existing station and there is an issue about bike racks. Bicycle racks have been provided in the garage near the lobby's at the north and south end of the project. However, this does not completely address the intent of the policy, which, as expressed in Goal Area D, is to provide a mechanism to encourage alternative options to automobile travel. Bicycle racks provide limited security which is better suited to short term bicycle parking. While this is appropriate for visitors and short term stops by the residents, it is not appropriate for longer term storage. For the use of bicycles to be encouraged, residents must feel that their bicycles are secure.

We have a recreational facility on the second level, which include swimming pool, fire pit and a game room for some of the younger residents.

It is noted that the location of the outdoor recreation facilities on the second floor “amenity deck” could become a noise issue, especially to the single-family residential development in the Osceola Park Neighborhood south of SE 2nd Street. The amenity deck should be designed to minimize the transmission of noise into the surrounding area. This could include the use of additional landscaping at the edges and the use of sound-absorbing materials. Additionally, amplified music will not be permitted on these deck areas. These two items will be addressed as part of the site plan review process. Subject to these items being addressed at that time, the development will be consistent with Housing Policy A-11.3.

- (a) In regards to the required findings of Sofa 1, we have a significantly detrimental effect upon the stability of the neighborhood within which it will be located; and
- (b) Hinder development or redevelopment of nearby properties.

We agree that this would be compatible to the neighborhood.

In the Performance Standards, the proposed development will provide the required Workforce Housing (WFH) Units at a calculation of twenty (20) percent of all units over the permitted thirty (30) dwelling units, rounded up. Based on said requirements and a total of sixty-one (61) additional units, the applicant is proposing to incorporate thirteen (13) WFH dwelling units into the project, which will be divided between low and moderate income levels and will comply with all applicable provisions of Section 4.7, except Section 4.7.9(i) which requires that the total number of one bedroom (1BR) units shall not exceed 30% of the total number of all units for the project. The applicant proposes a total of 56% one bedroom (1BR) units which exceeds the maximum allowance by 26%, thus a waiver has been requested

The development offers variation in design to add interest to the elevations and relief from the building mass. Building elevations incorporate several of the following elements: diversity in window and door shapes and locations; features such as balconies, arches, porches; and design elements such as shutters, window mullions, quoins, decorative tiles, or similar distinguishing features.

If the building includes a parking garage as an associated structure or within the principal building, the garage elevation provides unified design elements with the main building through the use of similar building materials and color, vertical and horizontal elements, and architectural style. Development of a portion of the ground floor perimeter adjacent to street rights of way is devoted to window displays or floor area for active uses such as retail stores, personal and business service establishments, entertainment, offices, etc., is encouraged.

A number of different unit types, sizes and floor plans are available within the development. The project includes a total of 117 units comprised of studio/efficiency, one-bedroom, and two-bedroom units. Fifty-one (51) units are 2 bedroom/2 bath and fifty-three (53) are 1 bedroom/1 bath. Thirteen (13) units are efficiencies (11%). There are multiple floor plans available. The living area varies among units between 500 to over 1,215 square feet. Some units will have terraces, while other will have balconies

The project design shall create an overall unified architectural character and image by the use of common elements between the building(s), parking lot, and landscaping. Examples of some features that could be incorporated to meet this standard are: freestanding light poles and exterior light fixtures that are decorative and consistent with the architectural treatment of the

building(s); pedestrian amenities such as benches, shaded walkways, and decorative pavement treatment, that are similar in forms, colors, materials, or details as the architecture of the building(s); focal points such as public art, water feature/fountain, courtyard or public plazas designed to connect different uses along a continuous pedestrian walkway; or a combination of similar features that meet the intent of this standard.

The development promotes pedestrian movements by providing convenient access from the residential units to the public sidewalk system. Pedestrian areas adjacent to the building are enhanced by providing additional sidewalk area at the same level as the abutting public sidewalk. Access ways to parking areas are designed in a manner that minimizes conflicts between vehicles and pedestrians. The public street or streets immediately adjacent to the development are enhanced in a manner that is consistent with the streetscape in the downtown area (i.e., installation of landscape nodes, extension of existing paver block system, installation of approved street lighting, etc.).

The project is inherently pedestrian friendly due to its proximity to a lively downtown area surrounding the site. The main pedestrian access to S.E. 3rd Avenue is via the main lobby area in the center of the building, encouraging pedestrian activity to the street. Additional lobbies are provided at the north and south ends of the building. Sidewalks along S.E. 3rd Avenue, S.E. 1st Street and S.E. 2nd Street will connect the project to the surrounding pedestrian network. The project's proximity to Atlantic Avenue, Federal Highway and Swinton Avenue will result in residents being able to walk to the main commercial, entertainment, and cultural activities that create the downtown. The project incorporates landscape nodes and decorative pavers at the front of the building to create a sense of residential character for the area, along with decorative lighting.

The development provides opportunities to share parking, access ways, driveways, etc., with adjoining properties, or provides additional parking spaces that may be used by the public.

The landscape plan for the project is in excess of the minimum standards. It demonstrates an innovative use of plant material in the design and provides useable open space and maximizes available areas for pedestrian interaction. The project offers a variety of vegetation and paving interactions. The Landscape Plan exceeds the tree requirement by 36 trees, and also exceeds the native tree requirements.

Of the nine (9) performance standards outlined in LDR Section 4.4.13(I), the subject development proposal complies with eight (8) performance standards (a), (b), (c), (d), (e), (f), (g) and (i). Performance standard (h) has not been met. Given this level of achievement with the performance standards it is appropriate to grant the requested increase in density.

The consensus of the Community Redevelopment Agency (CRA) was to recommend approval of the Conditional Use request to allow a density exceeding 30 dwelling units per acre (62.23 du/ac proposed) at its meeting of November 1, 2012.

The Downtown Development Authority (DDA) recommended denial of the Conditional Use request to allow a density exceeding 30 dwelling units per acre (62.23 du/ac proposed) at its meeting of November 13, 2012.

Courtesy Notices:

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

- Delray Beach Chamber of Commerce
- Delray Citizen's Coalition
- Neighborhood Advisory Council

Applicants Presentation

Henry Handler - On behalf of the related group, Sofa 1 and Sofa 2. Mr. Handler will be working with a powerpoint presentation which a copy was given to each board member. Also attending the presentation tonight is Mr. Steve Paterson, CEO of Related Developments, Uri Mann, VP of Related Development and Project Manager, Richard Jones, Architect of Sofa 1 and 2, Juan Espinosa, Traffic Engineer.

We will refer to the Sofa buildings as a single community, because of their shared architecture and amenities. Delray has invited this kind of investment for its city future for the Master Plan. In the first part of the presentation, (slide 1), we talk about the Central Core District, The Downtown Delray Beach Master Plan states, "increasing residential density is absolutely crucial to ensure a healthy, lasting life to the Central Core District" Comprehensive Plan highlights density's from 30-100 units/acre. The city recognizes potential for 7000 units in the downtown area. The city recognizes the need to have a residential base to support local businesses. We are here to look for approval of the density for Sofa 1 of 62.2 dwellings/acre and for Sofa, 2, 62.7 dwellings/acre. Also, looking for approval of single bedrooms, for Sofa 2 be 56% and for Sofa 1 to be 54.5%. A critical missing element is a significant housing development. The City recognizes the importance of providing housing in close proximity to shopping, employment, and transportation.

The development offers variation in design and features. Parking structure provides unified design, provides a number of different units, provides unified architecture, provide common area's for resident activities, enhance public streets, additional parking to be used by the public, improved landscape.

Mr. Handler then went on to explain a Market Project Analysis done by Goodkin Consulting. He explained the rational of 1,2 and 3 bedrooms, but showing that the 1 bedroom is the ones in need here in Delray Beach.

Mr. Handler also submitted letters of support and also others that attended the meeting, with a total of 74 people.

Richard Jones with Richard Jones Architecture. Mr. Jones is working with Related Group Company, which is leading developer in upscale apartment and condominium buildings. While working with them we look at the rental housing and the demand and supply for our area. We look at ULI (Urban Land Institute), The Goodkin Consulting and Freddie Mac. Mr. Jones also went over prior projects that could improve the community of Delray Beach but we have some empty lots, but what we need is residential. Mr. Jones proceeded by going over the site plans and how this would be an asset to the community. On the Trip Generation, Sofa Delray Building 1 will slightly reduce the overall trip generation during peak hours from the current office and Department of Corrections use. Mr. Jones continued to go over the unit plans of each unit, elevations, details on the architecture, and the amenities. The workforce housing would contribute to help our city workers, where 30 units acre will be available for Delray Beach police, fire fighters and teachers.

Uri Mann, VP of Related Development was speaking to just follow up and emphasize what a great project this is and to submit some signatures from some of the residents to promote the project. To summarize some of the positives for the Sofa project, we have green design certification, safer environment; leases will be a minimum of 12 months, bicycle sharing program, and a \$30 million dollar investment.

Board Discussion

Ms. Shutt asked about workforce breakdown.

Mr. Mann explained that the 20 workforce housing units are evenly distributed between 1 and 2 bedrooms. Studios are not allowed to be part of the workforce housing and they are evenly distributed throughout the project.

Ms. Shutt asked how many of these apartments are in each Sofa building.

Mr. Mann replied that he would have to go back to the plans, but there are 20 total. The lease figures are not calculated for workforce yet.

Ms. Shutt asks about the rental price.

Mr. Mann said that the rent was set by Palm Beach Standards. The range is \$1250 - \$2300. It is only a range and the workforce rent will be different.

Ex-Parte

Ms. Shutt spoke to the developer and called staff.
Dr. Spodak received an email from Joe Snider of Equal.

Public Comments

Rick Edick – 615 N. Ocean Blvd. Mr. Edick is a resident of Delray Beach and he thinks the project looks good. He had one question in regard to waivers. He would like to know at what point do conditional use and waivers become the land use regulations. It seems that we are creating land use regulations on the fly. It seems we are losing sight of what is happening.

Albert Jerome – 229 SE 2nd Avenue. A business owner and feels that the project is a good thing.

Hebert Nelson – Lives in the community for 40 years and likes the project.

Steven Blum - Lives in the community for over 17 years, and the presentation is very well. They have addressed a lot of issues that the citizens would have. Mr. Blum feels a waiver should be approved for the density. A good project to replace Delray Place.

Austin Rosen – 16056 Brier Creek. A resident of Delray Beach and is in favor of the project and deserves the waiver.

Kevin (cannot decipher speakers name, and he did not sign in) – Is in favor of the project as the area is not safe now and this would be a great improvement.

Michele Mankoff – SE 4th Avenue – I live right near the Probation Center and it is horrible. I have been vandalized in my area. I can't even walk down to the avenue, as I am followed and it is not safe.

Ashley Ricardo – 18708 Shawn Manor Drive and works at Atlantic and 5th. I am in favor of the project.

Mathew Sheriden – When I first heard about this project I was against this. But the more I hear about the project, the more I think it is what Delray needs. This is the first time that I have attended a meeting of this kind and it is something that people need to attend.

Sergio Peralta – He lives in south Palm Beach County since I was 10 years old. When I was older I moved to Delray Beach, the Pineapple Grove area. Since then the community has just grown, but not the area of the Sofa project.

Bruce (cannot decipher speakers name, and he did not sign in) – He lives in Tropic Isles for the past 6 months, but his relatives have been residents for some time. He is totally in favor of the project to help improve the area so you can continue to walk downtown.

Deb Sullivan – 1002 Lake Shore Drive and Kevro's Art Bar. In favor of the project and it will be an asset to the area.

Michael Coleman – Resident of Coconut Creek and a contractor. This project is great for the community and it is such an opportunity for employment and future growth.

Jeff Yates – 801 SE 3rd Avenue. He feels that the neighborhood will not change unless we get a project in like this.

Ms. McDermott – 721 SE 3rd Avenue. Grew up in Delray Beach and bought a house in Osceola Park and looking forward to the improvement with this project.

James Quillian – 925 SE 2nd Avenue, Osceola Park. Live in this park for a long time and president of the association and the crime is horrible. This project is something that the area is been waiting for. Looking forward to this project.

Ryan Boylston – Live in the Del Ida area, homeowner and business owner. He has friends that have a business but looking for somewhere to live. This project will be what we are looking for.

Kevin Rouse – 1002 Lakeshore Drive. Kevro's Art Bar. Totally impressed with the project. 7 years ago when I purchased my property I was then looking for something like this and hoping this will come to the community.

Todd Kinsler – Lives in Osceola Park. I have lived in Delray Beach for 15 years and have been here when the community has been really bad, but see no improvement in my area now. Does not feel safe for his wife to be walking at night and look forward to this project.

Lisa Coolian – 925 SE 2nd Avenue. It seems that everyone is on the same page of the problems in this area. A few things that the residents are concerned about:

- Traffic issues
- Crime
- Generator noise from Federal and 2nd Street.
- Bellsouth trucks are coming out of that street.

- Code issues at SE 2nd Avenue
- Illegal signage's that were never approved.
- Loitering issues along the businesses.

Dr. Vic Kirson – He wanted to say that he approves this project. Also, that everyone keep their comments to 3 minutes, approve and go onto the next item.

Cross Examination/Rebuttal – None

Board Discussion

Ms. Shutt said in the beginning she was more concerned with the density, but after hearing all the comments it was very helpful. I still feel that we need to get a reciprocating maintenance agreement between Kevro and the developer, because you might have a great relationship now but in the future but if new people were to come in it would be good to have it in place now.

Dr. Spodak asked Ms. Shutt to clarify what she was asking for that we would want to put in as a condition of approval.

Ms. Shutt read “Reciprocating maintenance granted easement to be granted along the shared property line between Kevro and the subject property”.

Mr. Durden asked what the problem with the conditional use is.

Mr. McDonnell explained that the staff report supports the density.

Ms. Pierre-Louis had concern about the pedestrian and vehicle traffic. Sometime when you have the trucks parked you cannot see west.

Richard Jones explained that they had looked at traffic flow. You also have the right of way at 25mph and when going down the alley, you tend to go somewhat slower. Also, we are improving the lighting so this is going to be much better.

Mr. Franciosa said that the project is wonderful, but what is happening with the sidewalks. Are they going to be widened to 8ft.

Richard Jones said that he was not going to widen them but that they suggested that they would use pavers and not concrete.

Mr. McDonnell thanked for the explanation.

Dr. Spodak thanked for the great presentation and all the people that came out to this meeting.

Ms. Pyburn (Asst. City Attorney) explained when making a motion we need to make separate motions for Sofa 1 and Sofa 2.

By Separate Motions:

Waiver (Sofa 1):

Recommend **approval** to the City Commission for the waiver request to LDR Section 4.7.9(i), to allow the increase in the percentage of one-bedroom units (including efficiencies) from the

maximum allowed 30% to up to 54.5%, due to a failure to make positive findings with respect to LDR Section 2.4.5(E).

Motion by Mr. Franciosa, seconded by Ms. Shutt. Said motion passed with a 5-0 vote. *No Dissenting Votes.*

Conditional Use (Sofa 1):

Move a recommendation of approval to the City Commission of the conditional use request to allow a density in excess of 30 units per acre (64.7 du/ac) for **SOFA Delray Building #1**, 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), 4.4.13(I), and Chapter 3 of the Land Development Regulations, subject to the following conditions:

1. Items A-N
2. Verification from the Palm Beach County School District that the project will meet school concurrency.

Motion by Mr. Franciosa, seconded by Ms. Shutt. Said motion passed with a 5-0 vote. *No Dissenting Votes.*

Waiver (Sofa 2):

Recommend **approval** to the City Commission for the waiver request to LDR Section 4.7.9(i), to allow the increase in the percentage of one-bedroom units (including efficiencies) from the maximum allowed 30% to up to 54.5%, due to a failure to make positive findings with respect to LDR Section 2.4.5(E).

Motion by Mr. Franciosa, seconded by Ms. Shutt. Said motion passed with a 5-0 vote. *No Dissenting Votes.*

Conditional Use (Sofa 2):

Move a recommendation of approval to the City Commission of the conditional use request to allow a density in excess of 30 units per acre (64.7 du/ac) for **SOFA Delray Building #2**, 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), 4.4.13(I), and Chapter 3 of the Land Development Regulations, subject to the following conditions:

1. Items A-N
2. Verification from the Palm Beach County School District that the project will meet school concurrency.
3. Reciprocating maintenance granted easement to be granted along the shared property line between Kempco and the subject property.

Motion by Ms. Shutt, seconded by Mr. Durden. Said motion passed with a 5-0 vote. *No Dissenting Votes.*

Request for a 5 minutes recess.
Recess 9:40p Reconvene 9:45p

Conditional Use Request to establish a recreational bowling entertainment center which includes an eight (8) lane bowling alley with a full service restaurant and bar for Downtown Bowling, located within the Ocean City Lumber Complex, on the east side of Pineapple Grove Way (NE 2nd Avenue) between East Atlantic Avenue and NE 1st Street. Quasi-Judicial Hearing

No Ex-Parte

Mr. McDonnell entered project files No. 2012-196- Use

The site is located within the Ocean City Lumber development at the southeast corner of NE 1st Street and NE 2nd Avenue (Pineapple Grove Way) on 45 NE 2nd Avenue. This bay was previously occupied by a photo store and a photo gallery (Fotofusion). The conditional use request proposes a boutique bowling entertainment center. The building currently contains 10,800 sq. ft. of retail space which will be converted to a 3,550 sq. ft. full service restaurant with a bar and a 7,250 sq. ft. bowling alley with eight (8) lanes.

There is a surplus on this property of parking spaces. There are two (2) changes in the staff report that need to be corrected. On page two (2) of the staff report, paragraph 3, the (9) additional parking spaces should read (16) and first paragraph below Project Description should be (16) additional parking spaces.

Property shall be developed or redeveloped in a manner so that the future use and intensity is appropriate and complies in terms of soil, topographic, and other applicable physical considerations, is complimentary to adjacent land uses, and fulfills remaining land use needs.

All activities, with the exception of outdoor dining associated with an approved sidewalk café, shall take place inside an enclosed building. Consequently, the presence of the patrons seated at the bar adjacent to public rights-of-way or facing interior courtyards is not the desired look and feel of Downtown Delray. Further, this appears to conflict with interior seating around the internal bar and has patrons staring at the backs of other patrons (i.e. less than 3' separation) seated at the bar. The plans shall be revised to relocate the bar and bar seating further interior to the site with the provision of no less than a four foot (4') separation between the outermost bar seat and the adjacent interior wall. Similarly, the exterior counter for walk-up patrons and/or wait staff is not desired (i.e. patrons with their backs to the street) and should be removed. This is attached as a condition of approval.

The outdoor dining area along the west elevation is approximately 420 sq. ft. The combined total outdoor dining use area totals approximately 1,049 sq. ft. This shall increase the parking requirement by six (6) spaces, thus making the total new parking required for the site fifteen (15) spaces and reducing the remaining parking surplus to seven (7) spaces.

All storefronts or glass areas abutting the street shall be transparent, non-solar or non-mirrored, and have a light transmission reduction of no more than twenty percent (20%). Downtown Bowling has proposed changes to the exterior of the building along NE 2nd Avenue. All changes shall decrease the existing nonconforming glass surface area. The approved plans shall provide calculations which specify the percent of existing, required and proposed *transparent or glass surface area* provided on the ground level. All proposed elevation changes shall increase the existing glass surface area to look inviting to pedestrians.

The future bowling alley has received positive public feedback to date and is a welcomed entertainment venue within the downtown area.

The subject project was reviewed by the DDA (Downtown Development Authority) at their meeting of September 10, 2012 and was unanimously recommended for approval. At its meeting of September 13, 2012, the CRA (Community Redevelopment Agency) unanimously recommended approval of the development proposal.

Courtesy Notice:

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

- Neighborhood Advisory Council
- Delray Citizens Coalition
- Chamber of Commerce

Board Discussion – None

Applicant Presentation

Steven Dapuzzo – 4900 N. Ocean Blvd. and he also operate a restaurant. We are very excited to bring this bowling to Delray. Boutique bowling is a trend across the country and in the big cities. What boutique means is a regulation size lane but with limited lanes. We offer wines and tables for a nice atmosphere. A couple of things that need to be addressed, one is the glass surfaces in the windows. These windows are grandfathered in, but we are going to work with staff, but it is not the amount on the staff report. Also, having the bar near the window is important. It is not revenue but a traffic pattern. It is important for people to see people.

Board Discussion

Mr. Franciosa ask when he learned about the bar problem?

Mr. Dapuzzo said at 2:00p.m. today.

Dr. Spodak asked about the landscaping near the bar.

Mr. Dapuzzo said that he was not touching any trees or any of the art pieces.

Mr. Durden had a concern that you are going to have children coming to bowl, and you have the bar right outside as they come in.

Mr. Dapuzzo said that the type of theme you have it is more geared toward adults. The door to the ally is located away from the bar.

Ms. Shutt asked if there is going to be some sort of demarcation line between the bowling and the bar.

Mr. Dapuzzo said that it is almost a separate room.

Ms. Shutt asked about the smoking.

Mr. Dapuzzo said it will be nonsmoking.

Dr. Spodak mentioned that when he drove by he saw a lot of police.

Mr. Dapuzzo said that he asked to have that amount of police, but not because of trouble.

Public Discussion

Steve Blum – He asked if it was duckpin or regular? It will be regular. Also, what about the noise level. My disappointment is that there will be only 8 lanes. I feel it will be mobbed with kids waiting for a lane. But I think there are some pit falls to be aware of.

Gene Fisher – He liked the outdoor bar concept, but I think the city has made some mistakes...example The Office. We should look at the setbacks.

Staff Discussion/Rebuttal/Cross Examination

Mr. McDonnell said that the staff stands firm about the conditions regarding the 4ft separation and the walk up counter. This will be looked at as we move forward to the SPRAB Board Meeting. But for the record, staff has concerns with the proximity of the bar and we are not in support of the walk up counter and to be able to walk up and get a drink.

Board Discussion

Ms. Shutt would like to see some sort of regularity of the walk up bar.

Mr. Durden said he would support the project, but concern with the bar concept.

Ms. Pierre-Louis also said that she liked the idea, but concern with the bar concept.

Mr. Franciosa like the proposal, but not comfortable with #5:

Relocate the bar and bar seating further interior to the site with the provision of no less than a four foot (4') separation between the outermost bar seat and the adjacent interior wall. Similarly, the exterior counter for walk-up patrons and/or wait staff is not appropriate and shall be removed.

Dr. Spodak said that he agrees that there is a problem at The Office, and it was not a good move on the City's part and hoping to learn from this. Agree, it would be good to have some recreation downtown.

V.Planning and Implementation Items

Recommendation on designating the name of the north-south alley located between NE 3rd Street and NE 4th Street to Artists Alley

Mr. McDonnell entered project files and the item before the Board is to make a recommendation to the City Commission on the naming of an existing public alley as "Artists Alley". The alley extends one block and runs north from NE 3rd Street to NE 4th Street, between NE 3rd Avenue and the FEC Railroad tracks within Block 89 of the Town of Delray. On October 2, 2012, the City Commission was given a presentation by Shirley Talbert, CHME, CDME, Chief Marketing Officer of the Palm Beach County Convention & Visitors Bureau. She is also a board member of the Pineapple Grove Arts District. She offered a background on the trend in Palm Beach County to create unique experiences for our visitors and locals alike to enjoy authentic, home

grown artwork, mentioning efforts in Northwood, Lake Worth, Boynton Beach, and now here in Delray Beach.

Staff prepared an exhibit that shows all properties along both the east and west sides of the alley with a legend that identifies the owners and their current addresses (see attachment). All of the current properties have addresses either along NE 3rd Avenue, or along NE 4th Street; therefore, naming of the alley as Artists Alley will have no negative impact on currently assigned addresses, emergency response as relates to our 9-1-1 system, changing of records with the Palm Beach Appraisers Office, or with established stationery of current businesses. Upon speaking with a communications manager at the Police Department, staff learned there were no concerns so long as the final determination by the City Commission is communicated to them. This will allow for their CADD system to be updated with this new reference name, should any future calls for assistance be made for "Artists Alley".

Applicant Presentation – No Comments

Public Comments – No Comments

Board Discussion – No Comments

Motion

Recommend approval to the City Commission to name the north-south alley that runs from NE 3rd Street to NE 4th Street, between NE 3rd Avenue and the FEC Railroad track, as **Artists Alley**, in accord with LDR Section 6.1.12(B).

Motion by Mr. Franciosa, seconded by Ms. Shutt. Said motion passed with a 5-0 vote. *No Dissenting Votes.*

VI. Report and Comments

A. Board Members

Parking Management Advisory Board (PMAB)

Mr. Franciosa explained that the parking meters on the beach will increase and be from 8:00p.m. to 10:00p.m. This would raise \$80,000 - \$100,000. There were some comments that there is free parking and there is not. The tax payers pay for this parking. Suggest using some of our garage parking.

B. Staff

Meeting Dates for December

Mr. McDonnell said that we have a City Commission Meeting on December 4, 2012, and is being exclusively reserved for the Atlantic Plaza Project. Sofa 1, Sofa 2 and Downtown Bowling will be heard on December 11, 2012.

Planning and Zoning Meeting will have Uptown Delray Proposal, Abandonment of the Alley, Fairfield Inn (Conditional Use), Master Plan for Bellantica Gardens, and Beachway Motel.

Mr. Franciosa entered in the record that he will not be at the next meeting.

ADJOURN

The meeting adjourned at 9:40 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 November 19, 2012 which were formally adopted and approved by the Board on March 18, 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