

PLANNING AND ZONING BOARD

CITY OF DELRAY BEACH

---STAFF REPORT---

MEETING DATE: February 22, 2016

ITEM: **Fourth and Fifth Delray Plat** – Approval and certification of the Final Plat for the construction of a mixed use development (aka iPic Movie Theater) that consists of 7,487 square feet of retail, 42,446 square feet of office, and a 497 seat movie theater south of Atlantic Avenue between SE 5th Avenue and SE 4th Avenue.

RECOMMENDATION: Approval

GENERAL DATA:

Applicant..... Delray Beach Holdings, Inc.

Agent..... Dunay, Miskel & Backman, LLP

Location..... South of Atlantic Avenue between SE 5th Avenue and SE 4th Avenue.

Property Size..... 1.59 acres

Future Land Use Map..... CC (Commercial Core)

Zoning Designation..... CBD (Central Business District)

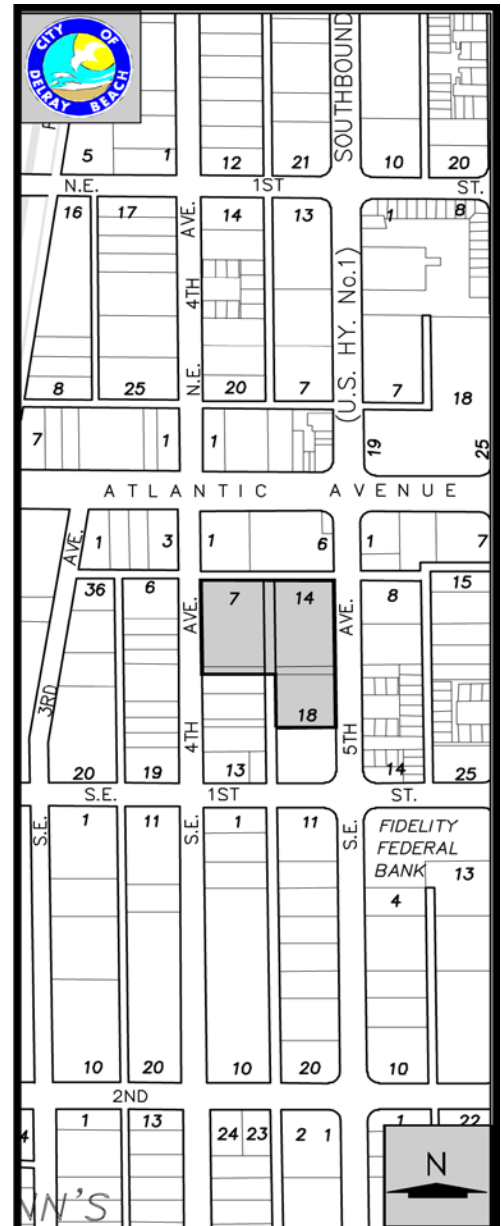
Adjacent Zoning..... North: CBD
East: CBD
South: CBD
West: CBD

Existing Land Use..... Former municipal library and Chamber of Commerce offices, and surface parking lot.

Proposed Land Use..... Retail, office, and movie theater

Water Service..... Available on-site.

Sewer Service..... Available on-site.



ITEM BEFORE THE BOARD

The item before the Board is to recommend the certification of a final plat for a mixed use development that consists of 7,487 square feet of retail, 42,446 square feet of office, and a 497 seat movie theater being platted as **Fourth and Fifth Delray**. The property is located south of Atlantic Avenue, between SE 5th Avenue and SE 4th Avenue. The site currently contains the former municipal library and Chamber of Commerce offices.

This plat is being processed pursuant to LDR Section 2.4.5(J), Major Subdivisions.

BACKGROUND

The property consists of 1.59 acres and is comprised of parts or in whole by Lots 7-10, 14-18, Block 101 of the Town of Linton, together with a portion of the north/south alley adjacent to the subject property.

At its meeting of August 18, 2015, the City Commission approved two conditional use requests for an increase in building height, and for a movie theater. At this meeting, the City Commission also approved the abandonment of a portion of the north/south alley adjacent to the property.

The Planning and Zoning Board approved the preliminary plat at its meeting of December 21, 2015.

The Site Plan Review and Appearance Board approved the site plan for the project at its meeting of January 20, 2016.

PLAT DESCRIPTION

The subdivision is a replat of Lots 7-10, 14-18, Block 101 of the Town of Linton, together with a portion of the north/south alley adjacent to the subject property.

The development proposal consists of the demolition of the existing buildings on the property and construction of 7,487 square feet of retail, 42,446 square feet of office, and a 497 seat movie theater.

Access to the property will be taken directly from the east/west alley and from SE 4th Avenue. The plat includes a 5-foot utility easement along the south, east and north sides of the property. The plat will include the dedication of 8 feet to the east/west alley on the north side of the development and 2 feet to the north/south alley on the east side of the alley.

PLAT ANALYSIS

Pursuant to Section 3.1.1 of the Land Development Regulations, prior to approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information in the application, the staff report, or minutes. Findings shall be made by the Board to approve or deny the development application. These findings relate to Future Land Use Map, Concurrency and Consistency with the Comprehensive Plan, and Compliance with the Land Development Regulations.

Section 3.1.1 (A) - Future Land Use Map: The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.

The subject property has a zoning designation of CBD (Central Business District) and a Future Land Use Map of CC (Commercial Core). The CBD zoning district is consistent with the GC Future Land Use Map designation. Based upon the above, positive findings can be made with respect to consistency with the Future Land Use Map.

Section 3.1.1 (B) – Concurrency: Pursuant to Section 3.1.1(B) Concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs of the requested land use and/or development application will not exceed the ability of the City to fund and provide, or to require the provision of, needed capital improvements for the following areas:

During the conditional use process, the City Commission made a positive finding of concurrency with respect to water and sewer, streets and traffic, drainage, parks and recreation, open space, solid waste, and schools.

Section 3.1.1 (C) - Consistency: Pursuant to Section 3.2.1 (Basis for Determining Consistency), the performance standards set forth in Section 3.2.3 (Standards for Site Plan and/or Plat Actions) shall be the basis upon which a finding of overall consistency is to be made.

As described in Appendix “A”, a positive finding for consistency can be made as it relates to Standards for Plat Actions.

Section 3.1.1 (D) - Compliance with the Land Development Regulations:

- **LDR Section 4.3.4(K) (Development Standards Matrix):**

Open space, building setbacks and building height, pursuant to the CBD zoning district regulations, were addressed with approval of the conditional use and will be further enforced with the approval of the site plan for the project. A positive finding can be made once all site plan conditions of approval have been addressed.

- **LDR Section 5.1.3(A) (Plat Required):**

A positive finding can be made with respect to this LDR Section as a Replat has been submitted and is before the Board for consideration.

- **LDR Section 5.3.1(D) (Right-of-Way Dedication):**

Per LDR Section 5.3.1(D)(2), the required minimum right-of-way width of alleys is 20 feet. The north/south is currently 16 feet, which requires the dedication of 2 feet and this has been accommodated on the site plan and is reflected on the plat. The east/west alley is currently 16 feet wide. As part of the conditional use approval, the City Commission required that a dedication of 8 feet be provided along the south side for a total of 24 feet to accommodate traffic congestion concerns. This eight feet has been accommodated on the plans and is reflected on the plat.

Comprehensive Plan Policies:

A review of the objectives and policies of the Comprehensive Plan was conducted with Site Plan approval and all applicable objectives or policies along with a discussion on how they were addressed is attached as Appendix "C".

REVIEW BY OTHERS

Courtesy Notices:

Courtesy notices have been provided to the following groups and neighborhood associations:

- Delray Citizen's Coalition
- Chamber of Commerce
- Courtyards of Delray
- Alberta Beale, Inc.
- Mallory Square
- Town Square
- Village Grand of Delray Beach
- Downtown Development Authority
- Osceola Park

Letters of objection or support, if any, will be presented at the Planning and Zoning Board meeting.

ASSESSMENT AND CONCLUSION

The proposed plat is consistent with the Zoning and Future Land Use Map designation for the subject property. Positive findings can be made with respect to LDR Section 2.4.5(J) (Major Subdivisions), LDR Section 3.1.1 (Required Findings for Land Use and Land Development Applications), Section 3.2.3 (Standards for Site Plan and/or Plat Actions) and the Goals, Objectives and Policies of the Comprehensive Plan.

ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move a recommendation to certify the Final Plat to the City Commission for **Fourth and Fifth Delray Replat**, 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.
- C. Deny the Final Plat with basis stated.

STAFF RECOMMENDATION

Move a recommendation to certify the Final Plat to the City Commission for the **Fourth and Fifth Delray Replat**, 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.

Attachments:

- Appendix A
- Appendix B
- Appendix C
- Location Map
- Aerial Map
- Plat
- Survey
- Site Plan and Sections

APPENDIX - A
STANDARDS FOR PLAT ACTIONS

- A. Building design, landscaping, and lighting (glare) shall be such that they do not create unwarranted distractions or blockage of visibility as it pertains to traffic circulation.**

Not applicable _____

Meets intent of standard X

Does not meet intent _____

- B. Separation of different forms of transportation shall be encouraged. This includes pedestrians, bicyclists, and vehicles in a manner consistent with policies found under Objectives D-1 and D-2 of the Transportation Element.**

Not applicable _____

Meets intent of standard X

Does not meet intent _____

- C. Open space enhancements as described in Policies found under Objective B-1 of the Open Space and Recreation Element are appropriately addressed.**

Not applicable _____

Meets intent of standard X

Does not meet intent _____

- D. The City shall evaluate the effect that any street widening or traffic circulation modification may have upon an existing neighborhood. 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.**

Not applicable _____

Meets intent of standard X

Does not meet intent _____

- E. Development of vacant land which is zoned for residential purposes shall be planned in a manner which is consistent with adjacent development regardless of zoning designations.**

Not applicable X

Meets intent of standard _____

Does not meet intent _____

- F. Property shall be developed in a manner so that the future use and intensity are appropriate in terms of soil, topographic, and other applicable physical considerations; complementary to adjacent land uses; and fulfills remaining land use needs.**

Not applicable _____
Meets intent of standard X
Does not meet intent _____

- G. Redevelopment and the development of new land shall result in the provision of a variety of housing types which shall continue to accommodate the diverse makeup of the City's demographic profile, and meet the housing needs identified in the Housing Element. This shall be accomplished through the implementation of policies under Objective B-2 of the Housing Element.**

Not applicable X
Meets intent of standard _____
Does not meet intent _____

- H. The City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If it is determined that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.**

Not applicable _____
Meets intent of standard X
Does not meet intent _____

- I. Development shall not be approved if traffic associated with such development would create a new high accident location, or exacerbate an existing situation causing it to become a high accident location, without such development taking actions to remedy the accident situation.**

Not applicable _____
Meets intent of standard X
Does not meet intent _____

- J. Tot lots and recreational areas, serving children from toddler to teens, shall be a feature of all new housing developments as part of the design to accommodate households having a range of ages. This requirement may be waived or modified for residential developments located in the downtown area, and for infill projects having fewer than 25 units.**

Not applicable X
Meets intent of standard _____
Does not meet intent _____

APPENDIX - C
COMPREHENSIVE PLAN POLICIES

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 and complies in terms of soil, topographic, and other applicable physical considerations, is complimentary to adjacent land uses, and fulfills remaining land use needs.

There are no special physical or environmental characteristics of the land that would be negatively impacted by the proposed development. The surrounding uses are retail, restaurant and office to the north; residential and commercial to the south; restaurant and office to the west; and retail and restaurant to the east. The development will be complimentary with the surrounding commercial developments and provide a customer base for the businesses on a year-round basis and entertainment venue, which in turn will provide economic stability and be a catalyst for growth in the downtown area.

Future Land Use Element Objective C-3: The Central Business District (CBD) represents the essence of what is Delray Beach i.e. a “village like, community by the sea”. The continued revitalization of the CBD is essential to achieving the overall theme of the City’s Comprehensive Plan of “A City Set Apart In South Florida”. The following policies and activities shall be pursued in the achievement of this objective:

Policy C-3.1: The CBD zoning district regulations shall facilitate and encourage rehabilitation and revitalization and shall, at a minimum, address the following:

- ☐ Deletion of inappropriate uses;
- ☐ Incentives for locating retail on the ground floor with office and residential use on upper floors;
- ☐ Accommodating parking needs through innovative actions;
- ☐ Incentives for dinner theaters, playhouses, and other family oriented activities;
- ☐ Allowing and facilitating outdoor cafes;
- ☐ Incentives for mixed use development and rehabilitation;
- ☐ Elimination of side yard setback requirements; and
- ☐ Allow structural overhang encroachments into required yard areas.

The intent of the CBD district regulations are to facilitate the development of the downtown with a mix of uses, which include pedestrian-oriented retail/restaurant activities on the ground floor (particularly along Atlantic Avenue) and office and residential uses on the upper floors.

The proposed development substantially fulfills the objective of the CBD zoning district to encourage the continued revitalization of the downtown area to improve the reputation of Delray Beach as “A City Set Apart In South Florida.” The proposed development will result in the elimination of an abandoned structure in the core downtown area which is inconsistent with a vibrant downtown. The development proposal is consistent with Future Land Use Element Policy C-3.1 as it will facilitate the continued rehabilitation and dynamic revitalization of the CBD zoning district.

Transportation Element Policy D-2.2: Bicycle parking and facilities shall be required on all new development and redevelopment. Particular emphasis is to be placed on development within the TCEA Area.

The development proposal provides several bicycle racks throughout the property. Based on the above, the policy has been met within the proposed development.