

# PLANNING AND ZONING BOARD

## CITY OF DELRAY BEACH

### ---STAFF REPORT---

**MEETING DATE:** March 21, 2016

**ITEM:** Alley abandonments associated with the Uptown Atlantic, a mixed use development consisting of 112 dwelling units, 17,267.3 square feet of office, 6,040 square feet of restaurant, and 43,162 square feet of commercial/retail. The residential portion of the development includes 15 efficiency units; 18 one-bedroom units; 75 two-bedroom units, and 4 three-bedroom units.

**RECOMMENDATION:** Approval

#### GENERAL DATA:

**Applicant.....** John Flynn Jr., Equity Enterprises USA, Inc.

**Agent.....** Currie Sowards Aguila Architects

**Location.....** Between SW 6<sup>th</sup> Avenue and SW 9<sup>th</sup> Avenue, on the South side of West Atlantic Avenue

**Property Size.....** 6.21 Acres

**Future Land Use Map.....** CC (Commercial Core)/MD (Medium Density Residential)

**Current Zoning.....** CBD (Central Business District)/RM (Multiple Family Residential)

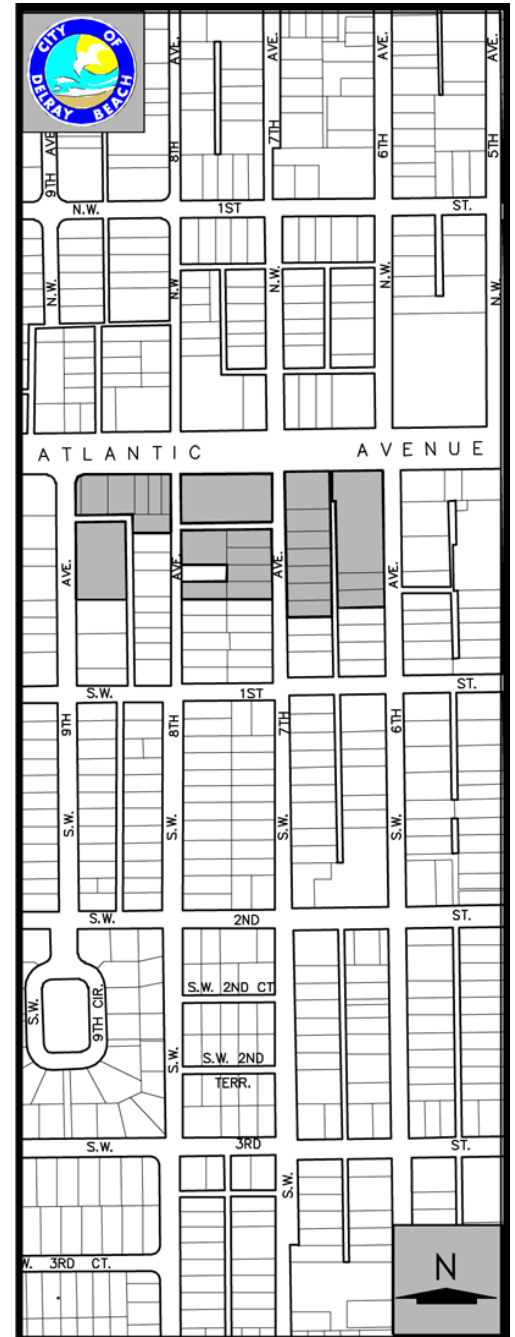
**Adjacent Zoning....North:** CBD  
**East:** CBD  
**South:** CBD/RM (Multiple Family Residential)  
**West:** CBD

**Existing Land Use.....** Commercial, Retail, and Single Family Residential

**Proposed Land Use.....** Construction of a mixed use development with 112 dwelling units, 17,267.3 square feet of office area, 6,040 square feet of restaurant, and 43,162 square feet of office area

**Water Service.....** Existing on site

**Sewer Service.....** Existing on site



## ITEM BEFORE THE BOARD

The item before the Board is that of making a recommendation to the City Commission on the proposed abandonment of the alley rights-of-way associated with the Uptown Atlantic project located between SW 6<sup>th</sup> Avenue and SW 9<sup>th</sup> Avenue, on the south side of West Atlantic Avenue.

This right-of-way abandonment is being processed pursuant to LDR Section 2.4.6(M), Abandonment of Rights-of-Way.

## BACKGROUND

The properties are located within the West Atlantic Overlay and are zoned Central Business District. They contain a 4,854 sq. ft. funeral home with a 957 sq. ft. apartment; a 6,320 sq. ft. retail building, and two single-family homes (1,068 sq. ft. and 864 sq. ft.). The site also contains parking areas and vacant land.

At its meeting of November 3, 2015, the City Commission considered an in-lieu parking fee request for 21 parking spaces. The City Commission denied the request for 21 parking in-lieu spaces.

At its meeting of June 16, 2015, the City Commission approved a conditional use to allow an increase in density above 12 dwelling units per acre to 18 du/ac.

At its meeting of December 1, 2015, the City Commission considered a new in-lieu parking fee request for 19 parking in-lieu spaces. The City Commission tabled the in-lieu request subject to the applicant entering into a Master Development Agreement that addresses the in-lieu parking fee, landscape maintenance agreement, workforce housing agreement, and the private Community Benefit Agreement between the community and the applicant. The intent of the City Commission is to allow the site plan application to be reviewed by the SPRAB and that these assorted items (including the associated waivers for the project and the temporary relocation of a retail tenant) be brought back to the City Commission at the same time under Master Development Agreement. A condition of approval shall be that a Master Development Agreement which includes the in-lieu parking fee agreement, landscape maintenance agreement, workforce housing agreement, and the Community Benefit Agreement between the community and the applicant be approved by the City Commission. This action, along with alley abandonments and the Final Plat, will be scheduled as separate items but on the same City Commission agenda.

At its meeting of December 9, 2015, the Site Plan Review and Appearance Board approved the Class V site plan for the proposed mixed use project. The project consists of the demolition of the existing buildings and construction of 112 dwelling units (22 of these will be workforce dwelling units), 17,267.3 square feet of office, 6,040 square feet of restaurant, and 43,162 square feet of commercial/retail. The residential portion of the development includes 15 efficiency units; 18 one-bedroom units; 75 two-bedroom units, and 4 three-bedroom units.

## ABANDONMENT DESCRIPTION

The abandonments include three alleys, one on each of the three blocks associated with the project. The 32.57-foot wide alley within the block between SW 6<sup>th</sup> Avenue and SW 7<sup>th</sup> Avenue is oriented north and south. The 16-foot wide alley within the block between SW 7<sup>th</sup> Avenue and SW 8<sup>th</sup> Avenue is oriented east and west. The 16-foot wide alley within the block between SW 8<sup>th</sup> Avenue and SW 9<sup>th</sup> Avenue is oriented north and south and east and west. All alleys are unimproved.

## ABANDONMENT ANALYSIS

Pursuant to LDR Section 2.4.6(M)(1), public right-of-way may be abandoned (returned) to the adjacent property to the same degree in which it was originally obtained (i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels.)

The subject alley rights-of way were dedicated by the plat of the Town of Linton subdivision and the Belair Heights subdivision; and the owner of the adjacent properties, which is the Community Redevelopment Agency, will receive both halves of the alley.

The City's Environmental Services Department (ESD) has reviewed the request and has the following comments:

- 1) N/S alley between SW 7<sup>th</sup> & SW 6<sup>th</sup> Ave – “A Portion of Block 13” (ORB 26684, PG 711, PBCR) – The survey needs to clearly identify limits of area (hatch area) to be abandonment on survey and site or civil plans. Address plans to remove existing utilities from alley prior to alley abandonment. Indicate this is an alley abandonment somewhere on documents.
- 2) N/S and E/W alley between SW 9<sup>th</sup> & SW 8<sup>th</sup> Ave – “Portion of Alley” (PB 20, PG 45, PBCR) – The survey needs to clearly identify limits of area (hatch area) to be abandonment on survey and site or civil plans. Address plans to remove existing utilities from alley prior to alley abandonment. Indicate this is alley abandonment somewhere on documents.
- 3) E/W alley between SW 7<sup>th</sup> & SW 8<sup>th</sup> Ave – “Alley” (PB 23, PG 72, PBCR) – The survey needs to clearly identify limits of area (hatch area) to be abandonment on survey and site or civil plans. Address plans to remove existing utilities from alley prior to alley abandonment. Indicate this is alley abandonment somewhere on documents.

The City has received notices from the utility providers that do not express opposition to the proposed abandonments.

## REQUIRED FINDINGS

Pursuant to LDR Section 2.4.6(M)(5), prior to any right-of-way abandonment being approved, the following findings must be made:

**A) That there is not, nor will there be a need for the use of the right-of-way for any public purpose.**

The existing alley rights-of-way are unimproved and provide no vehicular access. A positive finding can be made that there no need for the use of the alleys.

**B) That the abandonment does not, nor will not, prevent access to a lot of record.**

The proposed abandonments do not prevent access to lots of record since the properties take access from SW 6<sup>th</sup> Avenue, SW 7<sup>th</sup> Avenue, SW 8<sup>th</sup> Avenue, and SW 9<sup>th</sup> Avenue. A positive finding can be made that the abandonments will not prevent access to a lot of record.

**C) That the abandonment will not result in detriment to the provision of access and/or utility services to adjacent properties or the general area.**

The applicant will need to provide for the relocation of utility services and this is attached as a condition of approval. A positive finding can be made subject to the condition that all utility services are relocated.

## REVIEW BY OTHERS

### Community Redevelopment Agency (CRA):

The CRA considered the alley abandonments at its meeting of July 23, 2015 and recommended approval.

### Downtown Development Authority:

The DDA considered the alley abandonments at its meeting of March 14, 2016 and recommended approval.

### West Atlantic Avenue Redevelopment Coalition:

The WARC considered the alley abandonments at its meeting of March 3, 2016 and recommended approval.

Development Services Management Group (DSMG): On May 21, 2015, the DSMG reviewed the alleyway abandonment requests. The consensus of the DSMG was the abandonments could be supported.

### **Courtesy Notices:**

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

- Delray Citizen's Coalition
- Lincoln Park
- West Settlers Historic
- Atlantic Park Gardens
- Gateway
- Paradise Heights

### **Public Notice:**

Formal public notice has been provided to property owners within a 500' radius of the subject property. Any correspondence received will be provided to the Planning and Zoning Board at the meeting.

## ASSESSMENT

The alleys provide no vehicular access to adjacent properties. Any utilities will need to be relocated and this is attached as a condition of approval. Thus, the proposed abandonments can be supported.

## ALTERNATIVE ACTIONS

1. Continue with direction.

2. Move a recommendation of approval of the request of alley abandonments for Uptown Atlantic, 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 2.4.6(M)(5) of the Land Development Regulations, subject to the listed conditions of approval.
3. Move a recommendation of denial of the request of the alley abandonments for Uptown Atlantic, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is not consistent with the Comprehensive Plan and that the required findings of LDR Section 2.4.6(M)(5) cannot be made.

<b>RECOMMENDED ACTION</b>
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Move a recommendation of approval of the request of the alley abandonments for Uptown Atlantic, 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 2.4.6(M)(5) of the Land Development Regulations, subject to the following conditions:

1. Relocate all existing utilities that are located within the subject rights-of-way.
2. Clarify the limits of the r-o-w for the N/S alley between SW 7<sup>th</sup> & SW 6<sup>th</sup> Ave – “A Portion of Block 13” (ORB 26684, PG 711, PBCR) – The survey needs to clearly identify limits of area (hatch area) to be abandonment on survey and site or civil plans. Address plans to remove existing utilities from alley prior to alley abandonment. Indicate this is an alley abandonment somewhere on documents.
3. Clarify the limits of the r-o-w for the N/S and E/W alley between SW 9<sup>th</sup> & SW 8<sup>th</sup> Ave – “Portion of Alley” (PB 20, PG 45, PBCR) – The survey needs to clearly identify limits of area (hatch area) to be abandonment on survey and site or civil plans. Address plans to remove existing utilities from alley prior to alley abandonment. Indicate this is an alley abandonment somewhere on documents.
4. Clarify the limits of the r-o-w for the E/W alley between SW 7<sup>th</sup> & SW 8<sup>th</sup> Ave – “Alley” (PB 23, PG 72, PBCR) – The survey needs to clearly identify limits of area (hatch area) to be abandonment on survey and site or civil plans. Address plans to remove existing utilities from alley prior to alley abandonment. Indicate this is alley abandonment somewhere on documents.

Attachments:

- Location Map
- Sketch and Legal of Abandonment Area

Prepared by: Planning and Zoning Department