

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH

MEETING DATE: October 15, 2012

LOCATION: City Commission Chambers

MEMBERS PRESENT: Clifford Durden, Gerald Franciosa, Jan Hansen (6:17), Connor Lynch, Derline Pierre-Louis, Thuy Shutt (6:05) and Craig Spodak

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

I. CALL TO ORDER:

The meeting was called to order by Chair Lynch at 6:03 p.m. Upon roll call it was determined that a quorum was present.

II. MINUTES

There were no Minutes submitted for approval.

III. ELECTION OF BOARD LIAISON TO THE PARKING MANAGEMENT ADVISORY BOARD

This item was postponed to a subsequent meeting.

IV. COMMENTS FROM THE PUBLIC

Mr. Kevin Warner stated that no Minutes were available, which was an ongoing problem due to a shortage in staffing, and he said he was not sure this was being addressed. He suggested the meetings be televised (as are City Commission meetings) so the public could watch on-line. He said unless you are taking your own notes you have no idea what was actually said.

Chair Lynch asked Mr. Dorling if there would be costs involved in having the meetings televised or recorded. Mr. Dorling replied that there is an audio recording of the meetings and that a copy of the audio CD can be obtained from the Planning & Zoning Department. He said that there is presently no staff available within the department to operate the video equipment. He said that he is in the interviewing process to fill the vacant position and anticipated having the Minutes up to date in the near future.

At this point on the agenda, Ms. Shutt arrived (6:05 p.m.)

Chair Lynch asked Ms. Truxell to swear in anyone planning to speak at the meeting and then read the Quasi-Judicial Rules.

V. LAND USE ITEMS:

- A. Final Subdivision Plat for Maison Delray associated with the re-plat of six lots to four single family lots, located at the intersection of Grove Way, NW 3rd Avenue and NW 12th Avenue. Quasi-judicial Hearing.

Mr. Hoggard described the proposal and said that Staff recommends approval.

Applicant

The applicant for the project was not present.

Public Comments

There were none.

Board Discussion

Dr. Spodak asked if the applicant was the owner of the house and Mr. Hoggard replied that the house is owned by three (3) brothers who intend to keep the house but the intent is to subdivide to develop the parcel. Ms. Shutt inquired if the applicant had agreed to all of the technical comments and Mr. Hoggard replied that they had but there was still one outstanding issue regarding whether FP&L would be accepting the easement agreement. Mr. Durden questioned technical comment number two (2) and Mr. Hoggard explained that this comment was regarding a technicality in the formatting of the legal description and it should not be a problem.

Mr. Hoggard then entered file number 2012-204 into the record.

Motion:

Motion made by Dr. Spodak, seconded by Ms. Shutt and passed with a 6 to 0 vote (Mr. Hansen absent) to move a recommendation of approval to the City Commission of the Preliminary Plat and certification of the Final Plat for Maison Delray, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(J) (Major Subdivisions), Section 3.2.3 (Standards for Site Plan and/or Plat Actions) and Section 3.1.1 (Required Findings for Land Use and Land Development Applications) of the Land Development Regulations, subject to the following condition:

1. That all comments under the "Technical Items" section (Appendix "B") of the report be addressed prior to scheduling the plat for City Commission action.

- B. Master Development Plan modification associated with the demolition of an existing bank and construction of a new 5,033 sq. ft. bank with drive-thru lanes for Chase Bank, located east of the northeast corner of West Atlantic Avenue and Military Trail. Quasi-judicial hearing.

There was no ex-parte discussion on this item.

Mr. McDonnell entered filed number 2012-201 into the record. He described the proposal to the Board and said that Staff recommended approval of the two (2)

Waivers and the Master Development Plan. He did point out, however, that a portion of one of the Waivers needed to be modified and that on page eleven on the second Waiver regarding the landscape buffer the section stating “the lesser of 10% of the average depth of the property or” should be stricken.

Applicant

Marissa Ferber stated that she was there on behalf of the applicant. She said they had reviewed staff’s comments and that they would comply. Ms. Ferber stated she was available for any questions the Board might have.

At this point on the agenda Mr. Hansen arrived (6:17 p.m.).

Public Comments

Board Comments

The Board indicated they had no issues with the proposal.

Motions

Motion made by Mr. Franciosa, seconded by Mr. Durden and passed with a 7 to 0 vote to approve the waiver to LDR Section 4.4.9(F)(3)(a)(1), which requires a minimum site area of 4 acres (0.984 acres proposed) within the Four Corners Overlay District, based on positive findings with LDR Section 2.4.7(B)(5).

Motion made by Mr. Franciosa, seconded by Dr. Spodak and passed with a 7 to 0 vote to approve a waiver to LDR Section 4.4.9(F)(3)(d)(1)(d), which requires a landscape buffer along the north, east and west sides of the property that is the lesser of 10% of the average depth of the property or 25 feet (6.5-foot landscape strip along the north side of the property, 11.3-foot strip along the east side, and a 7.7-foot along the west side of the property), based on positive findings with LDR Section 2.4.7(B)(5).

Motion made by Mr. Franciosa, seconded by Mr. Durden and passed with a 7 to 0 vote to approve the Master Development Plan for Chase Bank, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(F)(5) and Chapter 3 (Performance Standards) of the Land Development regulations, subject to the following condition:

1. Approval of a site plan by SPRAB that is in general conformance to the submitted sketch plan and addresses the “Site Plan Technical Items” noted in the staff report.

VI. PUBLIC HEARING ITEMS:

- A. Conditional use request for Jourdan’s Bridge Club to allow the establishment of an indoor recreational establishment that will occupy a 6000 sq. ft. tenant bay within the Delray Town Center Shopping Center, located at the northeast corner of Linton Boulevard and Military Trail. Quasi-judicial hearing.

There was no ex-parte communication on this item.

Mr. McDonnell described the proposal to the Board and entered file number 2012-221 into the record. He advised that staff recommends approval on this item.

Applicant

Mr. Richard Cher, architect for the project stated they would be happy to comply with the recommended conditions. He said that he wanted to let the Board know that this is a currently functioning facility at Atlantic Avenue and Military Trail but they want to relocate. Mr. Cher said that he did want to point out that there should be a correction to the staff report and that on page four (4) under Floor Plans it is stated that the kitchen has a stove and there is no stove.

Public Comments

There were none.

Board Discussion

Dr. Spodak stated that the condition from the Fire Department regarding the hood and suppression system would no longer apply since there would be no stove. There was also a discussion about the Fire Department's conditions number six (6) and seven (7). Mr. Durden inquired how long they had been at their present location and Mr. Cher replied they had been there approximately fifteen (15) years.

MOTION

Moved by Dr. Spodak, seconded by Mr. Hansen and passed with a 7 to 0 vote to make a recommendation of approval of the conditional use request to allow for the establishment of an indoor recreational establishment known as the Jourdan's Bridge Club, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in Sections 2.4.5(E)(5), 4.4.12(D)[ref. Section 4.4.9(D)(11)], and Chapter Three of the Land Development Regulations, subject to the conditions listed in the staff report with the exception of number seven (7) regarding the comments from the Fire Department, subsection number six (6).

- B. Privately initiated rezoning request from POC (Planned Office Center) to SAD (Special Activities District) for Delray Place, located at the southeast corner of Linton Boulevard and South Federal Highway. Quasi-judicial hearing.

Chair Lynch asked if there had been any ex-parte communication on this item and Dr. Spodak stated that the developer had called him to discuss the project and that he advised him that any comments the developer made would have to be disclosed to the Board. He said he then directed him to the Director of Planning and Zoning for any further comments he might have but that the outcome of the Board's decision did not affect him in any way so he was completely unbiased on this issue. Mr. Franciosa stated that he had spoken with the residents in the area of the proposal and had attended three (3) meetings regarding it. Mr. Franciosa then asked about the letter that had been sent to Planning & Zoning from Mr. Richard Van Gemert regarding public notification and Chair Lynch asked if Mr. Dorling had responded to this letter. Mr. Dorling said that he had replied by email to Mr. Van Gemert and advised that proper notice is being provided pursuant to State law.

After further discussion, Chair Lynch asked Assistant City Attorney Pyburn to comment on this issue.

Ms. Pyburn said that, in addition to what Mr. Dorling had said, requirements are set forth in Sections 166.041 and 166.041(3)(a) of the State Statutes that a Public Notice be published in a newspaper with general circulation within the municipality at least ten (10) days before the item goes to the City Commission. She said that is the only requirement by the State and that anything more the City does is over and above what is required by the State. Chair Lynch said that if the City Attorney's office was in agreement with what the City had done the item would remain on the agenda.

Mr. Durden then asked if the process Mr. Franciosa was referring to was a law of the City of Delray Beach, why the process was not followed. Ms. Pyburn stated that the City Commission passed this in 2005 it seemed to her that they put in a "catch all" phrase where they were contemplating there may be a possibility that someone could claim they had not been noticed when actually they had been but it did not matter as long as the State Statutes had been met. Mr. Durden then asked what criteria were used in determining whether the State Statutes or the City of Delray Beach requirements would be met. Ms. Pyburn said she would have to defer to Mr. Dorling to respond to this question. Chair Lynch asked Mr. Dorling to explain when the additional notification is done and why it was not done on this project.

Mr. Dorling said that additional public notice requirements will be set in accordance with one or more of the following for a rezoning and that would include:

- 1) Written notice to public property owners within five-hundred feet (500'), and that was met;
- 2) Notice posted at City Hall, and that was met;
- 3) Notice posted on the City website, and that was met; and
- 4) Placards to be posted – there were placards posted on two major roadways. A placard was not posted on Eve Street, a dead-end road, but, regardless, the other three (3) requirements were met.

Mr. Franciosa again asked why a placard was not placed on Eve Street and, at this point, Ms. Pyburn said that continuing this discussion would not be productive. She said that the Board had the right to vote to not continue with hearing the proposal if they are not comfortable with how this meeting was noticed but she reminded them that this issue had been assessed by the City Attorney's Office and they did not have a problem with it because they believed that it met the intent of Section 2.4.2(b). Ms. Pyburn said that it was the Board's prerogative to vote against hearing this item. Mr. Franciosa said that he still did not believe sufficient notice was given with this being such a contentious issue. Mr. Durden stated that he did not think proper protocol was followed and that this was a reflection on them as a Board.

Chair Lynch asked the Board if anyone did not want to continue with hearing this item because of the issues with the notification problem and The Board unanimously agreed to continue. Ms. Pyburn reminded the Board that this project will still have to be heard by the City Commission two (2) times and that additional Public Notice will occur before these meetings. Chair Lynch then asked staff to make their presentation.

Mr. Hoggard entered file number 2012-059 into the record. He described the proposal and outlined the approval process to the Board. Mr. Hoggard stated that

with a rezoning action a number of findings are required, including compatibility with the Future Land Use Map and that the SAD Zoning is consistent with any land use designation on the Future Land Use Map thus a positive finding with respect to consistency with the Future Land Use Map designation can be made. With respect to the finding of currency, positive findings can be made as it relates to water and sewer, streets and traffic, drainage, parks and recreation, open space and solid waste. The traffic study provided by the applicant has indicated that traffic concurrency can be met however staff has not received the final approval from Palm Beach County. Regarding the finding of consistency, a review of the objectives and policies of the adopted Comprehensive Plan was conducted and two applicable objectives and policies were noted:

Future Land Use Element Objective A-1: *Property shall be developed or redeveloped in a manner so that the future use and intensity is appropriate in terms of soil, topographic and other applicable physical considerations, is complimentary to adjacent land uses and fulfills remaining land use needs.*

Mr. Hoggard stated that since the subject property is already developed, soil, topographic and other applicable physical considerations do not have an impact on the appropriate development intensity. Mr. Hoggard stated that ensuring that the proposed development will be complimentary to adjacent land uses and fulfill remaining land use needs is required. Mr. Hoggard stated that the site is located at a major intersection with close proximity to Interstate 95 and the Linton Boulevard Interchange, and that a commercial shopping center is appropriate at this location with the contingency that it is compatible with the neighborhood. Residential and general commercial uses can be compatible and complimentary in that the commercial uses provide necessary goods for residential neighborhoods and the residents provide the market for commercial uses. However, the key issues that need to be addressed to ensure compatibility include the mix of uses, the level of intensity and appropriate buffering. Mr. Hoggard stated that the currently proposed site plan for Delray Place does not adequately address these issues.

Due to the excessive amount of building area, the proposed site plan does not meet the minimum open space requirements or provide adequate parking for the proposed uses, nor is there room to provide adequate buffering in some areas. These issues, which are identified in the attached technical comments in Appendix "B", have been discussed with the applicant over a six month period or more. The applicant's response to these concerns is that the overall building area cannot be reduced without rendering the entirety of the project economically infeasible.

Mr. Hoggard stated that for comparison purposes, the intensity of other Delray Beach commercial shopping centers on South Federal Highway and Linton Boulevard were reviewed. As shown in the table in the staff report, the level of intensity proposed for Delray Place significantly exceeds that of those other centers of which the highest was 0.24 (FAR). The FAR for this project is 0.32.

Mr. Hoggard stated that by reducing the FAR to 0.24, the building area of Delray Place would be reduced to approximately 104,000 square feet. If the reduced floor area was placed in open space it would increase the open space from 16.2%, to 25% and would lower the total parking requirement from 552 to 416 spaces.

Mr. Hoggard stated that the project can exceed 0.24 FAR, however, the intensity of the project is too high to make compatibility findings.

Mr. Hoggard stated that the proposed site plan with the building at the east end of the site has a great impact on the adjacent single family lots to the east. The extreme length of the proposed buildings with limited buffering in this area is a concern. Except for the lower connections between buildings, the (5) interconnected 600 to 1000 Buildings present a continuous 700+ feet long, 22 feet high wall located 15 feet from the rear property line of the single family houses. Architecturally, the essentially blank wall of the south elevation of these buildings looks like a self-storage facility.

Regarding the second Comprehensive Plan Policy:

Future Land Use Element Policy C-1.12: The following pertains to the South Federal Highway area, south of Linton Boulevard. In Fiscal Year 2010/11, the City's Planning & Zoning Department shall review existing land uses in this area and shall create a redevelopment plan, overlay district or other development tool to promote and guide future redevelopment of the area.

Mr. Hoggard stated that since the original rezoning application was submitted prior to adoption of the Redevelopment Plan, the current proposal for redevelopment of the subject property will not be required to comply with the Redevelopment Plan, however, if the current rezoning action does not go forward, any future redevelopment of the subject property will be required to comply with the Redevelopment Plan. It is noted that the Plan supports redevelopment of the subject property with a commercial shopping center development, subject to the site plan adequately addressing the development's compatibility with adjacent residential development, and recommends the option for a privately-initiated rezoning by the property owners to SAD. While the PC zoning district would have allowed the proposed uses, the SAD zoning district, with its required site plan, provides the mechanism to ensure compatibility at the time of rezoning.

With respect to the required findings pursuant to LDR Section 2.4.5(D)(5), Mr. Hoggard stated that the applicant submitted a statement and supporting documentation addressing this requirement, attached as Appendix "C". The applicant's statement seeks to justify the rezoning based on all three of the reasons. Staff does not agree with the statement that the original zoning was established in error, since the POC zoning was appropriate given the existing use of the property. Staff concurs that a rezoning to SAD is appropriate based on items "b" and "c", indicating that there has been a change in circumstances as the office buildings have been vacant for a long time and the need for offices in this location has been marginal. Regarding intensity, Mr. Hoggard stated that all the zoning districts permitted within the TRN (Transitional) Future Land Use Map designation are subject to a maximum FAR of 1.00, and the proposed shopping center is significantly below that maximum level.

Finally with regards to compliance with the Land Development Regulations, Mr. Hoggard stated that although revised site plans have not been submitted due to time constraints, the applicant has submitted responses indicating how each comment will be addressed. Mr. Hoggard identified the variance and waivers outlined in the staff report and noted that the applicant maintains that relief is not required for many of the deficiencies due to language in Section 4.4.25(F), "Special Regulations" of the SAD zoning district. Mr. Hoggard stated that all zoning districts must comply with the requirements in other sections of the LDRs unless specific provisions, which exempt the district from these requirements, are included in the zoning district.

Mr. Hoggard also cited the deficiencies with respect to the provision of parking spaces and stated that while a waiver is not required, the number of spaces must be adequate to support the proposed development and a parking study must be provided to support the reduction.

Courtesy Notices:

A special courtesy notice was provided to the following homeowners and/or civic organizations:

- Neighborhood Advisory Council
- Delray Citizen's Coalition
- Tropic Isle Civic Association
- Banyan Tree Village
- Domain Delray
- Harbour's Edge
- Harbourside
- Linton Woods
- Pelican Pointe
- Pelican Harbor
- Spanish Trail Condo
- Tropic Bay
- Tropic Harbor

Public Notices:

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

Mr. Hoggard stated that a shopping center is supported in the Redevelopment Plan, the SAD zoning is appropriate, however, the intensity is too high and staff recommends denial.

Mr. Franciosa inquired if the applicant has amended the rezoning application from PC to SAD and inquired as to the status of the PC zoning application.

Mr. Hoggard stated that the application has been amended to request the SAD zoning designation and the previous PC zoning request is voided as there was not a final vote on that item.

Ms. Pyburn stated that if the applicant wanted to further amend the application it would have to be reconsidered by the Planning and Zoning Board.

Mr. Franciosa inquired that apart from the site plan, what are the differences between the SAD and PC zoning designations?.

Mr. Hoggard responded that the PC zoning would allow the same type of uses which are proposed, however, this site is unique because it is adjacent to single family residential neighborhoods and since the site plan is a part of the SAD process and a finding of compatibility is addressed at this time.

Applicant

Mr. Weiner, 10 SE 1st Avenue, agent stated that the staff concurred that the land use was compatible and concurrency was met and the findings for rezoning in Section 2.4.5 were met. Pertaining to the intensity of the project, the site is located at a highly

visible location with drive-by traffic of 29,000 cars per day. Mr. Weiner stated that the staff report focuses on numbers and percentage points as if that will guarantee the success of a shopping center and further stated that if the standard code works, why does it not work for Delray retail. The standard rental rate is \$5.00 less per square foot than Boca Raton.

Delray Place has been designed consistent with the intent of the SAD. The SAD is a form based code and it states any special regulations may be applied to the SAD in the review and approval process. For example parking and loading requirements included the number of spaces will be controlled by the site plan. He further stated that the neighbors wanted to see and control the site plan with the SAD zoning and that is why it was thought to be superior to the PC zoning. This also applies to how buildings are positioned on the site.

The staff report points to previous shopping centers as proof where the entire matrix of development are met but questioned if those centers are adding value to the surrounding community and if those centers are thriving or simply surviving. The rental and vacancy rates say no to building a regular shopping center by the numbers. The plan represents a retail design and management experience that provides a 21st century shopping environment that will set a standard for south Palm Beach County.

The future of the site and the development is designed with innovative thinking into the site plan. Placed within the center are features that are most important to compatibility and most desired by the public visiting the center. The plan was not developed on numbers but was developed on features.

The plan was developed on collaboration with Tropic Isles residents, and visions from those meetings were incorporated into the site plan. For example: enclosed truck wells, 14' privacy walls, sound proof solutions, enclosed trash compactors optimization of turning movements onto Linton, saving of mature trees, and innovating lighting. The Retail Property Group, developers hold their properties and ensure that the specific needs of the tenants and community are always met.

Mr. Weiner introduced Mark Saltz, Architect for the project.

Mr. Saltz stated that the site plan reflects the comments from the neighbors and is a response to their comments and to provide a successful project; and highlighted the neighborhood concerns and commented how those were resolved through the design of the project.

Mr. Saltz stated that one of the main concerns was how deliveries are made. Usually deliveries are made behind the retail stores, in this case, that design solution would have created tremendous impact on the neighbors. The trucks enter on Federal Highway and exit on Linton Boulevard. The loading docks are enclosed within the buildings and thus minimize contact and impact to the neighbors. Further, sound walls have been placed around the loading docks. Pertaining to trash collection, the developers are committed to increasing the frequency of trash collection based on the perspective tenants (e.g. a restaurant will be picked up daily).

Also, the buildings closest to the residents will have two enclosed garbage rooms which will be air conditioned so that odors and impacts will not be felt by the neighbors. Regarding the buffers, there are substantial buffers on the site adjacent to

Tropic Isles and the buffers will conceal the tops of buildings and there will be no visibility to the building and 14' sound wall around the loading dock. The gate at Eve Street will not be modified and continue to provide the security to the neighbors as it does today.

Jeff Brophy, Land Design South, Landscape Architect, highlighted some of the existing conditions, and stated that the existing screening located within the right-of-way along Spanish Trail and Eve Street will not be changed. Along the McCleary area, the existing landscaping is sparse. The existing wall is 6' high and there are a lot of mature Oaks which will be utilized within the perimeter buffer. However, there is a dead zone between the top of the wall and the bottom of the tree canopy. This will be connected by using additional flowering trees which have been included in the plans.

Along the west side of the property, the existing relocated trees will be used to obtain the instant mature buffer and they have no objections to the comments from the landscape planner with respect to the landscape materials along Linton Boulevard. Along Federal Highway, they have more opportunity because of the depth to get appropriate landscaping and foundation planting.

Mr. Weiner stated that in order to compete in the 21st century marketplace, the mix of tenants must create synergy. The shopping centers that have large buffers and parking areas are just another shopping center. The SAD will allow a vibrant retail center. The improvements and ideas incorporated in the center are geared towards helping the neighborhood. Mr. Weiner asked the Board to make a recommendation in favor of the project and move it on to the City Commission.

Public Comments

Christina Morrison, 2809 Florida Boulevard, stated that Tropic Isles is a waterway community, a first class neighborhood. The zoning of the subject parcel is POC (Planned Office Center) and the developers bought the property with that zoning in place which is a perfect transitional zoning. Ms. Morrison further stated that to change to a commercial zoning would dramatically change the feel of the corner. Ms. Morrison voiced concerns that the proposed buildings are placed against the neighbors backyards and that while the SAD zoning is appropriate, the site plan does not help the neighbors.

Greg Weiss, Economic Committee, Delray Beach Chamber of Commerce, stated that while the Chamber of Commerce does not endorse a project at this stage, the Chamber of Commerce will speak on the economic impact of the project. During several meetings with City staff, residents and City Commission spoke about quality redevelopment on Federal Highway. This project would turn an underutilized corner into a gateway. Mr. Weiss also stated that from an economic impact the project will generate significant construction jobs and provides a positive economic impact. The project will provide diversification and sustainability of the tax base of Delray Beach; and to have a sustainable tax base, we must have high end retailers.

Vincent Nolan, Economic Development Director for the CRA, stated that they are in a process to revamp and rework economic development in the downtown and within the innovation corridor along Congress Avenue. This corner will probably never again be desirable for office because people are looking for office space downtown or closer to the highway such as Congress Avenue; and the current older office stock

is not going to compete in today's marketplace. The economic decision is that this corner is most suitable to higher end retail. Mr. Nolan stated that he believes the SAD zoning is the method to achieve the desired result and supports the zoning.

Mr. Kevin Warner, 248 Venetian Drive stated that he disagrees with the comments made by Mr. Nolan and states that the Board needs to move on the project that is before the Board based on the requirements of the LDRs and stated that the Board is not to be a private decision maker, which should be left to the market. Mr. Warner stated that staff has pointed out what the decision should be based on, and suggests that the Board deny the request. Mr. Warner inquired as to the status of the report from Palm Beach County regarding the traffic analysis and stated that truck exiting on Linton Boulevard and wanting to proceed west will have to cross the eastbound lanes with 29,000 trips per day. Mr. Warner asked the Board to rule on the merits of the request based on the LDRs.

Michael Young, 1807 Spanish Trail, stated that his house is located just south of the loading dock area and that he bought his house eight years ago because the site was developed with offices which were located 50-75 feet away. Mr. Young stated that he objects to the delivery trucks location and stated that the project is overbuilt and that there is not enough parking. He commented that the project along with the proposed Fresh Market across the street will add significant traffic in the area. He further stated that the site is not planned properly and the proposed development will not improve property values.

Kay Strom, 1801 Spanish Trail, stated that his house is located 50 feet from the loading area and stated that the buffer is 10 feet which is not adequate to landscape the 14' high wall. Mr. Strom voiced concerns that when deliveries are made the trucks will continue to run their engines during those deliveries creating noises particularly late night or early morning and this will impact the neighbors.

Mr. Robert Weibelt, 955 Jasmine Drive, stated that he is in favor of the project and stated that 50% of the zoning on Federal Highway is automotive of which 50% is vacant. The project will be a catalyst to bring redevelopment to the South Federal Highway area and will provide more shops and restaurants for the residents in Tropic Isles. Mr. Weibelt stated that the project will benefit the City and that there are three other meetings where those outstanding issues can be addressed.

Terry O'Connor, 942 Tropic Boulevard, stated that the site is flooded and that it is not being maintained by the new owners. Ms. O'Connor stated that the buildings are not rented because they are not being maintained and that to tear them down and relocate offices to another part of the City because that is what the City wants however, forgetting the office use is compatible with the residents is being short sighted. Further, those who are recommending approval do not live near the site and will not be directly affected. The plan is not well thought out and is not recommended by City staff and office use is appropriate at that location.

Steve Camp, 931 Eve Street, stated that he has been a resident of 24 years and the proposal will make the traffic overwhelming. There is nowhere for people going south on Federal to exit the site to travel south. Trucks will exit the property on Linton and make a left at the light at Federal to go south. Also, 600 units will be added on South Federal Highway at the Old Levitz site which will make the traffic impacts more overwhelming. Eventually, they will try to remove the gate on Eve Street in order to get access to Tropic Boulevard which has a traffic signal. The plan is incompatible

Jeanette Alexander, 922 Eve Street, stated that with the development, the residents will lose the peaceful enjoyment of their homes and recommended that the site remains office and voiced concerns about the noise from the retail and restaurant uses. Ms. Alexander passed out photos that show the trash that accumulates from one restaurant within the Old Harbor Plaza.

Bill Schnabel, 901 McCleary Street, stated that the project is too intense for the neighborhood that it abuts. The 15' buffer will not drown out the noise or odors from restaurants. Mr. Schnabel stated that at the neighborhood meetings the concerns raised by the residents do not appear to be addressed. The buildings are too close and the 15' landscape buffer is not sufficient on the west side along Spanish Trail and recommends that the project be downsized to conform to the LDRs.

John Koenig, 956 Evergreen Drive, stated that he supports the project and thinks it will be the catalyst that starts the South Federal Highway redevelopment; that they will have to go through three more meetings; and that they will continue to work with the neighborhood to address the resident's concerns. He further stated that the POC office has not worked and if the request is not passed, the buildings will be left and will not attract high paying tenants. He believes the development is a high end development and is in favor of the project and that issues regarding compatibility can be worked out.

Cheryl Sandhoff, 1919 Spanish Trail, stated that she opposes the project and inquired what is meant by a high end project and in this economy that cannot be guaranteed. Ms. Sandhoff requested that the Board keep the office use so that they can enjoy the quiet of their homes after 5:00 p.m.

Dr. Victor Kirson, former President of Terre Verde, stated that the developer bought the property for 11 million. He further stated that the City Commission has changed and state that the residents need to call the Commissioners and voice their concerns and suggest that the property be used for medical office suites.

Sherry Critton, stated that her family grew up in Tropic Isles which is a neighborhood known for its quiet enjoyment and to think that one would have to close their windows because of the noise and increase traffic is disregarding the people which have invested in their property and suggests that the office buildings be revamped.

Kelli Freeman, President of Tropic Isles Civic Association, 917 Banyan Drive, stated that the Association Board is divided. Members that live in the south section of Tropic Isles are in favor of the request and members who live close to the project are not in favor. They know that something needs to be redeveloped on that corner, but they are not sure what that is. As the project relates to the homes on McCleary, their back yards are 15 feet from the wall with the restaurant and open seating, they will be sitting in someone's backyard. The developer met with residents and one of the suggestions by the residents is that the outdoor seating area be removed and relocated in the front up along Linton Boulevard.

Another concern is the outdoor play area for the children, immediately to the right of which is a marsh area that abuts the Intracoastal Waterway. The plan has helped the residents concerns with respect to the landscaping and the wall, but there are items that have not been addressed by the developers who have to work with the

neighbors. Ms. Freeman inquired if the approval of the SAD zoning is contingent upon the approval of the site plan?

Chair Lynch responded that Planning and Zoning will be making a recommendation on the preliminary approval of the site plan that the site plan will have to be approved by the Site Plan Review and Appearance Board (SPRAB) and they are not approving the details of the site plan.

Nancy Richards, 934 Cypress Drive stated that most of the people in the community are excited about the project and that she is aware that there are a few vocal minority who are directly impacted who are objecting.

Nancy Schnabel, 901 McCleary Street, stated that her property is the most impacted by the development and agrees with the staff's objection to approving the site plan as it is today and suggested that other things can be done such as a medical center. The building on the north side is 22' high and only 15 feet from her property line and the loading docks are only 32 feet from their property line. All the abutting homes are single story and the buildings will tower over the residences. The project is too intense for the neighborhood and it is not consistent with the residential property and will have a tremendous impact on the enjoyment of their property.

Thomas Ward, 911 Eve Street, stated that when the residents bought their properties they never imagined a project of this magnitude would be developed at the site. The residents along McCleary and Eve Street are totally opposed to the project.

Richard Van Gemert, 912 Eve Street, stated that the zoning laws provide for a buffer between businesses and residential neighborhoods and put in place zoning that would protect the adjoining properties from each other and intrusion of one upon another and put in place POC to minimize noise, traffic, etc. on the residents. The office use is a clean 9-5 use with light traffic and setbacks. Allowing the rezoning will bring intrusion of noise, fumes, truck noises, odors, and traffic to the neighborhood. Mr. Van Gemert commented that the SAD zoning as stated in the LDR shall be suitable and compatible with the surrounding existing development and the proposed character of the area. This project does not fit any of those criteria and will be detrimental to the neighborhood; will violate the character of the neighborhood; and is a violation of the purpose and intent of the SAD zoning and request that the Board vote against the rezoning.

Kaywin Martin, 972 Evergreen Drive, stated that a majority of the truck deliveries are coming from I-95 and questioned how these trucks will enter the site. Trucks will have to go south on Federal and make a u turn at the Dunkin Donuts, and in exiting the site, trucks will have to cross traffic in order to go west on Linton.

At this time the public hearing was closed.

Staff Rebuttal

Ron Hoggard stated that staff supports a commercial development at this location but feel the intensity is too high. Staff has requested a tree survey to see the size and where the mature trees will be taken from. Staff suggests if the mature trees are located within the parking area they could be saved by constructing a landscape island. Staff supports the building being moved up along the street but there are

some issues with the overhead lines that are in conflict with the landscaping and staff recommends that the power lines be placed underground.

Applicant Rebuttal

Mr. Weiner stated that for the record, the gate on Eve Street will remain and that they could bring back the government food stamp office but that would not be good for the neighborhood. The truck traffic with automotive uses has always been there and no one has ever complained. Mr. Weiner stated that there will be no seating in the back of buildings. While it is a little more intense, the traffic is only 1.5% more and we are getting a distinctive shopping center, synergy between tenants so that this particular center survives, super infrastructure, air conditioned garbage disposal, truck traffic loading with sound proofing and asked that a bad design not be made only because of numbers.

Board Comments

Ms. Pierre-Louis, asked the applicant to explain the proposed truck route entering and exiting the site and heading west to I-95.

Mr. Weiner, responded that there are 80' right-of-way and can handle the massive amount of traffic.

Lou Carosella stated that trucks entering the property will go south on Federal highway and make a u-turn at the light at Dunkin Donuts, make a right to enter the property. In exiting the property, trucks will make a right, go to the full median access cut and make a U-turn, to head west towards Federal Highway.

Mr. Durden inquired if the Board voted yes, is it a vote on the site plan or are they just voting to change the zoning?

Chair Lynch clarified that the vote recommended by staff is to deny the request. If the Board voted yes, the entire project will be denied. If the Board voted against the staff's recommendation, they would be agreeing with the rezoning.

Ms. Pyburn clarified that the Board is only making a recommendation, the project will be forwarded to the City Commission for final action and the site plan has to go the the Site Plan Review and Appearance Board for action.

Chair Lynch stated that if the Board vote is in favor they are not voting for every detail of the project-- the project will still need to go to the Site Plan Review and Appearance Board to address those issues which were raised.

Mr. Hansen stated that he could not support the site plan but does support the SAD zoning.

Ms. Shutt raised several questions which are tied to compatibility and whether this zoning is appropriate to the area including the truck traffic, the turn around, the type of trucks that will be utilized on the site and the impact on traffic with the truck traffic exiting the site with respect to the location of the bridge. Ms. Shutt stated that the uses must be more specific and identify the total square footages allowed for restaurants etc. The location of can-washes for the restaurant would have more impact on compatibility than the aesthetics of a wall. She indicated that she had no

problem with preserving the trees but thought a 5' buffer was not adequate. The site plan shows the trees to be preserved are Sabal Palms along the single family homes and that the oaks are new and slow growing. Finally Ms. Shutt suggested that construction timing must be addressed and inquired if the project could be built all at once. If only the major tenants are being developed initially, then the residents will be adjacent to construction activity throughout the development of the property. Hours of operations is a concern and she suggests that the building could be placed closer to Linton Boulevard and voiced concerns with the inadequate buffer for the residents.

Dr. Spodak stated that he agrees with Ms. Shutt and Mr. Hansen. While the project tries to have walkability with the buildings along the street, to the rear there are high monolithic structures against resident's backyards. He supports the SAD for this corner but the existing site plan needs more involvement with the neighbors to make it viable and believes that if it is designed better the developer would get higher levels of profitability.

Mr. Franciosa voiced concerns that staff has asked the developer to change the plan for over six months. He raised concerns with the wall and buffer from the restaurant uses. For the restaurant uses, the kitchens are usually at the rear, often the doors are left opened in the rear and employees are outside in the rear and this will be adjacent to the residences.

Mr. Franciosa stated that there are other uses that the developer could do other than a GC/SAD, such as medical buildings. The neighborhood already has many commercial uses within walking distance and raised concerns with the added truck traffic. Mr. Franciosa stated that the project is intrusive to the area and that they fought Walmart at which time Mr. Weiner represented the neighborhood and that this proposal is worse than the Walmart proposal.

Mr. Durden stated that he looked at the Board's responsibility with respect to these issues and stated that the question is whether the Board is going to accept the rezoning or detach the site plan from the rezoning and asked if the developer can address the intensity to satisfy to residents. Mr. Durden inquired if he voted to deny the site plan will the entire project goes away.

Ms. Pyburn responded that if the Board denies the project it would not come back to the Planning and Zoning Board unless it was resubmitted as a different zoning. The project will go the the City Commission and the site plan will go the the Site Plan Review and Appearance Board for approval.

Ms. Pierre-Louis stated that the staff has given the developer six months and has requested changes that still have not been addressed and she recommends that the POC zoning remain.

Mr. Franciosa said he voted no to the requested PC zoning six months ago and while the SAD is a different zoning and has specific criteria it is still a PC commercial development, there is no change and asked Mr. Weiner for an explanation.

Mr. Weiner stated that the item is quasi-judicial and the Board has to make a decision on what is before the Board and further stated that the Board must decide whether 8-10 homes are more important than trying to bring Delray Beach retail on the south side to a higher level. Mr. Weiner stated that the question before the Board is what is good for Delray Beach as a whole.

Chair Lynch stated that six months ago he voted against the project because the City was in the process of developing a Redevelopment Plan and he wanted to know what the plan was before going ahead with the new zoning on the property. The SAD zoning is viable because it gives an idea of what the developer is proposing. There are serious concerns with the site plan and the amount of square footage, however he feels that the Site Plan Review and Appearance Board will get the developer to address those issues such as setbacks and that is the job of the SPRAB Board. The SAD is a better zoning and he wants to see the property redeveloped and be more effective than what it is now, however he shares the concerns of the residents and thinks those concerns should be addressed by SPRAB and the City Commission.

Ms. Shutt stated that if the waivers are given for the setbacks from the north property line there must be some benefits for the spatial separation for the residents.

Chair Lynch stated that the feedback from the Board should be included in the staff report and that the reason why some of those items are included in the Board report is because the SAD requires a conceptual site plan, but the concerns will be raised at the SPRAB meeting.

Ms. Shutt suggested that the developer take the concerns into consideration and redesign the project to address compatibility with the residences.

Mr. Franciosa stated that he is recommending denial because the project is inconsistent with the Comprehensive Plan.

Ms. Pyburn requested that the motion be made in the affirmation.

Motion:

Motion made by Dr. Spodak, seconded by Mr. Hansen and passed with a 4 to 3 vote, to move a recommendation of approval to the City Commission for the privately-initiated rezoning from POC (Planned Office Center) to SAD (Special Activities District) for Delray Place, 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 LDR Sections 3.1.1 (Required Findings), 3.2.2 (Standards for Rezoning Actions), and 2.4.5(D)(5)(Rezoning Findings), with the condition that the site plan be modified and/or relief be sought to address the technical comments attached in Appendix "B" prior to review by the Site Plan Review and Appearance Board.

- C. Conditional Use Requests to allow a density in excess of thirty (30) residential units per acre (51.10 units per acre is proposed) and the building height for the project in excess of 48 feet up to a maximum building height of 60 feet for Atlantic Plaza II, located between East Atlantic Avenue and NE 1st Street and between NE 6th Avenue (northbound Federal Highway) and Veterans Park. The development proposal is in conjunction with the demolition of the existing buildings and improvements and the construction of a new mixed-use development that includes 442 residential units, 79,071 sq. ft. of office area, 52,021 sq. ft. of retail, and 28,204 sq. ft. of restaurant (Continued from September 24, 2012). Quasi-judicial Hearing

There was no ex-parte communication on this item (other than the emails received by the Board members which had already been made part of the record).

Mr. Dorling described the proposal to the Board and entered the file into the record.

Applicant

The applicant, Mr. Jeff Edwards of the Edwards Company, said that also present was Carl DeSantis, the property owner and Bill Morris, representative for both himself and Mr. DeSantis. He said they would be presenting images to express the vision of the project. He said the slide presentation they are presenting will show that the project is heavily landscaped, more so than that done by most developers. Mr. Edwards continued that the slides show the lower levels of the proposed project at eye level. He also showed slides of other projects his company has built.

Mr. Edwards continued by stating they are not asking for any sidewalk waivers as the proposed sidewalks are ten feet (10') wide or more along Atlantic Avenue and on U.S. 1 and are eight feet (8') or more within the project. He then said there was a previously approved site plan for this project and that this current proposal is actually better in several ways compared to the previously approved site plan. Mr. Edwards said this proposal has over thirty-thousand (30,000) square feet less office space and almost forty-thousand (40,000) square feet less retail and restaurant. He said the project would also have about one-half the square footage on the fifth floors as on the previously approved plan. Mr. Edwards said they do indeed have more units but they are smaller in size and are less intense than more office or retail space. He continued by saying this proposal has more open space than the previous plan and the parking study showed less trip generation than the previous plan. He also said they now have more parking and have added more parking, since the previous proposal that was reviewed at the prior month's meeting.

Regarding the conditional use request for height, Mr. Edwards confirmed the project would be sixty feet (60') in height on most of the buildings and slightly less in a small portion of the project. He said they would adhere to the work force housing requirements on the upper floors. He said there were two requirements that had to be met in order to qualify for the conditional use request, one of which was that at least fifty percent (50%) of the ground floor be non-residential and the other was that the frontage exceeds fifty percent (50%) and both of those requirements have been met. Mr. Edwards said they have also met the requirements regarding open areas (courtyards, plazas, landscaped areas and setbacks).

Regarding the conditional use request on density, Mr. Edwards stated they are seeking approval for fifty-one (51) units per acre and that the current proposal meets the Performance Standards of the LDRs. He said if thirty (30) units per acre are exceeded there is a requirement for additional Work Force Housing and they would abide by that requirement also. Mr. Edwards then quoted from the *Downtown Delray Beach Master Plan* which stated "an increase in residential density is crucial to assuring lasting life to the central core district", etc. He also quoted from the LDRs in which it is stated "residential development is permitted at higher density in this area than any other part of the City in order to foster compact pedestrian oriented growth that will support downtown businesses". Mr. Edwards stated this development will provide significant economic benefit to the City and their consultants' estimate that, based upon their over two-million dollar (\$2,000,000) investment in this project, there will be annual recurring revenue of over two-million dollars (\$2,000,000) in CRA tax increment revenues, two-hundred thousand (\$200,000) in DDA revenue, one time fees for building permits to the City

of over two-million dollars (\$2,000,000) and two point sixteen million dollars (\$2.16 million) in school fees, etc. to Palm Beach County. Mr. Edwards said in addition to the aforementioned revenues, this project would produce at least one-thousand construction jobs and six-hundred permit jobs. He said the residents living in this development would spend approximately six million dollars (\$6,000,000) annually on goods and services, not all on Atlantic Avenue.

Mr. Edwards then advised how they had moved the amenities in the area of Veteran's Park and addressed former concerns about how the proposal would affect the park. He said they would continue to work out any issues with the park that might occur in the future. He said they had listened to former Board comments and had eliminated the fifth floor from two (2) of the buildings and that, in response to further comments, they proposed to place Live Oaks along Atlantic Avenue. Mr. Edwards said that they had also listened to the Board's request that this should be a LEED certified project and they would be meeting twenty-eight (28) of the thirty-two (32) requirements in the LEED Neighborhood Development Standards that are not building-related but development and/or neighborhood-related instead.

Mr. Edwards also stated they had listened to some of the Board's other concerns about alternative transportation and they had added a bus shelter, shuttle stop, they would be paying for the shuttle and adding three (3) or four (4) additional bike racks. He explained about the locations of the parking lots and said they were not asking for any parking waivers and said the parking is concealed. Mr. Edwards said that they will have a substantial valet operation and they had spent a lot of time working on the loading and trash removal issues. He said they performed a traffic study and Palm Beach County agreed with their expert's findings. He also said they can handle the anticipated maximum of ninety-five (95) students.

In summary, Mr. Edwards stated they believe this development advances the set goals of the City, that they are in compliance with the LDRs, and that they have the support of staff and the CRA and DDA. He stated they had made meaningful changes, as requested, and felt they meet the height and density requirements.

Chair Lynch stated they would now hear comments from the public and Assistant Attorney Pyburn stated she had noticed there were a few members of the SPRAB at this meeting. She advised they would be able to speak as a member of the public but, if they chose to do so, the other SPRAB members should leave the room so there would be no Sunshine Law issues.

Public Comments

Christina Morrison, residing on Florida Boulevard in Tropic Isle stated she wanted to thank the developers for really listening to the concerns and making the changes that were necessary. She said she was still concerned that the proposal is so dense and that First Street is the gateway into Palm Trail. She said she knew that people get tired of her talking about neighborhoods in Delray Beach but she was the one who brings businesses into the City and that she had brought in seventeen (17) companies in the last year and a half. She said people want to live in this City and we need to keep the neighborhoods the gems that they are.

Ms. Morrison then asked if they had figured out how trucks were going to get in and out of this proposed project to deliver goods to such a large area. She said she had a remaining concern about how trucks were going to get in and out of this complex

without impacting Palm Trail. Ms. Morrison said the developer had addressed all of her other concerns.

Gregg Weiss, Economic Development Chair at the Chamber of Commerce, 64 S. E. Fifth Avenue, said he also was very impressed with the revisions to the plans for this project and said it seemed the developer had addressed most of what had been asked of them. Regarding the economics of this project, he said it was different than the project on which he had spoken earlier, Delray Place. He said that they had just completed an economic development self-assessment test study through Northeastern University and they had just inventoried Class A office space in the City. He said the available inventory of Class A office space currently within the City is only 15%. Mr. Weiss stated this project would bring substantial Class A office space to an area where people want to live, work and play. He said when businesses are trying to decide whether to move into Delray or Boca Raton, many times they are going to Boca because the City does not have what they need here.

Mr. Weiss continued by saying this project would bring more high-end retailers into a walkable area. He said the City needs a diversified tax base and you will not find a downtown area able to survive strictly on restaurants and tourism. He said, based upon the numbers they were shown, this project would provide substantial impact taxation for the City. Mr. Weiss concluded that he hoped the Board would strongly consider this revised proposal.

Jerry Fleblowitz stated he has been a resident of Delray Beach for thirty (30) years and currently resides in Barr Terrace across the Intracoastal from Veterans Park. He said numbers had been bantered around for weeks regarding this project but, as a realtor in Delray Beach for twenty-five (25) years he decided to look into some facts. He said that he used the Multiple Listing Service to research the area from the Intracoastal to Swinton Avenue and one mile around Atlantic Avenue. He said there are sixty-five (65) condominiums for sale and two-hundred and thirty-seven apartments (237) for rent. Mr. Fleblowitz said there is a four (4) story building at 152 NE Fifth Avenue that was built about five (5) years ago and has been vacant ever since due to financial problems. He said the entire first floor of the building has eight (8) storefronts for rent.

Regarding the commercial side, Mr. Fleblowitz stated there are currently storefronts on the market and the City does not need an additional four-hundred and forty-two units plus commercial sites flooding the City. He then said he had a petition signed by residents of Barr Terrace stating their opposition to this project.

Bob Ganger said as he had stated at the previous meeting the developers are an outstanding group and he felt they had responded to the concerns that had been voiced. He said he is still not satisfied, as density is still an issue. Mr. Ganger continued that Mizner Park, which this project has been compared to, has approximately two-hundred and thirty-five (235) residential units on about forty (40) acres. He said that the Town of Briney Breezes has a complex that is four-hundred and forty-eight (448) residences on forty-three (43) acres. Mr. Ganger said it was up to the City to decide if this proposal is approved but it would be putting a lot of people and traffic right in the middle of town. He concluded by saying he believed the density could still be reduced to be more like the originally approved project and urged the Board to think about it.

Dianne Colonna, Executive Director of the Community Redevelopment Agency advised that the CRA Board had voted unanimously to recommend approval to the City Commission of this project and the Conditional Uses associated with it. She said the project is consistent with the Downtown Master Plan, provides mixed uses with a relatively dense residential component which is appropriate. She said there are projects in town that are more dense than what is being proposed, one of which who has ninety (90) units per acre. Ms. Colonna said the code had been changed a few years ago to allow for increased density in the downtown area because the City wanted to have more people in the downtown area in order to make it more viable. She said this had worked because the downtown area “held its own” during a difficult period and this had been shown to be a proven strategy. She also said this proposal will provide Class A office space which is needed in the City and it complies with the height limit and with the adopted Design Guidelines.

Ms. Colonna said Atlantic Plaza has been in need of redevelopment for many years as it is more like a suburban development with the parking lot being around the edges. She said it does not have any relation to the street and to the pedestrian oriented downtown. She said this will be much more appropriate for downtown Delray with the buildings close to the street and with the parking not being visible from the street and she believed it would fit in well. Additionally, she said it will bring the Class A office space which is really needed for any viable downtown area and said it will bring positive attributes to the area.

In conclusion, Ms. Colonna said the current proposal is less intense than the one previously approved and much less intense than the one approved by the City a few years ago. She said this proposal will generate less traffic than what was previously approved although the number of units seems higher. She said much of the property along Federal Highway has changed from commercial to residential in the last few years and traffic has actually decreased four and one-half percent (4.5%) on Federal.

Alex Blodgett, of 32 SE Second Avenue in Delray said he has his business located in Boca Raton because it is currently hard to find office space here and he thinks the town needs more to help support local businesses. He said he does not see a potential traffic problem and when Mizner Park was being built everyone said the additional traffic would be a disaster and cars would not be able to travel down Federal Highway. Mr. Blodgett said he had never sat at a traffic light on Federal by Mizner Park with more than five or six cars. He said from a practical point of view he would like to see more office space here and hopes to bring his business to Delray. He concluded by saying he thought this project would be a “shot in the arm” for the City.

Marjorie Ferrer, Executive Director of the Downtown Development Authority said the DDA Board at their September meeting had also voted unanimously to recommend approval to the City Commission of the density and height requests. She said the DDA studies the eight different clusters within the downtown district which is from I-95 to the beach and tries to get the business mix right for each cluster. She said this project would be in cluster six (6) which is a somewhat dysfunctional cluster and is basically a “one-sided” street.

Ms. Ferrer said the present Atlantic Plaza is not customer friendly and this space needs to be fixed so it becomes a real part of downtown. She said the area is not friendly and that pedestrians do not want to continue walking down the Avenue

towards the Intracoastal. Ms. Ferrer stated she would like people to continue walking from Fifth Avenue on down and across the bridge so that they would visit the shops on the east side of the Intracoastal. She said the DDA is very excited about getting this project moving forward and they look forward to working with them on the retail component. Ms. Ferrer said she also hoped this project would result in the use of the "under the bridge" walkway which the DDA had worked with the D.O.T. several years ago to create.

Jack Maloney said he and his wife had lived in Delray Beach for many years and they currently reside on Palm Trail. He said they both own businesses in the City. Mr. Maloney said he and his wife both agree something needs to be done in the area where the project is proposed but they think this proposal is out of scale for the town. He said this is the "Most Fun Small Town" in America and it is currently a very different, tasteful small town and this is what gives the town the vibe that it has. He said this type of project overwhelms what the town is. He said four-hundred and forty-two (442) units would result in over one-thousand (1,000) people living within one block in Delray. Mr. Maloney stated he did not agree with people saying there would not be traffic problems because there are currently traffic issues around this location. He said he knows these are tough times for the City and understands this is the price of progress but he did not see the need to compromise values and vision for the City for a little money. Mr. Maloney said the changes made by the developer were pretty much taking it from huge to a little less than huge. He concluded by saying he admires the leadership of the City and he hoped they continue to do the right thing.

Joe Snider, said he lives and works in downtown Delray and said six (6) years ago Mayor Perlman signed the "US Mayors Climate Protection Agreement" and, under that agreement, the City committed to taking proactive steps to promote development within the City. He said four (4) years ago in this very room the Green Task Force projected on the screen their recommendations for the City to adhere to the "Climate Protection Agreement" and other agreements. Mr. Snider said within those recommendations were incentive based programs for builders including density and height Variances to encourage green buildings. He said three (3) years ago they had made these recommendations regarding this project and it was good to see they had listened. He thanked the developers and said what a difference three (3) years had made. Mr. Snider said he was encouraged that the developers and the Board were more open-minded and had made a commitment to the LEED goals. He said he hoped the commitment to LEED goals would be made a condition of approval for this project. Mr. Snider concluded by saying much had been said about Class A office space and he believed most people these days believed good quality office space should adhere to LEED initiatives.

Carolyn Patton, residing at 1020 Tamarind Road and the owner of property in the Marina Historic District said this proposed project is surrounded by residential properties. She said she owns an historic house and the lot next to it, the last lot remaining in the Marina Historic District. Ms. Patton said she is currently investing a lot of money in trying to save the historic house and build something appropriate on the adjoining lot. She said she has a lot of respect for Bill and Elaine Morris and Carl DeSantis and she thanked them for the steps that had been taken towards the goals for this project but said she believed some more steps need to be taken. Ms. Patton said there is a section in the LDRs that says projects must be compatible with the residential areas surrounding them. She said Delray Beach is a built- out

town and there will be more giant projects like this coming in again and again next to residential areas and this is something that needs to be worked out.

Ms. Patton said Mrs. Morrison had spoken about Palm Trail to the north and she said to the south was the Marina Historic District, the first neighborhood in Palm Beach County to be nominated to the National Registry of Historic Places. She said the height and density needs to be lowered just a little more to lessen the impact on the neighboring communities. Ms. Patton said she was happy with the details that had been presented at this meeting. She said this plaza had been redesigned a few years ago by Digby Bridges and he had also designed the large library and the smaller scale tennis center and he had a good feel about what would look good within the City. She said she had provided copies of the details to the principals for this project and provided a copy to the Board Secretary for the record.

Joanne Peart of the Delray Beach Preservation Trust said that another beautiful neighborhood in Delray is the Marina Historic District which is directly to the south of the proposed project. She said there is already a problem in this district because the restaurant Deck 84 is so successful and patrons are parking all up and down the streets in this district. Ms. Peart said the situation is so bad that sometimes homeowners in the area cannot get out of their driveways. She said she understood that the owner of Deck 84 had worked out a parking agreement with Atlantic Plaza. If this project goes through as submitted she said the current traffic and parking problems will only become worse and hopes this is taken into consideration.

Joe Silk of 1118 NW 5th Avenue in Delray Beach said he has had the good fortune of living in the City for the past twenty-four years. He said he has also worked in the City at 1001 East Atlantic Avenue on the east side of the bridge where he works for The U. S. Trust, Bank of America. Mr. Silk said he thought this project would be a win-win for the City and its residents, not only because of the tax base but because of why people want to live in Delray - family, good community, and a lot of things to do. Mr. Silk said that was what was going to attract the people who would be living in this development. He said this will also bring jobs into the area, as shown on the slide presentation by the applicant. He said he also believed this project would bring more businesses to the area and more traffic and interest on the east side of the Intracoastal. He concluded by saying he thinks this is an excellent project and said he supports it and wished the developers good luck.

Steve Friedman of 235 NE 1st Street stated he is the President of the Astor Condominium Association in Pineapple Grove. He said he regularly walks down 1st Street and over to the beach and enjoys the environment in Delray Beach. He said he was very pleased with the changes Mr. Edwards had shown in his presentation in response to the public's concerns. Mr. Friedman said he thinks what is missing in Delray is retail shopping and when he and his wife want to go shopping they have to go to Town Center in Boca Raton or elsewhere and said the opportunity to have retail shopping available in the downtown area would be terrific.

Regarding density and traffic Mr. Friedman said the majority of Delray Beach has single family homes and that the pinnacle of the City was Atlantic Avenue and U.S. One. He stated, if the quote Mr. Edwards read earlier was accurate, the City wants to have density in its core and that would be the area where this project is proposed to be built. Mr. Friedman said that Delray Beach had been awarded "Most Fun City" and he thought this development would be the "icing on the cake" and be a real

presentation to anyone visiting the City. He concluded by saying the project has his strong support.

Zak Odhwani of 32 SE 2nd Avenue said he is a professional in southern Palm Beach County and he had finally made the move to Delray at the beginning of 2012 and he could not be more pleased to be living here. He said he believed the baseball adage “if you build it, they will come” and said Worthing Place and all of the restaurants was what brought him to the City and he believed that was what was bringing other professionals here. He said Worthing Place was about his only choice because there was nothing else like it in the City. He said he believes this development will attract many other young professionals and snowbirds, as well.

Mr. Odhwani then said on the plaque posted on the wall there in the Commission Chambers stated one of the goals for the City in 2016 and beyond was for an “Expanded/Diversified Local Economy” and this proposal is offering retail space. He said another one of the goals was “Expanded Downtown from A-1-A to I-95” and this proposal, as the gentleman before him had stated, would be a pinnacle in the downtown area. He then said another stated goal was having “Quality Neighborhoods Where People Want to Live” and this proposal also would meet this goal. He concluded by saying he was in strong support of this development and thought this would be fantastic for Atlantic Avenue.

Robert Cannellos of 308 Enfield Road stated he was past President of the U. S. Green Building Council, South Florida Chapter and said he was very familiar with LEED for planned development. He said he had been involved in six (6) planned developments within Florida, two (2) of which have now been certified. He said one of the reasons he moved to Delray was because it seemed it was a City with forward thinking people and concepts in place. Mr. Cannellos encouraged the Board to ask the developer to make at least a portion of this project, if not all of it, to have a LEED component. He said if this project was in Miami it would be required to be at least LEED Silver certified. He said the former speaker had said “build it and they will come” and Mr. Cannellos said he knew the younger generation is looking for buildings in which they want to live or work that are environmentally sound.

Cary Glickstein, 1118 Waterway Lane stated anyone who knows downtown Delray knows that the property needs redevelopment. He said Class A office space and retail are needed and that a better mix is needed on Atlantic Avenue, as well as residences downtown. He said he thought there was a lot of uncertainty and fear as this proposed project is much different than the one previously approved. Mr. Glickstein said there was huge increase in density and rental apartments rather than condominium ownership and he thought it was perplexing why a significant increase in apartment density was not being discussed. He said there are presently literally thousands of units under construction within the City limits or on the border. He said this is a large project and he believed there is a lot of uncertainty because this project evolved much differently than the previous project in which there was a real three-party dialogue between the developer, the public and the Planning Department. Mr. Glickstein stated the merits of this project were being debated at a Planning & Zoning Board meeting at 10:00 at night and he thought this was probably the reason a lot more members of the public were not present to weigh in on this project.

Mr. Glickstein continued by saying a previous speaker had talked about the “vibe of Delray” and said he applauded the developer for listening and making some meaningful changes but he did not believe the public had the opportunity to weigh in. He said the applicant (for the previous proposal) had made a concerted effort to meet with the public. He referred to Bill (Morris) and said they had numerous meetings and that dialogue, that give and take, that compromise, had eliminated the uncertainty and fear that a lot of people have about the size of the current proposal. Mr. Glickstein said while all of the things mentioned are needed, it was critically important to this town that the scale of this development is massive. He said he did not think that people understood, through the graphic renderings, through the limited discussions at this meeting and he would really like to see the Board direct staff and the developer to do more about engaging the public so there was not so much uncertainty.

Jim Smith, Chairman of the “SAFE” board said, as others had done, he wanted to thank the developers for the significant improvements they had made to the project but said more work needs to be done. If not, he said Delray’s quality of life will deteriorate and drivers will be cursing the traffic jams this project will create. He said regardless of what had been said at this meeting, this project will generate nine-thousand (9,000) daily trips and that figure did not include the people visiting the park, taking boat tours and going to Deck 84.

Mr. Smith also said a fourth trolley would be needed and asked that the Board make it a condition of approval that the applicant pay for a *fourth* trolley, not a third, and that this should be contingent upon the CRA paying for the operating cost of this trolley. Mr. Smith said the CRA receives two point two million (\$2.2 million) dollars a year for this and they should be leading the way. He said the CRA should also offer to pay one-half (1/2) of the cost of a traffic light on Federal Highway and 1st Street and the City should pay the other half. He said a pedestrian signal crossing is also needed on Atlantic Avenue because there is none from Seventh Avenue to Venetian Drive. And, he commented people do not want to use the walkway under the bridge and that they just want to get from point “A” to point “B”. Mr. Smith said he had heard this evening about two people who had been killed while crossing in front of Atlantic Plaza and that the situation would only get worse with nine-thousand (9,000) additional trips per day. He said this potential problem with the traffic must be mitigated and there are two ways of doing it, one through the scientific way called “Transportation Management Initiatives” or by reducing the density.

Mr. Smith said this Board has a responsibility not to let bad projects get through but to make a bad project a good project. He stated they need to look at the email received regarding the Florida Department of Transportation and the Palm Beach County Traffic Division wanting to come to meet with staff to come up with ways to reduce the number of trips. He said this organization’s job is to come up with creative ideas and that was what needs to be done. Mr. Smith also stated more bicycle storage was needed as he expected many of the residents would have bicycles and they need safe, indoor storage. He said this storage space should be taken from the proposed parking garage area.

In conclusion, Mr. Smith again said the CRA should pay one-half of the cost to install a pedestrian traffic light on Atlantic and staff needs to meet with the people from FDOT and Palm Beach County Traffic. He said the bicycles would help, a

fourth trolley would help but the Board should send this project back to staff to work on bringing back a proposal everyone, not just some, will be happy with.

Jason Bregman of 222 Lake Terrace said he lives and works in Delray and also happens to ride his bike to work. He said he is a member of the Site Plan Review and Appearance Board but he was not speaking as a Board member but as a member of the public who is concerned about the project. He said the previous speaker, Jim Smith had done his homework and the memo he presented had a lot of good information to be considered. Mr. Bregman said he believed everyone who had read it agreed with the points he made. He said the Board needs to make conditions of approval requiring the developer to revise their plans to meet what the Board wants to see.

Regarding this project being “green”, Mr. Bregman said he would like to echo what Joe Snider and Robert Cannellos had said and both of these gentlemen are experts in their fields. He said if there were people present who did not understand the term “green building” it means that it is more environmentally sound. He said he believed this is something that would be in high demand by the people who would be living there. Mr. Bregman said there is also high demand for Class A office space. He stated if the applicant said “they might be, kind of, sort of” LEED neighborhood like, that is very different than if it is made a condition of approval. Regarding new construction, he said perhaps the Board could require that at least one of the buildings be a green building or they could make it a condition of approval that all the buildings be green and the Board has the power to do that.

Mr. Bregman said he really liked what was going on with the park and that it made a lot of sense and these changes should also be made a condition of approval. He said there needs to be some clarification on who is paying and maintaining these improvements and, again, condition of approval. He stated he appreciated the changes that had been made to the plans since the previous submittal such as the courtyards which had previously been private and had now been made public and the more public space within this project, the better. Mr. Bregman concluded by saying if the Board wanted to vote to allow the proposed height and density, all of the wonderful things that are being stated have to be in writing. He thanked the Board for their time.

Kevin Warner, 248 Venetian Drive addressed Dr. Spodak and said he would leave it up to him to pursue the inaction on the building wall on Atlantic Avenue and pedestrian access that Dr. Spodak has concerns about as it did not seem those had been addressed. He then said he would leave it up to the Board to ask, if two floors had been removed, how is there still almost the same overall square footage. He said he agreed with Mr. Ganger, Ms. Patton and Mr. Maloney that density is an issue and the traffic problems are going to be immense. Mr. Warner said trying to cross the bridge is going to be a mess and disruptions in traffic flow on the north end by Palm Trail have already been mentioned. He said the LDRs state in Section 3.2.3(D) “If it is determined that the widening or modification will be detrimental and result in a degradation of the neighborhood, the project shall not be permitted”. Mr. Warner continued, based upon the square footage allowed for restaurant use, he estimated there would be an additional six (6) restaurants in Atlantic Plaza and they are estimating only one and one-half (1 ½) more trips per week.

Mr. Warner then quoted LDR Section 4.4.13(l) which states “the approving body may deny an application for increased density where it is determined that the

proposed project is not compatible in terms of building mass and intensity of use with surrounding development” and said there was nothing up there surrounding that area that competes with this in terms of building mass and intensity of use. He said you could put your finger on this section in the LDRs and say that is why you do not like it.

Mr. Warner said, with all due respect to Mr. Edwards, he was a former member of the National Downtown Master Plan Steering Committee and he believed that the Master Plan did not say increased residential density in the downtown area was what was wanted in Delray Beach compared to what the LDRs called for. He said it just meant they wanted more people to live downtown, unless the thinking was of the section that specifically said that, in Worthing Park, the increased residential density was a good thing. He concluded by saying the Board should check the citations for future attribution.

Ned McDonald of Mallory Square in Delray Beach said he wanted to praise Mr. Glickstein for his comments. He said when he and his wife moved to Florida sixteen years ago they looked at a lot of properties and finally chose Gulf Stream because it was close to Delray Beach and he believes the City is charming. He stated a lot had been said about mitigation of the density for this project and he supported that because he felt a project with this density would be like something found in Boca Raton. He said was what they did not want when they moved to Delray. Mr. McDonald said this would bring more people and more businesses but, is more better?

Mr. McDonald said we need to keep the charm of the City and he and his wife had just moved to Delray Beach five (5) months ago to downsize from where they had lived in Gulf Stream. He said if he knew then this project would be built he would probably have considered moving elsewhere. Mr. McDonald concluded by saying he hoped there would be another “Atlantic Plaza mitigation meeting” held in the future at an earlier hour. He said he had sat for three (3) hours through the review of an earlier item and he knew of four (4) people that had to leave the meeting because they could not stay so late for this item.

Benita Goldstein of the Palm Trail area said she wanted to thank Mr. Morris for talking with the residents in this area about the project and how it would affect them. She said she had asked Mr. Morris if the density was going to be reduced and he stated that it would not. She said she did not feel this was much of a dialogue. She stated they had already seen an increase in traffic on Seventh Avenue and the residents of that area cannot even imagine the number of cars that would be generated by this project, as proposed. Ms. Goldstein said many residents of the proposed project will have two cars because even though they may love Delray they will still have to go to other places. She said with this increase in the number of cars the residents around Seventh Avenue will feel like sitting ducks.

Ms. Goldstein stated there were other people at the meeting earlier who wanted to speak on this issue but they had to leave this lengthy meeting because they could not stay this late. She said everyone was concerned about how they would retain the feel of the neighborhood. She stated she lives in the heart of the town and that was where she wanted to be but feels the proposed density questions the integrity of the town. Ms. Goldstein said, as had been stated by Mr. Edwards, there is nothing “urban” about Delray Beach, that this is a town, it is a village. She

concluded by saying if this project is built as proposed then most people would be looking at something different than what they came here for.

Andy Katz, 220 S. Ocean Boulevard, stated he was here on behalf of the of the Beach Property Owners' Association. He said he and the President of the BPOA, Mary Renaud had met with Bill and Elaine Morris the previous Friday and shared some ideas. He said some of these ideas went back four (4) years ago in regards to the previous Atlantic Plaza. Mr. Katz said at that time there was an issue about public use of (sub-value?) and stated the City Attorney should take note of this. He said there were legal papers drawn up that, essentially, deeded the sub-value to the developer and that he had worked hard to back off from that. He continued to speak about the ground that may need proper ownership for utilities (garbled).

Mr. Katz said they want to make certain Seventh Avenue is maintained as a public street so the City decides, when there are festivals, when the street would be closed rather than the developer having "sales days", etc. He said he wanted to make sure Seventh Avenue is treated like every other street in town. He said the other aspect of public streets is Constitutional. He said the street is public and he wants to make sure that public protection is written in. Mr. Katz said the other issue that had been brought up with the prior proposal was safety on Atlantic Avenue and said he was happy to see there would be no parallel parking east of Seventh Avenue on Atlantic Avenue. He said as you are coming over the bridge there is limited visibility and parallel parking on the Avenue in this area would not be a safe situation. He continued that he believed there may be some spaces west of Seventh Avenue and, it did not affect the project, but if they could be eliminated and replaced with some vegetation that would be great. Mr. Katz said you do not want people trying to reach Federal Highway competing with someone waiting to pull out of a space then trying to back into the space. He said this really does not affect the project as it is laid out.

At this point on the agenda the timer went off and there was a discussion between the Chair and the Assistant City Attorney as to whether Mr. Katz could continue to speak on behalf of the organization and it was determined that he could.

Mr. Katz said he appreciated the efforts made to softening the southeast corner of the project because this section was very visible to those in the Intracoastal across the street and to those coming across the bridge. He said if some tables were added on the ground floor that would help draw people to the Intracoastal.

Assistant City Attorney Pyburn then explained when a person could speak on behalf of an organization. She said a person can speak for six (6) minutes if they are representing a group of six (6) or more interested citizens in attendance at the meeting or you can represent an organization of interested citizens. She stated that a homeowners' association would be considered an organization under the Quasi-Judicial Rules.

Dr. Vic Kirson, (of Tierra Verde) stated it was much too late for him to be civil. He stated every person who wanted to make a buck off of this project is present and every one of them had spoken. He said someone had said "if you build it, they will come" but stated "who needs them" and that he wants the City to remain the way it is. He said he did not want another thousand people on his beach at A-1-A and Atlantic.

Regarding the City Commission, and he said this one is in trouble, Dr. Kirson said he could name, but he would not, three Commissioners who would vote to pass this because it is a two-hundred million (\$200 million) dollar project. He said he could name a lot of other people who want to see this pass and asked "have you heard of advisors" then stated there was a lot of money to be made for giving advice on this project so they all want to see it pass. Dr. Kirson said there were very few residents left at the meeting but if they wanted to contact him he would show them how they could "beat" the Commission and stop this.

Vin Nolan, 4882 N. Citation Drive and Economic Developer for the City said they pay him to give advice and that his advice, in trying to wrap what had been said this evening, was how the actions of this Board and other land use Boards affect whether his job gets better or worse. He said Mr. Weiss had referred to the "Economic Development Self-Assessment Survey" that had been done and one of the key questions in that survey was tied to development and how long it takes to get a building permit or a land use permit and anything else that may be required for development. He stated that before the Board was an application that meets every condition in the LDRs. He said to string it out any longer would make his job harder on other projects. Mr. Nolan said he encouraged the Board to deliberate what they had heard at this meeting, including the Conditional Use requirements and said the Board might wish to add conditions on their approval. He said while he favors LEED and green initiatives there is nothing in the current regulations that would require the applicant to provide them. He stated to add this type of requirement as a last minute component to what they are already entitled to under the LDRs sends a horrible signal. Mr. Nolan said in conclusion if the City wants to make this a requirement for projects, it should be put in the LDRs so that it is not a trip point after the fact.

Claire Johnson, 46 Marine Way said he was one of the few residents still present because most of them had to leave because it was so late. He said this proposal was delayed last month and delayed again and the residents were not told about this meeting. He said notices were not sent out to residents within a five-hundred foot (500') radius of the property and he did not think it was fair to the residents and the community with what is going on right now.

Mr. Johnson continued by stating the former speaker was correct, it was everyone who was supporting this project and everyone who was getting paid and everyone who is going to make money on this project had spoken this evening. He said of all of the people who had spoken at an earlier meeting did not know what was happening, not because they did not care. First of all, he said the density is too high and said it was the Board's job to decide if the density is too high to keep this town the "Village by the Sea". Mr. Johnson said it is too massive and compared it to the building at Woolbright and Federal. He said there was nothing to keep the residents from parking in the Veterans Park parking lot for convenience or because there was not enough parking available in their garage because the retail shops and restaurant patrons would be parking there. He stated it was the builders and contractors coming into the City who are being listened to now. Mr. Johnson said he knew the City needs money coming in but we also need a town where the people now living here want to enjoy.

Mr. Johnson continued by saying the Board earlier in this meeting approved a change from Class A office site to a commercial site which would affect the neighborhood in the back. He said it affected a neighborhood and he did not know

where the Board members live but what if this was *their* neighborhood. He said there is vacant retail space on Atlantic Avenue right now. He said Deck 84 cannot currently handle the parking requirements for their restaurant and asked what would happen when you add all of the proposed restaurants in this area. He said because of the problems on his street, Marine Way, the Police and Fire Departments came in and closed his street which caused him to have to park on his lawn and that was what had happened in *his* neighborhood.

Cross Examination/Rebuttal

Bill Morris, 900 E. Atlantic Avenue and he said he wanted to clear up a couple of things as soon as he could. In response to Mr. Katz's concern about Seventh Avenue he said this will remain as a public street and all public ordinances will apply, just as it is presently. Also, Mr. Morris said they had met twice with the residents of Palm Trail and they would be happy to continue to try and work with them to try to restrict northbound traffic on Seventh and that they would do anything the City wants them to do to try to keep the traffic calm.

Mr. Morris stated that he was a principal in the Worthing Place project which was ninety-two (92) units per acre and they had been at full capacity for almost two (2) years. He said Mizner Park has four hundred and thirty-one (431) rental units and thirty-six (36) townhouse units and he said the reason there is so much land in this project was because the City of Boca Raton passed a forty-two million (42 million) dollar bond issue. He said the City is having a very difficult time paying for and which also resulted in an extremely high surcharge downtown.

Mr. Morris said developers like Mr. Ganger, Mr. Glickstein and Mr. Jim Smith were going to do everything they could regarding this project. He said it has a world class developer in Jeff Edwards and the Board has the opportunity to move along a project that would be beneficial for downtown. He agreed there would be more traffic and more people but said the fact is that those people would spend money downtown, they are going to live downtown and support all of the activities in the downtown area. He concluded by saying that he urged the Board to work with him and let them move forward.

Chair Lynch asked if staff had any rebuttal and Mr. Dorling replied that he thought a lot of the issues had been addressed at this meeting and staff recommended approval of the project.

Board Discussion

Mr. Hansen said he believed the applicant had listened to the Board and that the changes they had made had mitigated his concerns. Mr. Hansen concluded stating he thought they had "met the test".

Ms. Shutt stated a lot of her concerns had been addressed but asked if the open space shown on the plans would truly be open space and not for drainage. Mr. Edwards replied that it would be truly open space and would not be not used for drainage. Ms. Shutt then asked about the shuttle and asked what would happen if the CRA could not provide fifty percent (50%) of the cost of the shuttle, what would happen then, would there be no shuttle? Mr. Dorling responded asking that when the Board votes that they leave the Condition of Approval in the staff report regarding the shuttle. He said the applicant has committed to providing the entire cost of a shuttle bus.

Regarding the issue on density and the square footage, Ms. Shutt asked if they were making the units smaller since the overall square footage was about the same as it was in the previous proposal, as pointed out by Mr. Warner. Mr. Edwards confirmed the unit size(s) had been reduced and said the open space had also been reduced slightly. He said they felt it was important to remove the fifth floor from one of the buildings and, in doing so, they had to increase the footprint of the buildings by making them about five feet (5') wider which resulted in the slight reduction in open space. Ms. Shutt asked if they had made the buildings wider to the interior and Mr. Edwards confirmed that was what had been done. She then stated the density was still a concern to her but that regarding the statement "build it and they will come" she thought that this would be achieved by the marketing of the commercial units. Ms. Shutt said the developer had come to the table on some of the issues but that some of the other concerns could be addressed in the future. She concluded by saying that she would be inclined to approve it with the Conditions of Approval listed by staff so that it can be done correctly in the future.

Dr. Spodak said this is obviously a very charged issue and it was evident that the community was somewhat split in their opinion about the project. He said he knew a lot of residents had to leave because it was so late but wanted to point out that the Board is still here because it was the job of the Board to hear the comments from the public and try to mitigate their concerns. He said he applauded the applicant because they had gone quite a distance to try and address the concerns that were brought up at the last meeting. Dr. Spodak continued by stating that a LEED certification, especially in the initial out-staging process of this building would not cost the applicant more and, talking about Class A office space and return on investment, there is clear evidence that the office space and residences would command a premium that would surely outweigh the initial investment. He said a lot of concerns about sustainability, esthetics and green space requirements would be handled through LEED.

Dr. Spodak and Ms. Shutt then further discussed how these goals could be met. Dr. Spodak stated he would like to see significant Conditions of Approval, beyond those in the staff report which would help to make this project viable and he believed the Board would like to see this be a long term sustainable project. He said he agreed with "SAFE" and thought that bicycle storage was important and that Engineering needed to work with FDOT to reduce the number of daily trips and said LEED certification was very important to him.

Ms. Shutt then said, if the Board was going to place conditions on the approval, she said they should be measureable for the applicant so that they would not be locked into one particular standard. She said LEED may be great now but that, perhaps, there should be some better standards. She said there were a myriad of things that could be done, perhaps showers in the bike room storage areas or in the offices to encourage office personnel to ride their bikes to work.

Mr. Franciosa said he had spent a lot of time reviewing the plans and the staff report and said he was at the prior meeting and his conclusion was that he liked the current proposal. He stated he thought the expectations of the surrounding communities of this project should be different from those for the rest of the City. He said if you live downtown you should expect things like this project. Mr. Franciosa said he believed that you need to make the downtown sustainable and this project would bring in professional people who make good salaries and who

would be spending money in the restaurants and retail stores. He said he thought this was needed in the downtown and stated that, yes the traffic would be worse but there are traffic problems anyway and he did not think the traffic issue was enough to stop this project.

Mr. Franciosa said he agreed with Dr. Spodak about the "green issue" because this had been batted around for a long time. He said the City has a Green Task Force and perhaps there should be a condition of approval regarding this issue. As far as the density, he said the applicant had done something about that and that they had reduced some of the height. Mr. Franciosa had some questions about the square footage and Mr. Edwards explained how it had been calculated. He then asked about Veterans Park and the changes to the parking and Mr. Edwards asked Mr. Dorling to respond to this. Mr. Dorling said the plan they were referring to was something that has been discussed by the City but it had not yet been before the City Commission for approval. He said it was a Master Plan and the applicant was supposed to contribute to the implementation of this plan, if it is approved by the City Commission.

At this point, Chair Lynch asked Mr. Dorling how this issue of the applicant paying for an additional trolley had come about and Mr. Dorling said this was a suggestion from "SAFE" and the developer agreed they would pay for an additional trolley. Chair Lynch said his concern was about this being a LEED certified building or project and how that might be affected by having a diesel trolley idling in the area. Mr. Dorling said there had been some discussion about the new trolleys not being the diesel type.

Mr. Durden said he applauded the developer for the changes they had made in response to the concerns about the height and density. He said, however he had a deep concern with a five-story building and about the number of people who would be occupying the residential units. He said he thought more work needed to be done on these two issues and then he would generally support the project.

Ms. Pierre-Louis stated that, in addition to what the other Board members had said, she was concerned about the work force housing. She said at the previous meeting twenty percent (20%) of work force housing was proposed but it looked like within this proposal the number of those units had been reduced from ten (10) to eight (8). Mr. Edwards responded that there was a requirement that any of a fifth floor residential space be twenty percent (20%) work force units so, as a result of eliminating the fifth floor, the requirement dropped from ten (10) to eight (8). However, he said the total number of work force housing units had been forty-seven (47) and it would now be forty-five (45).

Ms. Pierre-Louis continued that she was very concerned about not having any access to Veterans Park from Atlantic Avenue. She said she walks there regularly and her children had grown up there. She also said she was very concerned about the density and thought there would be too much activity in this area. Ms. Pierre-Louis said she also remembered the comments from the residents at the last meeting regarding the bridge. She said she was not so concerned about the height because with the way they had rearranged the buildings there would not be a five-story building facing Atlantic Avenue or the park. But she said she thought they needed to work to further reduce the density because with that many residents she was sure there were going to be overflow parking issues at the park. She said a lot of good ideas had been presented and asked that the applicant work with those.

Mr. Edwards responded to Ms. Pierre-Louis' comments by stating they had performed a shared parking analysis that took into account the unit mix and pointed out that there was a high ratio of efficiencies and one-bedroom units which would result in probably only one car per unit. He said there were over eleven hundred (1,100) parking spaces and what the shared parking analysis does is to take into account that there are different uses for the parking lot at different times of the day. He said it was pretty straightforward because a resident living there who does not work there would be leaving to go to their job and a person who works there but does not live there would be using that available space. Mr. Edwards said he had worked on several projects like this and this situation had always worked out.

Mr. Edwards continued by saying, regarding the density, the greater density is actually a real estate asset class and that it is currently rental apartments which helps them in obtaining financing and that results in them being able to upgrade the site with additional open space, etc. Chairman Lynch said he appreciated this explanation and said he thought they had done a great job in accommodating some of the items that had been concerns. He said he did not necessarily agree with some of the comments, such as having a traffic signal at First and Federal as he thought having another signal one block away from the existing one would create more of a congestion issue. Chair Lynch also said he was okay with the current height shown and that he liked the changes they had made, particularly the landscaping.

Chair Lynch said he would like to see some "green" elements but stated the density was still a big issue to him. He said the Class A office space and the retail space was really needed but that this project contains two-hundred twenty-one (221) efficiency or 1-bedroom units with the majority of those being rental units. He said five rental projects have been approved recently, South of Atlantic, the one north of Atlantic that was mentioned earlier that is sitting empty, the large apartment complex being built north of McDonald's on Federal, the six-hundred (600) unit complex being built on the old Levitz site and two massive rental complexes being built in Boynton Beach on Federal Highway. He stated that the Board's job was not just to look at how well a project fits within the area but they also needed to look at the sustainability for the town. Chair Lynch said he thought the large number of one bedroom and efficiency units is not a good model nor did he think that the type of person renting these units would be a good patron in the downtown area. He said he was happy that this site was going to be redeveloped but he was still concerned about the density. He said he understood how the number of units impacts the financing but he did not believe that Delray was at such an urban level to sustain the number of efficiency units being proposed and he would like to see more 2-bedroom and 3-bedroom units. He said he believes the unit mix is what is causing a lot of the concerns over traffic as well. Chair Lynch concluded by saying he really liked the current proposal and the changes that had been made and that he was supportive of the Board reviewing this site. He then asked Mr. Edwards to respond to the concerns about the density and the traffic study.

Mr. Edwards stated that, as it relates to the density, a traffic study does not recognize whether someone driving by is a resident, a restaurant patron or an office worker. But he said they had done a traffic study based upon the new square footage and that it had less cars than the project that was previously approved. He said that the current proposal may be more dense than some would like but that it is actually less dense than the previously approved project. Mr. Edwards then said

that they would not have a problem with having one building LEED certified. He said the density was what was driving this project and that they had done the shared parking analysis and that they had done what they needed to do regarding height, density and traffic. He said they could possibly make another small accommodation on the density and said, regarding the efficiencies, they are currently referred to as part of the "new now". Mr. Edwards said that, according to our code, efficiencies are not defined so much by the square footage but by *what* they are. He said that a lot of people have decided over the last few years that they want less, not more.

Chair Lynch responded that he agreed this is the current trend but said he was not sure that this trend would be sustainable in the downtown area over time. He asked Mr. Edwards if this model, with over half of the units being efficiencies or one bedroom units, had been used in other projects and did it work? Mr. Edwards replied that as much as a ratio of seventy percent (70%) efficiencies and 1-bedroom units to thirty percent (30%) 2+bedrooms had been used in recent projects.

Mr. Bill Morris then stated that at Worthing Place they have eighty-one (81) 1-bedroom, one-hundred twenty eight (128) 2-bedroom and eighty-three (83) 3-bedroom units and, at any given time, they have long wait list for one bedroom units and there is typically no wait list for the 2-bedroom units. He stated he did not know if this trend would continue in the future. Chair Lynch responded he thought the rental market was becoming saturation in this area. Mr. Morris said that he still believed more and more people are now looking for efficiency or 1-bedroom units. Dr. Spodak said that he understood Chair Lynch's concerns but thought the people who would be renting these units would be the ones wanting an urban setting and who would want to walk around downtown unlike the people who might be renting in some of the other complexes the Board had recently seen.

At this time, Chair Lynch called for votes on this project. Ms. Pyburn asked for clarification regarding the Conditions of Approval and Mr. Dorling confirmed that the Conditions listed would apply to both of the motions. Mr. Dorling then stated that he wanted to point out that the original project proposal was for a larger number of efficiencies and 1-bedroom units and staff had advised the applicant they were not comfortable with that ratio and that they should be closer to a maximum of fifty percent of these type units. He said, after meeting with staff, they had complied by reducing those unit types to the number currently proposed. Mr. Dorling stated he had also advised other applicants they needed to try and meet this fifty percent ratio on their proposals.

MOTION/FINDINGS

It was moved by Mr. Franciosa for a recommendation of approval of the conditional use request to allow for a building height in excess of 48' (59' 4" proposed) for Atlantic Plaza II, 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), 4.4.13(I), and Chapter 3 of the Land Development Regulations with said approval to include the Conditions of Approval in the staff report, number one (1) through ten (10). Mr. Hansen seconded said motion for discussion.

Dr. Spodak asked Ms. Shutt to speak to the difference between the LEED neighborhood designation versus the LEED certification and there was a discussion

on energy efficient features. There was then a discussion with the applicant about how he felt about this issue. Mr. Edwards agreed that in order to meet the overall “neighborhood” designation at least one of the buildings would have to be LEED Certified and they would commit to that. As the discussion continued, Ms. Pyburn said the Board and the applicant could not continue speaking with each other as there was a motion on the floor.

Mr. Franciosa then amended his motion to include Condition of Approval number eleven (11) stating “That at least one of the buildings be LEED certified”. Mr. Hansen amended his second and said motion was approved with a seven (7) to zero (0) vote.

It was moved by Mr. Franciosa to move a recommendation of approval of the conditional use request to allow for a density in excess of 30 units per acre (51.10 du/ac) for Atlantic Plaza II, 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 with said approval to include the Conditions of Approval in the staff report, number one (1) through eleven (11) as stated earlier. Mr. Hansen seconded and said motion was approved with a four (4) to three (3) vote (Mr. Durden, Chair Lynch and Ms. Pierre-Louis dissenting).

VI. REPORTS AND COMMENTS

A. Board Members

- Parking Management Advisory Board (PMAB)

There were no comments.

B. Staff

- Meeting Dates for November
- Project Updates

Mr. Dorling advised that Randall Krejcarek, the City Engineer would be addressing the Board at the next meeting regarding Mr. Jim Smith’s comments regarding the “SAFE” program. He then briefly described the projects he expected to be on the upcoming agenda.

VII. ADJOURNMENT

The meeting was adjourned at 11:50 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 October 15, 2012 which were formally adopted and approved by the Board on January 25, 2013.

Rebecca Truxell, Acting Board Secretary and Jasmin Allen, Planner

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.