

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

**CONDITIONAL USE MODIFICATION REQUEST
FOR UPTOWN ATLANTIC**

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This conditional use request is to increase the residential density of the project from 12 dwelling units per acre to 18 dwelling units per acre for the Uptown Atlantic development, located on the south side of Atlantic Avenue between SW 6th Avenue and SW 9th Avenue, has come before the City Commission on June 16, 2015.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the conditional use request for the Uptown Atlantic development. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsections I and II.

I. COMPREHENSIVE PLAN

a. **Comprehensive Plan - Future Land Use Element Objective A-1:** This objective requires that the property shall be developed or redeveloped as it pertains to height, in a manner so that the future use and intensity is appropriate in terms of soil, topographic, and other applicable physical considerations, is complementary to adjacent land uses, and fulfills remaining land use needs.

Is the Future Land Use Element Objective A-1 met?

Yes X No

b. **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 Future Land Use Map designation of Commercial Core and is zoned Central Business District.

Is the project's proposed location consistent with the Future Land Use Map?

Yes X No _____

c. **Concurrency:** Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.

Concurrency as defined pursuant to Objective B-2 of the 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:

Are the concurrency requirements met as respect to water, sewer, drainage, streets and traffic, parks, open space, solid waste and schools?

Yes X No _____

d. **Consistency:** Will the granting of the conditional use be consistent with and further the goals and policies of the Comprehensive Plan?

Yes X No _____

II. LDR REQUIREMENTS:

a. **LDR Section 2.4.5(E) Required Findings: (Conditional Use):** Pursuant to Section 2.4.5(E)(5), in addition to provisions of Chapter 3, the conditional use will not:

1. Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;

2. Hinder development or redevelopment of nearby properties.

Are Section 2.4.5(E)(5) requirements met?

Yes X No _____

b. **Increase in Density.** Pursuant to LDR Section 4.4.13(I), an increase in density greater than 12 dwelling units per acre may be approved by the City Commission as

a conditional use for property within the West Atlantic Neighborhood portion of the CBD, provided that 20% of the residential units above 12 dwelling units per acre shall be workforce housing units. The workforce housing units shall be divided between low and moderate income levels and shall be provided either onsite, offsite or through a monetary contribution.

The applicant has provided the following verbatim narrative on how the 22 workforce will be distributed on the property:

...“We intend on providing 22 Work Force housing units of the 112 overall units on the site. All of the units are to be rental units.

Of these units we intend on providing the following breakdown:”

“(4) 1 bedroom units (1 low income, 3 moderate income): that is 18.2% of the workforce vs. 15.5% of the market rate

(17) 2 bedrooms units (5 low income, 12 moderate income): that is 77% of workforce vs. 64% of market rate

(1) 3 bedroom unit (1 moderate income): That is 4.5% of workforce vs. 3.3% of market rate.”

“Additional we intend on locating 4 of these units in in the townhouse building with each located in a separate townhouse building (no 2 in the same building)

In the apartment building we intend on locating the remaining 18 units so that no more than 2 workforce housing units are located per floor and no two workforce housing units to be adjacent to each other...”

Per LDR Section 4.7.9(c)(h), no efficiency or studio type units shall be allowed under the family/workforce housing program. If the project is approved, the applicant will need to enter into a family/workforce housing program covenant with the City that ensures municipal oversight of this program. One of the stipulations of this covenant will be that no efficiencies or studio units be utilized in this program and this requirement is attached as a condition of approval. It is noted that this covenant will need to be fully executed prior to issuance of a building permit. Further, per LDR Section 4.7.9(c)(i) and (ii), the proposed one and two

bedroom workforce units exceed to the corresponding proportion of market rate one and two bedroom units. While the proportions of one and two bedroom dwelling units are close, the City Commission may want to require further modification of the distributions to achieve full compliance. This may necessitate conversion of some of the efficiency dwelling units to one bedroom units. A condition of approval is attached that the distribution of dwelling units be adjusted to make the proportions of workforce to market rate dwelling units compliant to the greatest degree possible. It is noted again that the proposed development is providing 22 workforce dwelling units, where only 8 are required.

The proposed development includes a Future Land Use Map amendment and rezoning of property and is being processed concurrently with the conditional use application. Thus, the conditional use approval would be contingent on the final adoption of the Future Land Use Map amendment and rezoning (Ordinance #12-15) of the property and this is attached as a condition of approval.

1. The applicable performance standards for development under this section are met as follows:

(a) The development offers variation in design to add interest to the elevations and relief from the building mass.

(b) If the building includes a parking garage as an associated structure or within the principal building, the garage elevation provides unified design elements with the main building through the use of similar building materials and color, vertical and horizontal elements, and architectural style.

(c) A number of different unit types, sizes, and floor plans are available within the development. Two and three bedroom units are encouraged, as are a combination of multi-level units and flats. In projects consisting of more than twelve (12) dwelling units, the proportion of efficiency or studio type units may not exceed 25% of the total units.

(d) The project design shall create an overall unified architectural character and image by the use of common elements between the building(s), parking lot, and landscaping.

(e) The development provides common areas and/or amenities for residents such as swimming pools, exercise rooms, storage rooms or lockers, covered parking, gardens, courtyards or similar areas and/or amenities.

(f) The development promotes pedestrian movements by providing convenient access from the residential units to the public sidewalk system.

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

(h) Projects fronting on Atlantic Avenue, NW/SW 5th Avenue, NE 1st Street or SE 1st Street contain nonresidential uses on the ground floor. At least 75% of the surface area of the front street wall(s) at the ground floor area of each such building is devoted to display windows and to entrances to commercial uses from outside the building.

(i) The landscape plan for the development preserves and incorporates existing native vegetation (where available), provides new landscaping that is in excess of minimum standards (in height and quantity), demonstrates innovative use of plant material, improves site design, provides useable open space or public plazas, and maximizes available areas for pedestrian interaction.

Are the requirements for an increase in density under Section 4.4.13(l) met?

Yes X No

3. The comments and notes set forth in the staff report are hereby incorporated herein.

4. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the conditional use request was submitted.

5. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

6. Based on the entire record before it, the City Commission approves X denies _____ the conditional use request set forth above subject to the conditions set forth in Exhibit A, attached hereto and made a part hereof, and hereby adopts this order this 16th day of June, 2015, by a vote of 5 in favor of approval and 0 opposed.



ATTEST



Chevelle Nubin
City Clerk



Cary D. Glickstein, Mayor

 6/19/15

Mark McDonnell, AICP
Asst. Director Planning + Zoning

- Approved for accuracy -

EXHIBIT A

TO THE CONDITIONAL USE REQUEST FOR UPTOWN ATLANTIC

1. Adoption of concurrent FLUM and rezoning of two independent parcels by City Commission.
2. Approval of "In-Lieu-of Parking Fee" application for 45 parking spaces by City Commission.
3. Approval of a site plan by SPRAB that is in general conformance with the submitted conceptual plan and addresses the issues identified in this staff report.
4. That the applicant satisfies all outstanding items presented in the attached March 24, 2015 letter to the applicant in response to the March 13, 2015 submittal.
5. That a finding of traffic concurrency be provided from the Palm Beach County Traffic Engineering Division.
6. That the applicant contributes toward the cost of a bus shelter (\$11,000).
7. That the applicant provides required right-of-way dedication on W. Atlantic Avenue and SW 7th Street.
8. That proposed development complies with setback requirements or request a relief/waiver from the district regulations.
9. That the provision of workforce housing units be addressed per an agreement to be approved by the Community Improvement Director and executed prior to certification of the site plan.
10. That the workforce covenant include a provision that no efficiencies or studio units be included in this program.
11. That bicycle parking be provided.
12. That the applicant submit a finding of concurrency from the Palm Beach County School District reflecting the current proposal with respect to the number of residential units.
13. That the applicant will comply with any and all comments resulting from a further review conducted by planning and zoning, engineering, fire, police and landscaping as part of the site plan review process.
14. That the approval of the conditional use is subject to final adoption of Ordinance #12-15.

15. That the distribution of dwelling units be adjusted to make the proportions of workforce to market rate dwelling units compliant with LDR Section 4.7.9(c)(i) and (ii) to the greatest degree possible.