

**MINUTES
PLANNING AND ZONING BOARD
CITY OF DELRAY BEACH**

MEETING DATE: September 26, 2023

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

This meeting was called to order by Chris Davey, Chair at 5:01 pm.

2. ROLL CALL

A quorum was present at call to order.

Members Present: Chris Davey, Chair; Julen Blankenship, 2nd Vice Chair; Chris Brown; Allen Zeller; Christina Morrison and Gregory Snyder

Members Absent: Joy Howell, Vice Chair

Staff Present: William Bennett, Assistant City Attorney; Rebekah Dasari, Principal Planner; Grisel Rodriguez, Senior Planner; Alexis Rosenberg, Senior Planner and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Item 8.C to become 8.A.1.

Motion to APPROVE the amended September 26, 2023, agenda by Julen Blankenship and seconded by Gregory Snyder.

MOTION CARRIED 6-0

4. MINUTES

Motion to APPROVE the minutes of the August 21, 2023, meeting was made by Christina Morrison and seconded by Julen Blankenship.

Motion Carried 7-0

5. SWEARING IN OF THE PUBLIC

Chris Davey, Chair, read the Quasi-Judicial Rules for the City of Delray Beach and Diane Miller, Board Secretary, swore in all who wished to give testimony.

6. COMMENTS FROM THE PUBLIC

None.

7. PRESENTATIONS

None.

8. QUASI-JUDICIAL HEARING ITEMS

A. The Flo Delray Annexation (2023-170), Land Use Map Amendment (2023-171), Rezoning (2023-169), and Land Development Regulation Text Amendment (2023-172). Provide a recommendation to the City Commission on a privately-initiated petition for a voluntary annexation of 5185 Atlantic Avenue, a 4.87-acre parcel, from Palm Beach County (Ordinance No. 36-23); a small-scale Land Use Map amendment from Palm Beach County Residential High (HR-8) to City of Delray Beach Medium Density Residential (MD) (Ordinance No. 37-23); a rezoning from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Multiple Family Residential (RM) (Ordinance No. 38-23); and a privately-initiated amendment to the Land Development Regulations (LDR) to adopt The Flo Delray Overlay District for the purpose of establishing a revitalization incentive density bonus of up to 24 dwelling units per acre at the subject property (Ordinance No. 39-23).

Agent: Sandra J. Megrue, AICP, Urban Design Studio; smegrue@udsflorida.com

Planner: Alexis Rosenberg, Senior Planner; rosenberga@mydelraybeach.com; Rebekah Dasari, Principal Planner, dasarir@mydelraybeach.com

Alexis Rosenberg, Senior Planner, entered File No. 2023-169, 2023-170, 2023-171 and 2023-172 into the record.

Applicant Presentation

Neil Schiller, Government Law Group; 137 NW 1st Avenue, Delray Beach, FL 33444

Bradley Miller, Urban Design Studio; 610 Clematis Street, West Palm Beach, FL 33401

Staff Presentation

Alexis Rosenberg, Senior Planner, presented the request from a Microsoft PowerPoint presentation.

Exparte Communication

Julen Blankenship- None.

Allen Zeller- Visited the site.

Chris Davey- Visited the site and spoke with Neil Schiller.

Christina Morrison- Spoke with Neil Schiller.

Chris Brown- Visited the site and spoke with Neil Schiller.

Gregory Snyder- Visted the site.

Public Comment

None.

Rebuttal/Cross

Alexis Rosenberg provided clarification that the City's Land Development Regulations have a single category for moderate-income workforce housing.

Board Comments

Julen Blankenship inquired about the distribution of workforce housing efficiency units, one-bedroom, and two-bedroom units. The applicant stated that three-bedroom units were not initially considered to be a part of the workforce housing requirement for the proposed Overlay.

Allen Zeller expressed concern that the proposed Overlay District only offered moderate-income level workforce housing. He emphasized that the request did not align with the neighboring community in terms of density and stated that he could not support it unless there was an equitable distribution of very low, low, and moderate-income level workforce housing. The applicant responded by agreeing to establish the requirement that low and moderately low-income housing would be provided as efficiency, one bedroom, and two bedroom units.

Ms. Blankenship asked Mr. Bennett if allowing efficiencies as part of the workforce housing allocation in this overlay would be considered granting a special privilege, since workforce housing in the City is generally prohibited from including efficiencies. Mr. Bennett and Ms. Dasari said that if the Overlay is approved, with language exempting development in the overlay from the efficiency prohibition, it would be acceptable. Ms. Dasari said that the City is looking to amend the code to take out the restriction on efficiencies due to the nationwide demographic growth of younger generational cohorts creating a larger demand for smaller units.

Ms. Blankenship asked about the mixture of unit types and asked if the applicant anticipates having 4-bedroom units. If not, she asked the applicant to remove the 4-bedroom unit size out of the text amendment language. She asked about what the percentage is of WFH efficiency units. Mr. Bennett clarified that 20 percent of the units have to be workforce housing in the proposed overlay, and a maximum of 22 percent of the total number of efficiency units can be provided as workforce housing. one-bedroom and two-bedroom WFH units would have to be equal to the number of one-bedroom and two-bedroom market rate units. Discussion between Mr. Davey, Ms. Blankenship, Mr. Bennett, the applicant, and staff clarifying workforce housing unit distribution.

Ms. Blankenship asked applicant if they would be willing to include 3-bedroom units as workforce housing and said that excluding 3-bedroom units is counterintuitive. The applicant clarified that including 3-bedroom units in the mix would result in only one 3-bedroom WFH unit. Mr. Bennett noted that LDR Article 4.7 does not have general requirements for how workforce units have to be spread out (such as number of 3-bedroom units); specific incentive areas might. Ms. Dasari clarified that the only provision the LDR has is that no more than 33% of the units in a project providing WFH can be one-bedroom. Discussion between Mr. Davey, Ms. Morrison, Applicant, and Mr. Bennett regarding the unit distribution. It was clarified by the applicant that the project does not exceed the maximum allowed percentage of one-bedroom units and most of the WFH units will be two-bedroom.

Christina Morrison asked about the density of surrounding multifamily developments. Staff explained that to the west, the density was calculated at 9.25 units per acre. Ms. Morrison

further inquired about the Four Corners Overlay District, but staff clarified that the parcel was presently located in unincorporated Palm Beach County and not within the overlay district.

The applicant said that they would be willing to include the low-income category, but not the very low, as it is not required by the LDR. The applicant stated that the Marketplace at Delray (adjacent plaza) allows for moderate and low income WFH; therefore, the proposed amendment is consistent with the regulations in the adjacent parcel.

Mr. Zeller asked about legal access. The applicant clarified that the site has existing access but is currently negotiating modifying the location and number of access points with the shopping center.

Mr. Snyder noted that the four applications are separate and that the annexation, LUMA, and Rezoning can be approved without the LDR Text Amendment.

Chris Brown asked whether Palm Beach County had a specific definition for workforce housing based on a percentage of total income. The staff noted that Palm Beach County workforce housing ranges from 120% to 140% of the area median income which is classified as high moderate workforce housing. Staff noted that Delray Beach, workforce housing income categories are delineated as very low, representing 60% of the area median income; low, falling within the 60%-80% range of the area median income; and moderate, spanning from 80% to 120% of the area median income. Mr. Brown voiced his support for the request considering the level of workforce housing being provided.

Further discussion on the type of units being include as WFH. The applicant agreed that they will include a 3-bedroom unit in the overlay requirements. Mr. Snyder confirmed that the Board would support the LDR Text Amendment as amended.

Chris Davey acknowledged the need for workforce housing in the western part of the City and expressed his support for the request.

Annexation

MOTION to move a recommendation of approval to the City Commission of Ordinance No. 36-23, a privately-initiated request to annex 4.87 acres from Palm Beach County, located at 5185 Atlantic Avenue, by adopting the findings of fact and law contained in the staff report and finding that the annexation and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations, was made by Julen Blankenship and was seconded by Christina Morrison.

MOTION CARRIED 6-0

Land Use Map Amendment

MOTION to move a recommendation of approval to the City Commission of Ordinance No. 37-23, a privately-initiated request for a Land Use Map Amendment (LUMA) from Palm Beach County Residential High (HR-8) to City of Delray Beach Medium Density Residential (MD) for a 4.87-acre property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations, was made by Julen

Blankenship and was seconded by Christina Morrison.

MOTION CARRIED 6-0

Rezoning

MOTION to move a recommendation of approval to the City Commission of Ordinance No. 38-23, a privately-initiated rezoning request from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Multiple Family Residential (RM) for a 4.87 acre property located at 5185 Atlantic Avenue, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations, was made by Julen Blankenship and was seconded by Christina Morrison.

MOTION CARRIED 6-0

Land Development Regulation Text Amendment

MOTION to move a recommendation of approval as amended to the City Commission of Ordinance No. 39-23, a privately-initiated Land Development Regulations (LDR) text amendment to create a revitalization overlay district, known as The Flo Delray Overlay District, to pursue a density bonus of up to 24 dwelling units per acre at the property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations, with the amendment that low and moderate income workforce housing be provided, and that one three-bedroom unit be included in the required distribution was made by Julen Blankenship and was seconded by Christina Morrison.

MOTION CARRIED 6-0

B. Delray Landing, 5024-5070 West Atlantic Avenue (2023-039) Consideration of a Master Development Plan (MDP) modification for the Delray Landing Plaza to add an 1,820 square-foot bank to Tract 2 (addressed as 5070 W. Atlantic Avenue) with 3 waivers. requests related to MDP requirements for lot coverage, open space, and perimeter. landscape buffering, and 2 waiver requests associated with the bank relative to perimeter landscape buffer requirements and minimum building size, detailed herein.

Agent: Andrew Savage, P.E., Bohler Engineering; fl-permits@bohlereng.com

Planner: Grisel Rodriguez, Senior Planner; rodriguezg@mydelraybeach.com

Grisel Rodriguez, Senior Planner, entered File No. 2023-039 into the record.

Applicant Presentation

Mathew Scott; Dunay, Miskel and Backman LLP; 14 SE 4th Street Boca Raton FL 33432
Andrew Savage, P.E., Bohler Engineering 1900 NW Corporate Boulevard, Boca Raton, FL 33431

Greg Walden, BDG Architects

Staff Presentation

Grisel Rodriguez, Senior Planner, presented the project from a Microsoft PowerPoint presentation.

Exparte Communication

Julen Blankenship- Familiar with the site.

Allen Zeller- Visited the site.

Chris Davey- Visited the site and spoke with Mathew Scott.

Christina Morrison- Frequent visits the site.

Chris Brown- Visited the site and spoke with Mathew Scott.

Gregory Snyder- Visted the site, Familiar with the site and spoke with Matthew Scott.

Public Comment

None.

Rebuttal/Cross

Matthew Scott noted that if approved this would be the first Fifth Third Bank in Delray Beach.

Board Comments

Allen Zeller raised no objections to most of the requested waivers but pointed out that the applicant was responsible for necessitating the open space waiver and exacerbating existing nonconformities. Mr. Zeller suggested that the site plan could be adjusted to minimize these nonconformities.

Gregory Snyder expressed his support for the project, even in light of the project's contribution to existing nonconformities on the parcel.

Julen Blankenship expressed support for the proposed project and noted that there used to be a bank at that location.

Chris Brown expressed support for the project and emphasized the need for a bank at that location.

Christina Morrison voiced her support for the project and highlighted the recent improvements made to the shopping plaza.

Chris Davey acknowledged the various improvements at the plaza and expressed his support for the project. Mr. Davey noted that the minor exacerbation of nonconformities is outweighed by the benefits brought by the improvements.

MOTION to approve the amendment to the Delray Landing Master Development Plan Modification with five waivers as noted in the staff report finding that the approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations was made by Julen Blankenship and seconded by Christina Morrison.

MOTION CARRIED 6-0

C. ASEA 4 Plat (2023-188). Consideration of the Preliminary Plat and recommendation to the City Commission for the certification of the Final Plat, "ASEA 4", a 0.378-acre replat

of Lots 11 and 12, Block 115, Town of Linton recorded in Plat Book 1, Page 3, to create four fee-simple lots at the property currently addressed as 142 NE 7th Avenue.

Agent: Thomas Carney, Esq.; tfc@carneystanton.com

Planner: Grisel Rodriguez, Senior Planner; rodriguezg@mydelraybeach.com

Grisel Rodriguez, Senior Planner, entered File No. 2023-188 into the record.

Applicant Presentation

Thomas Carney, Attorney; 135 SE 5th Avenue, Delray Beach, FL 33483

Sean McCallister; Stamm Development; 900 E Atlantic Avenue, Delray Beach, FL 33483

Staff Presentation

Grisel Rodriguez, Senior Planner, presented the project from a Microsoft PowerPoint presentation.

Exparte Communication

Julen Blankenship- None.

Allen Zeller- Visited the site.

Chris Davey- Visited the site and spoke with Tom Carey.

Christina Morrison- Familiar with the site.

Chris Brown- Familiar with the site.

Gregory Snyder- Visited the site.

Public Comment

None.

Rebuttal/Cross

None.

Board Comments

Chris Brown expressed dismay at the prospect of demolishing the existing structure, which had been erected in 1927. The Board Attorney, William Bennett, emphasized that the Board's decisions should be grounded in the facts and items being presented before the Board.

Christina Morrison observed that the site plan included two townhomes fronting an alleyway. Staff clarified that the site plan had received approval in 2018 and acknowledged that the Board and Commission had expressed concerns about alleyway frontage. Ms. Morrison also raised concerns about emergency access from the alleyway to the units.

Preliminary Plat

MOTION to approve the Preliminary Plat, "ASEA 4", associated with the creation of four fee-simple lots, for the property currently addressed as 142 NE 7th Avenue, finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations, was made by Julen Blankenship and seconded by Gregory Snyder.

MOTION CARRIED 4-2

DISSENTING Christina Morrison and Chris Brown

Final Plat

MOTION to recommend approval to the City Commission for the certification of the Final Plat, "ASEA 4", associated with the creation of four fee-simple lots, for the property currently addressed as 142 NE 7th Avenue, finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations was made by Julen Blankenship and seconded by Gregory Snyder.

MOTION CARRIED 4-2

DISSENTING Christina Morrison and Chris Brown

9. LEGISLATIVE ITEMS

A. Hofman Lane Alley Naming (2023-175). Provide a recommendation to the City Commission on Resolution No.185-23, naming the City-owned, improved right-of-way (alley) south of NE 6th Street and north of NE 1st Street, east of NE 6th Avenue and west of NE 7th Avenue ("Subject Area"), as Hofman Lane.

Planner: Rebekah Dasari, dasarir@mydelraybeach.com

Rebekah Dasari, Principal Planner, entered File No. 2023-175 into the record.

Staff Presentation

Rebekah Dasari, Principal Planner presented the project from a Microsoft PowerPoint presentation.

Board Comments

Gregory Snyder brought attention to the 20-foot width of the alleyway adjacent to the ASEA 4 Plan project discussed earlier. Mr. Snyder expressed his apprehension regarding the units that were approved to front onto the adjacent alleyway.

Allen Zeller inquired about the potential improvement of the alleyway. Staff clarified that a portion of the alleyway adjacent to the proposed development has already been improved.

MOTION to recommend approval to the City Commission on Resolution No. 185-23, to designate the unnamed, improved public alley right-of way located south of NE 6th Street and north of NE 1st Street, east of NE 6th Avenue and west of NE 7th Avenue as "Hofman Lane," finding that the request meets the applicable criteria in the Land Development Regulations was made by Gregory Snyder and seconded by Julen Blankenship.

MOTION CARRIED 5-1

DISSENTING Christina Morrison

10. REPORTS AND COMMENTS

A. CITY STAFF

The next meeting will be held on October 16, 2023, and November 13, 2023.

The amendment to Chapter 2 of the LDR will go before the Commission for second reading on October 17, 2023.

B. BOARD ATTORNEY

William Bennett emphasized that the meticulous drafting of staff reports is intended to address the elements that the Board must consider and make findings on. Mr. Bennett stated that information that contained within a staff report that is outside the scope of the application or elements could create the opportunity for an aggrieved party or member of the public to bring forth deficiencies in the way the Board handled its discussion. Mr. Bennett emphasized that any comments from Board members that deviate from the essential elements and required findings established in the City's Land Development Regulations could potentially result in an appeal of the Board's findings.

C. BOARD MEMBERS

Allen Zeller asked about the timetable for the creation of the Atlantic Avenue Historic District. Staff indicated that public outreach is being conducted with property owners along Atlantic Avenue, and a symposium is being scheduled for mid to late October 2023.

Chris Brown issued an apology for his remarks about staff, concerning the preservation of the historic structure at 142 NE 7th Avenue. Mr. Brown underscored the significance of preserving the historical integrity of the community.

11. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 8:00 pm.

The undersigned is the Board Secretary of the Planning and Zoning Board and the information provided herein is the Minutes of the meeting of said body for **September 26, 2023**, which were formally adopted and **APPROVED** by the Board on **November 27, 2023**.

ATTEST:

Chair

Board Secretary

NOTE TO READER: If the Minutes you have received are not completed as indicated above, then this means that these are not the official Minutes of the Planning and Zoning Board. They will become official minutes only after review and approval, which may involve some amendments, additions, or deletions.