

MINUTES OF THE PLANNING AND ZONING BOARD

PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE:	February 25, 2014
LOCATION:	City Commission Chambers
MEMBERS PRESENT:	Gerald Franciosa, Clifford Durden, Christopher Davey, Jordana Jarjura, Dr. Craig Spodak
MEMBERS ABSENT:	Derline Pierre-Louis, Thuy Shutt
STAFF PRESENT:	Mark McDonnell, Janice Rustin (Asst. City Attorney) and Diane Miller

I. **CALL TO ORDER:**

The meeting was called to order by the Dr. Craig Spodak, Chairman at 6:00 p.m. Upon roll call it was determined that a quorum was present.

II. **MINUTES:**

Motion made by Mr. Christopher Davey, seconded by Mr. Clifford Durden, and approved 5-0 to move approval of the November 18, 2013 minutes as written.

Chair Dr. Craig Spodak read the Quasi-Judicial Rules for the City of Delray Beach and Ms. Miller swore in all who wished to give testimony on any agenda item.

III. **COMMENTS FROM THE PUBLIC** (*Comments on items that are not on the Agenda will be taken immediately prior to Public Hearing Items.*) - None

Kevin Warner – Venchian Drive – Those members of the board that are trying to convenience people to vote for them will do what they have stated in various letters and public statements. One of the candidate said, “You will respect our land development regulations”. I hope that happens. Another person has been identified in formal literature as knowing the difference between responsible economic growth and potential harmful over development. Tonight is perfect opportunity to convince me that I should vote for you.

Mr. Weiner – 10 SE 1st Avenue – The quasi-judicial rules will be read tonight, and the number of people here in the room will vote for what the law is.

Jim Knight – 10 SE 1st Avenue – I wanted to congratulate the board as being part of getting the John Nolen Award. Thank you for all your hard work.

IV. LAND USE ITEMS

A. Conditional Use request associated with the demolition of the yacht club building and construction of a new yacht club facility that includes a 5,221 square foot, 3-story yacht clubhouse with a swimming pool and the utilization of the existing 44 boat-slip marina at the Seagate Yacht Club, located on the west side of MacFarlane Drive, between Miramar Drive & Ingraham Avenue, south of East Atlantic Avenue. The new yacht club facility will be part of a larger redevelopment of the site which will include ten townhouse units.

Quasi-judicial Hearing

Richard Jones, the applicant has formally requested to postpone this item to date specific which is March 17, 2014.

Motion by Christopher Davey to approve the applicant request to postpone to a date certain of March 17, 2014 and second by Gerald Franciosa. Said motion approved 5-0.

B. Conditional Use request to allow the construction of 296 residential apartment units within 9 three-story buildings for Depot Square Apartments (fka Historic Depot Square), located north of West Atlantic Avenue, between I-95 and CSX Railroad, and accessed via Depot Road. Quasi-judicial Hearing

Charles Putnum, applicant has formally requested to postpone this item to date specific which is April 21, 2014.

Motion by Christopher Davey to approve the applicant request to postpone to a date certain of April 21, 2014 and second by Clifford Durden. Said motion approved 5-0

C. Privately-initiated amendments to the Future Land Use Element of the Comprehensive Plan, modifying the description of the GC (General Commercial) Future Land Use designation and Policy A-7.2 of the Future Land Use Element to allow an increase in density to a maximum of 24 units per acre, and establish a maximum Floor Area Ratio (FAR) of 0.75 for lands zoned GC (General Commercial) which are located within the Infill Workforce Housing Overlay District

Exparte Communication - None

Mark McDonnell entered project file No. 2014-072 CPA into the record.

The owner of the property at 2001 North Federal Highway (fka Delray Beach Swap Shop) is proposing to redevelop the vacant property to accommodate a free-standing, multi-family housing development containing 205 units within the GC (General Commercial) zoning district, at a density of 23.9 dwelling units per acre. The subject property is also currently designated as an Infill Workforce Housing Area. It is noted that the proposed project for 2001 North Federal Highway, referred to as Delray Preserve, does not contain commercial use.

The item before the Board is that of making a recommendation to the City Commission regarding privately-initiated amendments to the Future Land Use Element of the Comprehensive Plan, modifying the description of the GC (General Commercial) Future Land Use designation, and Policy A-7.2 of the Future Land Use Element, to allow an increase in density to a maximum of 24 units per acre, and establish a maximum Floor Area Ratio (FAR) of 0.75 for lands zoned GC (General Commercial) which are located within the Infill Workforce Housing Overlay District,

and identify the previously established Silver Terrace Courtyards Overlay District as Workforce Housing Overlay District.

The owner of the property at 2001 North Federal Highway (fka Delray Beach Swap Shop) is proposing to redevelop the vacant property to accommodate a free-standing, multi-family housing development containing 205 units within the GC (General Commercial) zoning district, at a density of 23.9 dwelling units per acre.

The Silver Terrace Courtyards Overlay District was established in 2009, yet was not specified as a Workforce Housing Overlay District in Policy A-7.2 of the Future Land Use Element. The amendment includes the listing of this district. It is noted that the district was appropriately listed elsewhere in the Comprehensive Plan at that time.

The action before the Board is approval of a Conditional Use modification to allow interior conversion of three (3) existing automotive service bays to retail use for expansion of the existing convenience store associated with the existing S & H Exxon gasoline station, pursuant to LDR Section 2.4.5(E).

The site is located at the southeast corner of NE 2nd Avenue and NE 4th Street. The property consists of 0.324 acres and contains an existing 1,830 sq. ft. gas station. The service station was constructed in 1967 in the CBD (Central Business District). It currently lies within the Pineapple Grove Main Street (PGMS) district.

The development proposal incorporates the following:

- *Conversion of three (3) existing automotive service bays to expand the existing convenience store (i.e. retail use);
- *Installation and upgrade of associated on-site landscaping;
- *Resurfacing and restriping of the existing parking lot;
- *Provision of new landscape nodes and islands.

There is a couple of issue in regards to the access points where the maximum allowable width at the point of access to a street is thirty-six feet (36') and the minimum is twenty-four feet (24').

These will be closed and meet the requirements as this project moves forward as a Site Plan Modification before the SPRAB Board and the other requirement is no driveway shall be located within twenty-five feet (25') of the street intersection and that will be a Condition of Approval modification to make sure that part of this code is complied with.

In regards to parking, the current required parking for the site is eight (8) spaces. There are seven (7) spaces currently existing on-site, which is an existing nonconformity with respect to parking. The current plans retain the seven (7) parking spaces. The site should be eligible for a one (1) parking space exemption, pursuant to LDR Section 4.4.13(G)(1)(b). Thus, this standard will be met with the application of the one (1) space parking exemption which has not been utilized to date for the subject site.

When we look at Conditional Use we look at the surrounding land uses. The following zoning designations and uses are abutting the subject property:

	<i>Zoning Designation:</i>	<i>Use:</i>
<i>North:</i>	RO (Residential Office)	Multi-Family Residential
<i>South:</i>	CBD (Central Business District)	Commercial Parking Lot
<i>East:</i>	CBD-RC (Central Business District – Railroad Corridor)	Commercial Office Building
<i>West:</i>	CBD (Central Business District)	Cannery Row Townhomes

The subject property is surrounded by CBD (Central Business District) zoning to the south and west. To the north across Lake Ida Road is multi-family residential apartment building. To the east is a commercial office building. The existing gas station use is established. The expansion of the convenience store is a more compatible use than the existing three (3) automotive service bays. The proposed change of use will be compatible with the surrounding land uses. Thus, a finding can be made that the use will not have a detrimental effect upon the stability of the downtown, nor will it hinder the development or redevelopment of nearby properties.

Pineapple Grove Main Street (PGMS):

At its meeting of December 11, 2013, Pineapple Grove Main Street (PGMS) recommended approval of the development proposal.

Downtown Development Authority (DDA):

At its meeting of December 9, 2013, the DDA (Downtown Development Authority) recommended approval of the development proposal.

Community Redevelopment Agency (CRA):

At its meeting of December 12, 2013, the CRA (Community Redevelopment Agency) recommended approval of the development proposal.

Courtesy Notices:

Courtesy notices have been provided to the following associations that have requested notice of developments in their areas:

- Delray Citizens Coalition
- Del-Ida

Public Notice:

Formal public notice is not typically given for a minor conditional use modification. However, in the event that the Board determines that the proposed changes are significant and require a new conditional use application, a courtesy notice has already been voluntarily provided to property owners within a 500' radius of the subject property. Letters of objection and/or support, if any, will be presented at the Planning and Zoning Board meeting.

Staff moves approval of the Conditional Use modification. This will have to go to the SPRAB Board to solidify all of these requirements that are show on the exhibit before you. The conditions are listed here in the report with the exception of Item A. Subsequent processing and approval of a Class III Site Plan application, subject to all the items and deleting Item A.

A correction on Page 7 of the Staff Report to say, "The operating hours will be 5am-11am (pm), seven (4) (7) days a week.

Applicant Presentation

Paul Lingerfeldt – Designer, Representing Andy Hrenick (Owner), Stu Lutz (Contract Buyer)

We have reviewed all the conditions of the staff recommendations for approval and we can accommodate them all. We will be asking for a waiver for a landscape buffer at a future date. Any questions that you on the project I am here to answer them

Dr. Spodak asked Terrill Pyburn, Interim City Attorney if there is any party status on this project and she said no.

Public Comment – None

Board Discussion

Thuy Shutt – Are all the buffering requirements being met that the applicant spoke about?

Mark McDonnell – To answer this question Mr. McDonnell introduced Candi Jefferson, Senior Planner and Project Planner for this project and Peter Anuar, Senior Landscape Planner who is here for the last item on the agenda (Seagate Country Club Villas).

Candi Jefferson – Currently when we have a vehicular access way, we have a requirement for a 5 foot landscape buffer between the property line and any vehicular accessible paved areas. Two areas are being effective which Ms. Jefferson showed on the landscape plan. We feel that

the applicant is just shy of the 5 feet. The applicant is also shy with the landscape items and there might be a need of a second waiver. The landscape in the parking rows should be 9 feet and they have provided only about 5 feet 4 inches and have not provided terminal landscaping items for the handicap spaces. I have also been informed that there are underground gasoline tanks in this area so the landscaping in the terminal area would not be practical near the handicap area. Staff is supporting both waivers if needed because they are complying with the requirements.

Clifford Durden – What is the reason for leaving the landscaping in the front of the building and accepting the waiver?

Candi Jefferson – Because the site is very small, they are very limited of where to put the 7 parking spaces. The site is non-conforming and by adding the landscaping that they are proposing, it is making the site more conforming with respect to landscaping and this entire area is paved all the way to the property line. They are actually going to uproot the entire pavement and have landscaping along the perimeter and the parking row. This is definitely going to be an improvement.

Thuy Shutt – What is the distance between the rear of the parking space to the first part of the pump?

Candi Jefferson – At that point it is 5 feet 4 inches. We are not aware of any problems at this time. They are not currently going to move the palms and there has been no problems maneuvering the cars.

Thuy Shutt – I understand that there is enough room, but you are increasing the retail and that will increase the traffic that would normally not be there if it was just a service station and do not want the traffic to back up on to the road.

Candi Jefferson – We do have several opportunities for cars to enter and exit at this facility. We do have a requirement that you normally have a 6 foot by 24 foot turnaround and what we have here is a 5 foot by 24 inch turnaround area. Based on a code standard it would be short about 8 inches. Another thing is that we are getting the applicant to redo the traffic statement so we can have a correct estimate on the AM and PM flow. We will have a traffic estimate and we will have Palm Beach County review the proposal for traffic concurrency in case there are any traffic issues. This is a conditional of approval for the entire proposal.

Craig Spodak – Wanted to know if you are aware of any crime in the area, i.e. crime report, statistics.

Candi Jefferson – We normally have a SEPTB review done. I don't believe we have received that as of yet.

Craig Spodak – For the applicant, do you expect to be selling alcohol?

Stu Lutz (Contract Buyer) – We will be selling carry out beer and wine.

Craig Spodak – You are planning on have 4 employees, a maximum of 6 employees. What are your plans for where they are going to park.

Stu Lutz (Contract Buyer) – That number of employees is the total number of people, not for each shift.

Thuy Shutt – I could not see anything on the plans regards to lightening in that alley.

Stu Lutz – We are going to submit a photo metric plan complying with the city.

Clifford Durden – When selling the beer and wine, what kind of situation will you have to control this.

Stu Lutz – We are significantly upgrading this site and right now it is an auto repair shop and there are some homeless that hide and linger around the facility. By upgrading the site we will eliminate this and not tolerate people hanging around.

Craig Spodak – Mr. Lutz do you own other facilities like this?

Stu Lutz – I own one in Pompano, 10th Avenue North in Lake Worth and this will be the third.

Craig Spodak – Do you manage all these properties? Mr. Lutz replied that he did.

Board Discussion

Craig Spodak – I know that we have had another project like this at another location and we were saying that we were losing all our service bays and where do we get our cars fixed. Also, there are picnic benches on the side of the building and will this increase the vagrancy in this area.

Stu Lutz – There are tables there with fans and it will be a controlled area.

Clifford Durden – You have other locations and the areas are not inviting. At this new place you have tables and what is that going to invite.

Stu Lutz – In my other area we have homeless shelters near our location, but we are being able to handle this with the help of the police and you do what you need to do to make the customers comfortable.

Derline Pierre-Louis – Do you have tables and chairs at your other locations and Mr. Lutz replied no he does not. Ms. Pierre-Louis also said that there is a 2COP license which is beer, carry out and if they can purchase the beer inside, why can't they take it outside and drink it. Mr. Lutz said that he can make a 'no consumption of alcohol allowed on premises'.

Motion/Findings

Move **approval** of the Conditional Use modification request for *S & H Exxon Expansion*, based upon positive findings with respect to Chapter 3 (Performance Standards) and Section 2.4.5(E)(5) of the Land Development Regulations, and the policies of the Comprehensive Plan, subject to the following conditions:

1. In association with subsequent processing and approval of a Class III Site Plan application, the following items shall be addressed:
 - a. ~~Modify site data chart to reflect the correct existing square footage on-site as 1,830 sq. ft.~~ **Delete-It will be 1a to i**

- b. Install a bicycle rack on the property. Indicate the proposed location on the site plan, landscape plan and civil plans for consistency.
- c. Calculate and specify in a site data chart the percent of transparent or glass surface area provided on the ground level. If less than 75%, modify plans to comply or request a waiver and provide the \$150 processing fee and justification statement.
- d. The existing 37'11" drive aisle along NE 4th Street is noncompliant. While this is an existing nonconformity, reduce the driveway width to no more than thirty-six feet (36') and convert no less than 1'11" to landscape area.
- e. Reduce the width of the both driveways near the intersection so that they are no closer than twenty-five feet (25') from the ultimate right-of-way lines.
- f. Provide a proposed photometric plan which complies with LDR Section 4.6.8.
- g. Process a new deed indicating a 2' alley right-of-way dedication to be approved by the City Commission and recorded with Palm Beach County.
- h. A twenty foot (20') corner clip right-of-way dedication is required. Subsequent processing and approval of a new deed indicating the right-of-way dedication shall be approved by the City Commission and recorded with Palm Beach County.
- i. Landscape islands are required to have a minimum width of nine feet (9'), exclusive of curbing with a minimum planting area of one hundred and thirty-five square feet (135 sq. ft.). The proposed landscape island in the northeast corner of the site (about 5'4" wide) does not appear to meet this requirement. Likewise, the south end of this parking row does not meet the minimum dimensions. Also, the single proposed handicap space should have terminal landscape islands. Make plan modifications to comply or request a waiver and provided the \$150 processing fee and justification statement.
- j. Revise the traffic statement to reflect new vehicle trips generated during AM, PM and off peak hours, in addition to estimated daily trips (ADT). This must estimate for an accurate traffic concurrency determination. Provide the City of Delray Beach a revised copy of the traffic study which meets these specifications.

MOTION

Motion by Gerald Franciosa and seconded by Thuy Shutt. Said motion approved 7-0, Dr. Craig Spodak asked to amend the motion to add another condition.

J. That a SEPTD report be mandated as part of the approval process and prior to site plan approval (SPRAB)

K. That one space (space #7) is designated for employee parking.

Gerald Franciosa – Wanted to know how this space #7 would be enforced.

Stu Lutz – He would be happy to mark the space to say 'For Employees Only'.

Amended motion by Gerald Franciosa and seconded by Thuy Shutt. Said motion approved 7-0,

B..Conditional use modification associated with the conversion of two (2) automobile service bays to accommodate the expansion of the convenience store for Chevron Gasoline Station, located at the northeast corner of SE 6th Avenue and SE 5th Street.
Quasi-judicial Hearing

Exparte Communication - None

Mark McDonnell entered project file No. 2014-051 into the record.

The action before the Board is consideration of a request for a Conditional Use modification to expand the existing 604 sq. ft. Chevron Convenience Store by 868 sq. ft. for a total of 1,472 sq. ft., pursuant to LDR Section 2.4.5(E).

The expansion entails converting two (2) existing automotive service bays to retail use at the gas station located at the northeast corner of SE 6th Ave. and SE 5th St. (445 SE 6th Ave.).

The existing paved driveway areas will be resurfaced and driveways have been reduced to meet the maximum width requirement of thirty-six feet (36') per the Land Development Regulations (LDR);

They will be restriping parking spaces, installing a new dumpster, loading zone, bicycle rack, new air compressor, hours will be from 7am to 10pm, 7 days a week.

Looking at the Conditional Use Analysis, they are required to have 7 parking spaces, and 10 will be provided.

The proposal has two curb-cuts located along SE 6th Avenue and one curb-cut along SE 5th Street on the south property line. Modifications have been depicted on the plans and the proposed driveways now comply with the LDR requirements. The modified curb-cuts located along the west property line on SE 6th Avenue are placed a distance of 31' away from each other, and will have a width of 36'-0". The curb-cut located along south property line on SE 5th Street will have a width of 35'-0". The proposed site plan also includes modifications to the southernmost drive aisle such that it is no closer than twenty-five feet (25') from the extension of ultimate right-of-way lines at the intersection. Thus, all above depicted LDR requirements will be met upon site plan modification approval by the Site Plan Review and Appearance (SPRAB).

For the lighting under the canopy, it exceeds the current foot candle limitation. In addition, under canopy light fixtures must be totally flushed and recessed to avoid any light spillage, and a shop-drawing detail of the under canopy light fixtures needs to be provided, and thus, this is attached as a condition of approval.

In regards to landscape technical items, revised plans have accommodated most of staff's concerns; the following items remain outstanding and will need to be addressed during the site plan review process and prior to site plan certification:

With required findings, to the north is a one story office building built in 1950. To the west is the Teen Center built in 1949. To the south is a professional office condominium built in 1988. To the east are two single family homes built in 1949 & 1950. Pursuant 4.3.3(J)(6)(a), when a commercial property directly abuts residentially zoned property, gasoline dispensers, tanks, dispenser islands and canopies shall not be located no closer than forty feet (40') from the property line abutting the residentially zoned property. All the above mentioned items are located 49'-7" from the east property line, and thus, this LDR requirement will be met upon site plan modification approval by the Site Plan Review and Appearance (SPRAB). Thus, a finding can be made that the use will not have a detrimental effect upon the stability of the neighborhood, nor will it hinder the development or redevelopment of nearby properties.

	<i>Zoning Designation:</i>	<i>Current Use:</i>
<i>North:</i>	General Commercial (GC)	One story office building built in 1950
<i>South:</i>	Neighborhood Commercial (NC)	Professional office condominium built in 1988
<i>East:</i>	Single Family Residential (R-1-AA)	Two single family homes built in 1949 & 1950
<i>West:</i>	General Commercial (GC)	Teen Center built in 1949

Community Redevelopment Agency:

At its meeting of January 9, 2014, the CRA (Community Redevelopment Agency) recommended approval of the development proposal.

Public Notice:

Formal public notice is not given for a *minor conditional use modification*. If the Board determines that the proposed changes are significant and require a new conditional use application, then official notification will be provided to property owners within a five hundred foot (500') foot radius of the subject property. Letters of objection, if any, will be presented at the Planning and Zoning Board meeting.

Staff moves to approval of the Conditional Use with an addition. At the beginning of the list of conditions a submittal of the Class III Site Plan Modification that satisfies the following. I would like that to precede the list of (6) conditions that are listed in the report.

Applicant Presentation

James Gilgenbach – Architect
Mr. Grenidier – representing the owner

If you have any questions about the project, we would be happy to answer them for you.

Public Comments – None

Board Comments

Thuy Shutt – Would like to know if there is any existing water and air at the facility? Mr. Grenadier said that there is no water but there is an air compressor.

Gerald Franciosa – How many service bays are there? The applicant said that there will be 2 service bays and there will be a convenience store and also there will not be any tires. *It was mentioned that Condition #1 'No sale of tires on the premises is allowed and a note to this effect shall be place on the site plan'. **Not to be deleted***

Terrill Pyburn – As a point of order, you can just say, “No tires or oil will be sold on the premises”, because there is something already in our code that say we cannot have outside business.

Motion/Findings

Move **approval** of the Conditional Use modification request for **Chevron Gas Station Convenience Store Expansion**, based upon positive findings with respect to Chapter 3 (Performance Standards) and Section 2.4.5(E)(5) of the Land Development Regulations, and the policies of the Comprehensive Plan, subject to the following conditions. Also a submittal of a Class II Site Plan modification that satisfies the following:

1. ~~No sale of tires on the premises is allowed and a note to this effect shall be place on the site plan;~~ **Change to: No sale of tires on the premises**
2. All landscape and engineering technical items listed in this staff report must be addressed during the site plan review process and prior to site plan certification;
3. Lights fixtures used should be LED, as they provide the best light with the least amount of glare.
4. The maximum illumination standard (see LDR table 2, page 4.6-32) for canopies structures is 30 FC while 42.8 FC are being provided for the existing canopy structure. The applicant shall revise the photometric plan to reflect the LDR requirements.
5. Under canopy light fixtures must be totally flushed and recessed to avoid any light spillage, and a shop-drawing detail of the under canopy light fixtures needs to be provided during the site plan review process.
6. The applicant shall modify the zoning data chart/table included on Sheet A1 regarding setbacks in order to reflect the setbacks required for the GC (General Commercial) zoning District and the proposed hours of operation for the gas station according to the attached email provided by the applicant on December 10, 2013.

Motion by Jordona Jarjura and seconded by Clifford Durden

Derline Pierre-Louis – Didn't staff make a comment he wanted something stated about a submittal of a Class III? Mark McDonnell wanted applicant to be aware that this board is not their last stop in getting approval.

Jordana Jarjura amends her motion to say, "Submittal of a Class II Site Plan modification that satisfies the six (6) conditions

Amended motion by Jordana Jarjura and seconded by Clifford Durden.

Said motion approved 7-0.

VA. Conditional use request to allow an increase in density in excess of 30 units per acre (67.6 units per acre proposed) for Sofa District Offices and Lofts, located on the east side of SE 1st Avenue, south of SE 1st Street (111 SE 1st Avenue). Quasi-judicial Hearing

Exparte Communication – None

Mark McDonnell entered project file No. 2014-044 into the record.

This is a conditional use to allow a residential density in excess of 30 dwelling units per acre (67.6 du/ac proposed) on property located on the east side of SE 1st Avenue, south of SE 1st Street, in the Central Business District (CBD), pursuant to LDR Section 4.4.13(D)(12).

The request is associated with a proposed 76-unit multi-family residential development located on the east side of SE 1st Avenue, south of SE 1st Street at 111 SE 1st Avenue. This is a mixed use development that uses two parcels. The reason that these two properties are being proposed together is that they are doing a shared parking utilization.

The south parcel consists of:

Construction of a seventy-six (76) unit, five (5) story mixed-use residential/retail building

Provision of 2,250 sq. ft. of retail space on the ground floor fronting on SE 1st Avenue

Provision of a 1,422 sq. ft. fitness center for residents on the ground level

Construction of ninety-two (92) parking spaces on a ground level and sixty-six (66) parking spaces on a partial second floor garage for a total of one hundred fifty-eight (158) spaces

The north parcel consists of:

Construction of a four (4) story mixed-use office/retail building

Provision of two (2) retail bays totaling 1,600 sq. ft. on the ground floor fronting on SE 1st Street

Provision of 15,495 sq. ft. of "Class A" office space on three (3) levels

Provision of a 234 sq. ft. pavilion and 2,667 sq. ft. amenity deck on the fourth floor roof/terrace level

Installation of an eight foot (8') wide concrete sidewalk along SE 1st Avenue and SE 1st Street

Installation of associated on-site landscaping and landscape nodes in the adjacent rights-of-way

Construction of nineteen (19) covered surface parking spaces

Shared parking with the Sofa District Lofts site to allow shared use of an additional forty-eight (48) spaces, whereas sixty-seven (67) spaces would normally be required on-site

All of the aforementioned seven (7) waivers, which are site plan related, will be considered by the Site Plan Review and Appearance Board (SPRAB) during Site Plan review. A recommendation by SPRAB will then be forwarded to the City Commission for final action.

The Palm Beach County School District must approve the development proposal for compliance with the adopted Level of Service for School Concurrency. Verification from the Palm Beach County School District is pending and a written finding of approval from the School District is attached as a condition of approval.

In regards to the required findings the zoning designations and uses that are adjacent to the subject property are:

	<i>Zoning:</i>	<i>Use:</i>
<i>North</i>	Central Business District (CBD)	Mixed-Use Retail & Office Building (Boueri)
<i>South</i>	Central Business District (CBD)	Mixed-Use Retail and Office Building (The Mark)
<i>East</i>	Central Business District (CBD)	Approved "Sofa Building 2" Multi-Family Residential Development
<i>West</i>	Old School Square Historic Arts District (OSSHAD)	Single-Family and Multi-Family Dwellings

In regards to Performance Standards, this is the nuts and bolts of the project and what we look at when granting the density request. This board can approve or deny application where deemed that the project is not compatible with building mass and intensity. All the further standards are listed in the staff report.

Community Redevelopment Agency:

The consensus of the Community Redevelopment Agency (CRA) was to recommend approval of the Conditional Use request to allow a density exceeding 30 dwelling units per acre (67.6 du/ac proposed) at its meeting of January 9, 2014.

Downtown Development Authority:

The Downtown Development Authority (DDA) recommended approval of the Conditional Use request to allow a density exceeding 30 dwelling units per acre (67.6 du/ac proposed) at its meeting of January 13, 2014.

Courtesy Notices:

Courtesy notices have been provided to the following homeowner's and/or civic associations which have requested notice of developments in their areas:

- ☐ Osceola Park
- ☐ Delray Citizen's Coalition

Public Notice:

Formal public notice was provided to property owners within a 500' radius of the subject property. Letters of support or objection, if any, will be presented at the Planning and Zoning Board meeting.

Staff recommends approval of this conditional use that you recommend approval to the City Commission of this conditional use subject to the list of conditions in the report.

Applicant Presentation

Richard Jones, Richard Jones Architecture

I am here to discuss the Conditional Use for Sofa District Office, 30 units per acre. The two sites are SE 1st and 1st and 111 SE 1st Avenue. I will be referring back to the Comprehensive Plan and the Downtown Master Plan which talks about density and how it is so important to have density in our downtown. We also are talking about performance standards that we will be highlighting on. Mr. Jones talks about the demographics of the community and the percentages of people in households. The presentation continued with a powerpoint slide show with all the examples of what is happening in the Sofa area and how there is nothing there and at this point is only a parking lot.

Mr. Jones continued with a description of the buildings where at the 4th floor is where the building splits into 2 separate floors. Also, this is the first 'For Sale' condo in this area that is coming before the board for approval and also this will be a 'Green Certified' building. We are going to be very bike friendly with a bicycle storage facility some air conditioned and we have had correspondence with SAFE that they support the project.

Public Comments

Charlie Bonfield – President of SAFE - 220 McFarlen Drive

We have submitted a report to the board and wanted to go over a couple of things. In the offices they want to put showers and changing rooms to encourage people to commute to work by bicycle rather than bring in cars. With this we would be able to have less parking and we ask that you approve this project.

Jim Knight – 10 SE 1st Avenue

We all have been following the Town Hall meeting with great speakers, and these projects are the ones that these speakers are endorsing. One thing on the Atlantic Crossing project that was talked about was the 'Grid', and the Grid is open here at Sofa.

Staff Comments

Jordana Jarjura – There are a lot of issues that staff has pointed out, i.e. 6 additional waivers, loading zone issue, site visibility triangles, sidewalks. It seems that there are some inconsistencies in the report.

Mark McDonnell – The waivers that are identified in this report, the City Commission will be informed of these and they will look at them after SPRAB. Also, the 9 performance standards issues that are required to be met to receive the density award are clearly met.

Jordana Jarjura – What is the frontage on SE 2nd Avenue (South Parcel)? Staff replied that it is 382 feet. My comment is that first I think this is a great project, but my concern is that we are borrowing from adjacent property that is separated by a major road way which is going to be

converted to a two way road and another parcel. So by saying that we have retail and office in that building we don't necessarily need to meet the intent of having an active ground floor. You have significant dead space of empty inactive use on this residential building. I don't think that one of the performance standards is met.

Richard Jones – We are aware of the 7 waivers and we have not had the opportunity to discuss them with staff. I think when staff sent the letter they said that the 7 waivers would be handled through SPRAB and there was no need for us to resubmit plans at this time. I have read through the 7 waivers and I feel comfortable that we can eliminate 4 of the 7 waivers (3,4,5 &6), and leave (1,2 & 7).

Jordana Jarjura – I am more concerned with waiver #7. *(A waiver to LDR Section 4.6.18(B)(14)(vi)(4)(b) requires fifty percent (50%) of the garage portion of the building on the ground level to be dedicated to use for retail, office, entertainment or other non-residential uses. The applicant is proposing five percent (5%) of the ground level to be dedicated for retail, office, entertainment or other non-residential uses.*

Richard Jones – Looking at #7, with the requirement of 50% of the garage portion to be retail, and this is not the first project to come through in the Sofa district with ground floor parking. To achieve this kind of density it is difficult not to have ground floor parking. What we have is retail where it matters, and we have retail closest to the corner.

Jordana Jarjura – What percentage of that frontage on SE 2nd Avenue would be retail.

Richard Jones – They are asking for 50% and that is really not feasible. What we do have is facility for our bike riders, we have only 8 or so parking spaces and we have access points for parking to get out to the retail. We have a 2 story glass lobby, a fitness center and we put it on the ground floor for appearance purposes so people could see activity.

Jordana Jarjura – In regards to the parking that you are short on do you have enough for public parking?

Richard Jones – According to the staff report we are short 5 spaces.

Clifford Durden – Is there a way that the fitness room can become commercial?

Jordana Jarjura – I think at this point it is not a true mixed use project if you look at the two parcels separately. I think that the fitness center would have to be opened to the public.

Richard Jones – I agree we can keep it as fitness center and open it to the public with membership.

Thuy Shutt – There is vertical and horizontal mixed use, what is the definition of the project.

Mark McDonnell – We are not mandating vertical integration. The two projects are considered a unified development project because they are within 125 feet of each other.

Thy Shutt – I would also like to be clear on how the trash service will work.

Richard Jones – We actually have 4 different areas for trash. Each floor will have a shoot to drop the trash into a trash room where the dumpsters will be under the shoots, the trash bins will be rolled into a staging area where the garage door will be on the ally side. So it will be

served by the ally. The office building will have a trash room and serviced by the ally, and the upper floors will have to bring their trash down to the ground floor.

Thuy Shutt – I am hoping that a Class 'A' office building would have these amenities.

BOARD DISCUSSION

Thuy Shutt – The workforce housing will be scattered throughout the building.

Richard Jones – There will be no studios just 1 and 2 bedrooms.

Craig Spodak – With this lets make this a condition of approval.

Mark McDonnell – The condition will read as: *"The applicant shall convert one bedroom to efficiency/studio unit to demonstrate compliance with applicant's criteria"*.

Craig Spodak – I understand what Ms. Jarjura is saying about having the retail in each separate unit, but I do believe that the area is a ghost land right now and it is going to be a burden to get the pedestrian traffic down that way, maybe a couple of years before we will see this happen. But I am happy for what the developer is trying to do.

Thuy Shutt – Addressed to Terrill Pyburn, how are we going to enforce these SAFE conditions.

Terrill Pyburn – We cannot enforce the SAFE conditions but we can recommend it. This is an agreement between the developer and SAFE. In the SAFE report some things are enforceable and some not. For example, Item 2 (*Provide a minimum of (20) secured bicycle spaces in the Loft Building and, (10) secured bicycle spaces in the Office Building*), another one is Item 3 (*Construct a shower/changing room in the Office Building*) but the price in Item 1 is something that we cannot regulate.

Christopher Davey – I have a problem supporting this kind of project due to the lack of retail on the first floor along SE 1st. I understand what the architect is saying but it seems that every time we reduce it down, another person comes along and wants a little less. On the shared parking, I know that it is in the LDRs but they still do not meet the parking requirement.

Jordana Jarjura – To comment on what Mr. Davey has said on the square footage, you want to add another 1,400 square feet and I am not sure if this will really make or break this project. When you have bookends of retail with dead space in between for a specific amount of feet for the majority of the two blocks I do not see how you are going to accomplish your intent. If I am going to come to this area and walk this area there has to be active uses. Conditional uses are a benefit and I think you need to do things to meet the performance standards and not having the additional retail is a real sticking point for me. I also disagree with staff interpretation, I think the 150 feet – 300 feet rule is for shared parking, I don't think it goes to the application of the active ground floor. Having the road in between the two parcels shows that it is distinctly 2 parcels. I need the south parcel to stand alone.

Richard Jones – He said that he had mentioned that they would open the fitness center up to the public.

Christopher Davey – For me when I look at the Mark Complex they have retail on the first floor and somehow they have managed to fill it. When I have gone to the meetings at the Crest Theater regarding planning, it is active store front that generates foot traffic.

Jim Knight – I actually lease this space you are speaking about at the Mark Complex, it is a law firm that has occupied this area, and there is no retail on the ground floor.

Thuy Shutt – I think with our LDR revisions, we probably need to reevaluate the marketability, because we have had this discussion when we did the Master Plan, and can we really have 2 miles, from I95 to A1A all retail. We really don't have the population to support that. We need to be careful what we want with commercial, because I don't think that we can fill these areas up.

Jordana Jarjura – When you are asking for additional density you want people to stay in their pocket and utilize the commercial office spaces. Also, to ask for an active ground floor and not a dead space for a large portion of those two blocks that would complete this.

Thuy Shutt – I also look at the design of the project, they are creating a well design cohesive project and what you Jordana is suggesting is important, but just meeting the codes is not all of it. We have to have some flexibility.

Terrill Pyburn – *(interrupted)* – I think we are getting off the topic and focus on this project.

Craig Spodak – I think to summarize, if your concerns are the extra 1,400 sq. feet, then we are all on the same page.

Clifford Durden – On the work force units, are they all going to be on all floors, equally distributed? Mr. Jones answered to say that yes that is correct.

Motion/Findings

Conditional Use:

Move a recommendation of approval to the City Commission of the conditional use request to allow a density in excess of 30 units per acre (67.6 du/ac) for **Sofa District Lofts and Offices**, 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, subject to the following conditions:

1. That the applicant submit an application for Class V Site Plan Approval which at a minimum addresses the following issues identified in this staff report:
 - a. A contribution of approximately one-half the cost of a bus shelter must be paid prior to certification of the site plan for the development for the Sofa District Offices site.
 - b. The amenity deck should be designed to minimize the transmission of noise into the surrounding area.
 - c. Amplified music will not be permitted on the amenity deck areas.
 - d. A note shall be placed on the site plan to indicate nine and one-half feet (9.5') of height in the parking garage to allow the access of handicap vans.
 - e. A waiver to LDR Section 4.6.18.B.14.iv.2., whereas the minimum transparency or glass surface area on the ground floor wall area of all non-residential buildings shall be a minimum of 75% of the wall area for that elevation. The site data chart indicates that the percent of proposed transparent or glass surface area provided on the ground level is 57.87% along SE 1st Ave.

- f. A waiver to LDR Section 4.4.13.F.4.c.2., the floor area for each floor contained within the portion of the structure that is 25' to 48' in height shall not exceed (seventy percent) 70% of the floor area contained within the allowable ground level footprint. The 3rd, 4th and 5th levels fall within this height range. One hundred eighty-seven (187%) is proposed, whereas seventy percent (70%) is the maximum.
- g. A waiver to LDR Section 4.4.13(F)(8), balconies, loggias, trellises and roof eaves may encroach into the required setback area up to a maximum of four feet (4'). Five foot (5') balconies appear to encroach into the rear setback area along the alley on all upper floors.
- h. A waiver to LDR Section 4.6.16(H)(3)(d), a five foot (5') landscaped buffer shall be provided between the off-street parking area or other vehicular use area and abutting property. No landscaping is provided on the ground level to separate the ground floor bicycle storage area and the twenty-four foot (24') wide two-way driveway access ramp to the upper level parking garage along the west property line. Thus, a zero foot (0') landscape buffer is proposed.
- i. A waiver to LDR Section 4.4.13.F.4.c.2., for upper level setbacks, since the 3rd floor which ranges between 19'6" and 29'0" and encroaches within the upper level setback portion of the building which begins at 25'0". The minimum frontage requirement for the upper level (25' – 48' height) is not met on the 3rd floor because lower level (0'-25' height) setback requirements were inadvertently applied.
- j. A waiver to LDR Section 4.6.18(B)(14)(vi)(4)(b) requires fifty percent (50%) of the garage portion of the building on the ground level to be dedicated to use for retail, office, entertainment or other non-residential uses. The applicant is proposing five percent (5%) of the ground level to be dedicated for retail, office, entertainment or other non-residential uses.
- k. Five (5) additional parking spaces are required to support the recreational amenity deck and pavilion on the 4th floor of the Sofa District Offices building.
- l. Provision of a minimum 12' x 30' loading space shall be provided off of the existing 16' alley in the rear with convenient access to a service elevator serving all five (5) floors.
- m. Sight visibility triangles are correctly drawn along the alley and SE 1st Avenue which meet the minimum dimensional and visibility requirements between 3' and 6'.
- n. The waiver of the LDR Section 4.4.13.F.1.C to reduce the ground floor ceiling height from (10' to 9') as proposed on all levels of the Sofa District Lofts Buildings.
- o. Scattered the 9 workforce housing units throughout project.
- p. Provide a minimum of 20 secure bicycle spaces in the Loft building and 10 secure bicycle spaces in the office building.
- q. Construct shower changing rooms in the Office Building.
- r. Provide locker rooms for the cyclist and joggers in the office building.
- s. Install an automatic roof in the loft and office building's bicycle storage room for ease of entry/exit.
- t. Purchase and maintain an electrical vehicle (street-legal golf cart or similar vehicle) to provide local transportation for residents within the Loft Building for shopping and other local use within downtown Delray Beach on a first come, first served basis with the cost thereof including, without limitation, insurance expense, to be a pass-thru to

- the residents and the use thereof will be subject to rules and regulations promulgated from time to time with respect to the use of such vehicles.
- u. Provide the following info at each calendar year to SAFE until all of the units have been sold by the developer:
 - The number of combined Retail or Office, and Loft purchases,
 - The number of stored bicycles and,
 - The number of times the EV was used during each calendar year, and to provide information to the City.
 - v. The applicant has agreed to provide the 1,422 sq. ft. retail or gym/fitness center for residence will also be available to the public by membership only.

MOTION

Motion by Gerald Franciosa and seconded by Clifford Durden. Said motion approved 6-1, Dissenting was Christopher Davey.

V.A. Privately-initiated small-scale Future Land Use Map amendment from TRN (Transitional) to MD (Medium Density Residential 6-12 du/ac); and an associated amendment to the Future Land Use Map to identify that the property is included within the Southwest Neighborhood Overlay District; and Rezoning from RO (Residential Office) District to RM (Medium Density Residential) District for a parcel of land located on the south side of SW 1st Street, between SW 1st Avenue and SW 2nd Avenue within the Coda Development. Quasi-judicial Hearing

Exparte Communication – None

Mark McDonnell entered project file No. 2014-059 CBA and 2014-005 into the record.

The item before the Board is that of making a recommendation to the City Commission on a privately-initiated small-scale Comprehensive Plan/Future Land Use Map amendment and rezoning for **Coda**, located on the south side of SW 1st Street, between SW 1st Avenue and SW 2nd Avenue. The small-scale Comprehensive Plan amendments consist of a Future Land Use Map change from TRN (Transitional) to MD (Medium Density Residential 5-12 du/ac) and modifying the Future Land Use Map to reflect an expansion of the Southwest Neighborhood Overlay District to include the subject property. The associated rezoning consists of a zoning change from RO (Residential Office) to RM (Medium Density Residential).

Pursuant to Section 2.2.2(E)(6) of the Land Development Regulations, the Planning and Zoning Board shall review and make a recommendation to the City Commission with respect to amendments to the Future Land Use Map or the Rezoning of any property within the City.

Staff recommends that this board recommend approval to the City Commission for approval for both the land use change and the rezoning as stated in the recommendation.

Applicant Presentation

Tim Hernandez – Principal of Northern Communities – 398 NE 6th Avenue, Delray Beach

I am here to answer any questions that you might have here tonight. I have also met with a lot of the residents and I have a list of signature/petition that I would like to submit into the record.

Public Comments – None

Staff Comments

Jordana Jarjura – The applicant's statement regarding that it was originally RM and rezoned to RO and then back to RM in 2004 and in 2006 it went back from RO to RM and they also got a conditional use. Is this correct?

Tim Hernandez – I remember this situation and it was the way they wanted the line to be drawn. In the staff report it states that a "portion" of the 0.86 RO. I think they caught some error in the legal description.

Jordana Jarjura – *cont' this rezoning was requested as the developer discovered that the land area zoned RM did not meet the proposed density requirements. Concurrently, the City Commission approved a conditional use request to allow an increase above 12 dwelling units per acre (19.6 du/ac proposed) pursuant to the City's Family/Workforce Housing Ordinance on the RM portion of the site. So, has the city already granted you a conditional use.*

Tim Hernandez – This is going to be for the portion that is already RM.

Jordana Jarjura – But you did already get a conditional use for this property and Mr. Hernandez said yes.

Board Discussion – None

Motion/Findings

Move a recommendation of **approval** to the City Commission for the request for a small-scale Comprehensive Plan amendment associated with a Future Land Use Map amendment from TRN (Transitional) to MD (Medium Density Residential 5-12 du/ac); an associated amendment to the Future Land Use Map modifying the Southwest Neighborhood Overlay District to include the subject property; and rezoning from RO (Residential Office) to RM (Medium Density Residential) for the subject property, 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 the Southwest Area Neighborhood Redevelopment Plan, and does meet the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

MOTION

Motion by Christopher Davey and seconded by Clifford Durden. Said motion approved 7-0,

V.C. Privately-initiated amendment to the Land Development Regulations by amending Article 4.7 “Family/Workforce Housing”, Section 4.7.1 “Definitions”, Subsection (p) “Southwest Neighborhood Overlay District” to expand the area as shown on the map by repealing the existing map and replacing it with a new one; and by Amending Section 4.5.9 “The Southwest Neighborhood Overlay District” to correct a scrivener’s error. Quasi-judicial Hearing

The item before the Board is that of making a recommendation to the City Commission regarding a privately-initiated amendment to Land Development Regulations by amending Article 4.7 “Family/ Workforce Housing”, Section 4.7.1, “Definitions”, Subsection 4.7.1(p.) “Southwest Neighborhood Overlay District” to expand the area as shown on the map by repealing the existing map and replacing it with a new one; and, Section 4.5.9, “The Southwest Neighborhood Overlay District”, Subsection 4.5.9(A), “Defined” to correct a scrivener’s error.

Pursuant to Section 1.1.6, an amendment to the text of the Land Development Regulations may not be made until a recommendation is obtained from the Planning and Zoning Board.

Community Redevelopment Agency (CRA):

The Delray Beach Community Redevelopment Agency (CRA) reviewed the proposed rezoning at its meeting of November 7, 2013 and recommended approval.

Courtesy notices were provided to the following homeowner and civic associations:

- Delray Citizens Coalition

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

Applicant Presentation – None

Public Comments – None

Motion/Findings

Move a recommendation of approval to the City Commission for a privately-initiated amendment to Land Development Regulations by amending Article 4.7 “Family/Workforce Housing”, Section 4.7.1, “Definitions”, Subsection 4.7.1(p.) “Southwest Neighborhood Overlay District” to expand the area as shown on the map by repealing the existing map and replacing it with a new one; and, Section 4.5.9, “The Southwest Neighborhood Overlay District”, Subsection 4.5.9(A), “Defined” to correct a scrivener’s error 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 the criteria set forth in LDR Section 2.4.5(M)(5).

Motion

Motion by Clifford Durden and seconded by Derline Pierre-Louis. Said motion approved 7-0,

V.D. Conditional use request to allow a density in excess of 12 units per acre (21.22 units per acre proposed) to accommodate sixteen (16) townhomes in four (4) three-story

buildings for Coda, located on the south side of SW 1st Street, between SW 1st Avenue and SW 2nd Avenue. Quasi-judicial Hearing

Exparte Communication – None

Mark McDonnell entered project file No. 2014-041 Use for Coda into the record.

The action before the Board is making a recommendation to the City Commission on the following request for conditional use approval pursuant to Land Development Regulations (LDR) Section 2.4.5(E):

To allow a residential density in excess of 12 dwelling units per acre (21.22 du/ac proposed) on a vacant parcel fronting along SW 1st Street between SW 2nd Avenue and SW 1st Avenue in the Multi-Family Residential (RM) zoning district, pursuant to LDR Section 4.4.6(D)(12).

The request is associated with new construction of sixteen (16) townhomes on a vacant parcel in association with an existing Coda development that contains thirty-six (36) townhomes.

Applicant Presentation

Tim Hernandez – Principal of Northern Communities – 398 NE 6th Avenue, Delray Beach
Mr. Hernandez started his presentation from a powerpoint presentation of the overall project.

Public Comments – None

Staff Comments

Jordana Jarjura – On page 8 of the staff report, I think there is a typo. Under Performance Standards, Item B it says, *“The design of the project also includes an east/west drive aisle that separates the townhouses from the mixed-use buildings”*. Are we eliminating “mixed-use”? Ms. Jarjura was informed that yes they are. Also, as far as the notices that were sent out, was there any support or objections? The answer was no, there was no other than the letters that were submitted into record.

I also want to ask that there are 8/unit signatures, there are 36 units in the building, and was there no one home for the other signatures?

Tim Hernandez – We did not go door to door; we sent out an email and asked for their signature. We also got some from our monthly HOA meeting.

Motion/Findings.

Conditional Use:

Move a recommendation of approval to the City Commission of the conditional use request to allow a density in excess of 12 units per acre (21.22 du/ac) for **Coda**, 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), 4.4.6(I), and Chapter 3 of the Land Development Regulations, subject to the following conditions:

2. That the applicant submit an application for Class IV Site Plan Approval which at a minimum addresses the following issues identified in this staff report:
 - a. A waiver to LDR Section 4.4.6.(F)(3)(c), front porches cannot occupy more than fifty percent (50%) of the building frontage and cannot be enclosed in any manner. The plans propose more than 50% of the building frontage along SW 2nd Avenue (66%) and SW 1st Avenue (66%) to be occupied by front porches.
 - b. A waiver to LDR Section 4.6.14(B)(6), the forty foot (40') sight visibility triangles at the intersection of two (2) rights-of-way. The two (2) of the proposed four (4) story townhome buildings obstruct the sight visibility triangles at thirty feet (30') at both intersections.
 - c. That the five feet (5') of right-of-way deed for SW 1st Avenue be processed and approved by the City Commission prior to building permit issuance.
 - d. That the applicant will provide the values for the unit size chart as it relates to the proposed 2 and 3 bedroom units on the site plan or floor plan associated with the conceptual site plan.
3. Verification from the Palm Beach County Traffic Division that the project will meet traffic concurrency.

MOTION

Motion by Derline Pierre-Louis and seconded by Christopher Davey. Said motion approved 7-0.

V.E. Privately-initiated Future Land Use Map amendment for Seagate Country Club Villas which includes three undeveloped parcels of land: Parcels 3 and 4 from OS (Open Space) to LD (Residential Low Density 0-5 units/acre) and Rezoning from OSR (Open Space & Recreation) to R-1-A (Residential Single Family); and Parcel 8, from LD (Residential Low Density 0-5 units/acre) to OS (Open Space) and Rezoning from R-1-A (Residential Single Family) to OSR (Open Space & Recreation). Parcels 3 and 4 measure 0.36 acres each; and Parcel 8 measures 0.02 acres, all located on the north side of Greensward Lane, within the Seagate Country Club Residential Development at the Hamlet. (Continued from December 16, 2013) Quasi-judicial Hearing

Exparte Communication – None

Mark McDonnell entered project file No. 2014-034 and 2014-027. We received additional comments and they have been given to the board members.

The item before the Board is that of making a recommendation to the City Commission on a privately-initiated small-scale Future Land Use Map (FLUM) amendment and rezoning for Seagate Country Club Villas, three undeveloped parcels of land: Parcel 3 and 4 that measure 0.36 acres each and Parcel 8 that measures 0.02 acres. They are located on the north side of Greensward Lane, within the Seagate Country Club residential development at the Hamlet. The proposal is to change the existing FLUM designations as follows: Parcels 3 and 4 from OS (Open Space) to LD (Residential Low Density 0-5 units/acre) and rezoning from OSR (Open Space & Recreation) to R-1-A (Residential Single Family); and Parcel 8 from LD (Residential Low Density 0-5 units/acre) to OS (Open Space) and Rezoning from R-1-A (Residential Single Family) to OSR (Open Space & Recreation).

In regards to the rezoning analysis, please note that Standard D, *"That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use."*

In the staff report there is a detailed land use analysis and we do not see any incompatibilities.

The proposed land use and rezoning request is not in a geographic area requiring review by either the Downtown Development Authority (DDA), or the Community Redevelopment Agency (CRA).

Courtesy Notices: A special courtesy notice was provided to the following homeowners and civic associations:

- Delray Citizens' Coalition
- Greensward Village (1): Carrie Licht
- Greensward Village (2): Ed Whalen
- Hamlet: Ms. Carrie Kraft
- Clearbrook: Anthony Ferriere
- Sherwood Park Civic Association
- Homewood Park/Golfview Estates

IPARC Notice:

On November 20, 2013, notice of the Comprehensive Plan Amendment was provided to the Interlocal Plan Amendment Review Committee (IPARC) which distributes the information to adjacent municipalities. No objections have been received to date.

Public Notices: Formal public notice has been provided to property owners within a 500' radius of the subject property. Letters of objection and/or support will be presented at the Planning and Zoning Board meeting.

Staff recommendation is that you recommend approval to the City Commission of the Land Use change and the rezoning for this property.

Applicants Presentation

Tom Carney – Representing HHCC Hamlet – The applicant

In October 2012 Seagate Hamlet purchased the Hamlet Country Club and since then they have spent considerable money to improve the place. With this it has improved the country club and raised the values of the homes.

January 2, 2013 we met with the residents with Mr. Tony Wilson, the applicant and he made the presentation. Our application as does the staff report demonstrated we have competent evidence to support a finding that Seagate has met the necessary test for positive findings related to consistency, concurrency demonstration of need, compatibility and compliance. We look forward to your support and I will turn it over to Richard Jones for the formal presentation.

Richard Jones – Richard Jones Architect

There is no arguing what Seagate has contributed to Delray Beach. They have spent over \$4 million dollars in capital improvements. One of the things that were discontinued was mandatory membership for the clubhouse. Adding to the project is a LPGA Ladies professional event taking place sometime this year.

We are just getting started on the design of the houses and it is anticipated to be in the range of \$1.1 - \$1.2 million and all fronting the golf course. We are going to five lots and five homes and keeping with the current architecture of Seagate.

Public Comment

Denise Alexander – 603 Lakewoode Circle – This project is all about taking open space and starting a president where we can start taking parcels needed for what...let's just build houses. They say that building these 5 houses will bring up the value of the houses, but put 3 houses and the same thing will happen. We feel that not enough of the residences were spoken to about this project or what they wanted to do.

Gloria Hulnick – 604 Lakewoode Circle – We have lived in the Hamlet community for 22 years and a beautiful place to live. We paid a premium price to have our lot back to an area of bushes, trees and birds. Seagate wants to cut down a lot of trees to get insignificant zone change that will change everything. It seems like they don't have to follow rules and laws that are already in place.

Barbara Covell – 600 Pine Lake Drive – My property does not boarder this property in question, but I believe in community. I am here to express my concerns in regard to the permit issued to the Seagate construction group LLC on July 11, 2013. This permit is to remove trees and a sub-permit was granted for landscaping of the golf course. It seems that the clearing of this area was done prior to the July 11th permit. I request that no zoning changes be granted at this time on the basis the proper permits may not have been applied for and that open space is meant to be left green and not be decimated.

Mary Masella – 612 Lakewoode Circle W – I also do not live near where the houses will be built. We have moved from Houston, Texas because we wanted to live in a city like Delray Beach and the community like the Hamlet that values trees and nature and people can live in harmony. It seems that the developer wants to rezone the area and convert to cash profit.

Jay Hasner – 3500 Pine Lake – I am a homeowner at Hamlet, and I did not realize that I belong to a club that has so many problems. Seagate people have come in and have done a

wonderful job on the golf course and community. I do not see problems with the building of the area.

Dennis Arnold – 5209 Estates Drive – Mr. Hasner is a homeowner not a resident of the Hamlet. He owns a home and has been renting it for the past 6 years, so this is income for him. I am a resident of Hamlet and I have seen what Seagate is doing and it is them that are doing the dumping. They use things for their building and then leave it. I think with the number of buildings they are proposing is too much and if we let them they will keep increasing.

Jeannie Valentini – 4910 Pineview Circle – I want to clarify that this property was a dumpsite long before Seagate was there. The building of these homes will only increase the property value of the homes.

Jennifer Werby – 730 Greenward Court – I have been a homeowner in the Hamlet for 10 years, and a business owner. I am here because I walk my dog three times a day and we have no sidewalks. I would suggest that before they increase the density to look at adding sidewalks to our areas.

Jeffrey Klupt – 739 Pine Lake Drive – I bought my house because of the view and I felt like I was living in the country. When Seagate built houses my property value went up and didn't hurt it. I don't think that Seagate is negative to the community, but the project is.

Kathleen Bokikio (*not correct spelling, person did not sign in and address was not given*) – I am new to the Hamlet and I have only been here for 4 years. In respect to the neighbors, we do have a good relationship with the Seagate and they have saved us from a lot of financial troubles. We need to work together and I don't think this is going to be very disturbing and I am in favor of the project.

Chris Arango (*person did not sign in*) – I am renovating the house I will soon occupy and I always thought that the area in question would soon be developed and always hoping that it won't be. They own the lot, they are allowed to build and I think they will build attractive homes.

Gerald Paul (*person did not sign in*) – 667 Pine Lake Drive – I have lived at the Hamlet since 1979 and I am impacted by what they plan on building. When I look out my window my view is a toilet from all the clearing they have already done. I hope you do not grant this zoning change for the building of these 5 houses.

Sheldon Weil - 925 Greenward Lane – I have lived in the Hamlet for 24 years. In 2005 I was a member of the board and I was the one that recommended for the property that was just sitting there we do something with it to help the Hamlet. This property is the "J" property and back then we approved the 3 lots. I am happy that Seagate came in and is taking on this project.

Cross Examination

Tom Carney – In regards to the people who spoke from Lakewood South, the reason that you did not get letters is that you are so far from the project and you do not go by this area in your daily route. We realize that some of the people that spoke tonight say that their view was going to be impaired, but when you live a football field and a half, there is bound to be some sort of impairment at that distance.

Richard Jones – It is important to point out that the R1A where the clusters of trees are is the code enforcement board that deals with all those issues. This is all about compatibility and instead of 3 lots we want 5 to make a little enclave that could be a positive thing.

Jordana Jarjura – She asked if the staff would speak about some of the questions that were asked from the public.

Peter Anuar, Senior Landscape Planner for the City of Delray – There was a landscape permit that was applied for back in July 2013, and there was a subsequent tree removal and landscape removal permits that were applied for and it was for the whole golf course. We did an inspection today and everything that was removed was in compliance with the permit. The tree mitigation has not been completed yet but they have 6 months to complete that.

Jordana Jarjura – There is a letter in the staff report from an attorney's office in behalf of the Hamlet residence association regarding easement and then there is a follow-up letter from the applicant attorney, Mr. Satin saying this is subsequent to the meeting with the residence and conversation with the association attorney and they are now in support. Did you speak with the association's attorney and why was the letter now withdrawn.

Mark McDonnell – Mr. Carney will have to speak on that subject. We just received the letters and we put them in the file. The reason it was tabled or continued to tonight was because of that letter.

(A gentleman from the public asked if he could speak and the board made a motion to allow this)

Motion made by Jordana Jarjura to open up public comment to the gentleman of the public, seconded by Clifford Durden. All was in favor.

Al Dreyfus – 4315 Lakewood – We moved into the Hamlet in 1977 and it was a wonderful place to live. It was called the "Jewel of Delray Beach". I am in favor of them building the 3 houses but adding the additional, No Way.

Rebuttal

Tom Carney – These lots are going to be in the top 10% of lot size, they will be full lots. In regards to the letters from the attorneys, Mr. Krivok that wrote that letter wrote it the day before the hearing was to occur. It was written because people had expressed to him that the Hamlet had not gone to them and discuss what was going to happen. I did speak to Mr. Krivok and after they came away with a different view of the information. They realized that these were going to be single family homes.

Jordana Jarjura – Did the association ever take a vote on this problem?

Tom Carney – He said no they did not take an official vote nor is the association approval required.

Jordana Jarjura – I was asking because you said that there were 80 to 100 people in attendance....*(Ms. Jarjura was interrupted by many people in the audience speaking over each other).*

Craig Spodak – Mr. Spodak interrupted to say that public comment is closed.

Jordana Jarjura – In Mr. Krivok letter he speaks about the HOA has an easement was there any discussion about revoking that easement or has it been tabled.

Tom Carney – In short they cannot revoke the easement.

Gerald Franciosa – Can you explain the grant of easement?

Tom Carney – It clearing cannot be enforced, but if you want it on record I can do that, but I am sure people do not want that to happen. I really feel this is not a zoning matter.

Gerald Franciosa – Did Seagate meet with the issuant?

Tom Carney – On January 2nd a meeting was held at the country club. 80-100 people were in attendance. We had speakers talking about what will be happening in regards to this project.

Thuy Shutt – In regards to the plat, the land in which the two new units are they dedicated as open space for the benefit of the residents or how is that plat legally in the Hamlet.

Tom Carney – It is open space recreation and it is designed for a private club.

Thuy Shutt – But is it dedicated for the use of the residence and Mr. Carney said that it has not. So when it is developed as the Hamlet, how is the density done.

Tom Carney – I will say that the entire plat was not done as precise as we are today.

Thuy Shutt – But there should be some dedication language, and land use and I would like to have staff look into this as this is the main factor here and do we have a copy of the plat. Without looking at the plat I cannot make any decision. Also, how is the density calculated.

Estelio Breto – The density was calculated without the golf course. Only the area that is zoned R1A (residential) some of it RM.

Thuy Shutt – What is the density for the residential only that would be calculated without the golf course.

Estelio Breto – I cannot answer that.

Thuy Shutt – There is a big problem if you don't know whether it exceeds 5 units per acre or 3 units, or whatever it is. These lots are not part of the overall density and were something assigned or how were they assigned.

Gerald Francisco – How did staff determine that these were 2 building lots.

Estelio Breto – Staff did not determine this and I am not sure what the events were to determine this. I do not know the density to the whole development but I am aware the calculating the density to this development did not include the golf course. But if it did include the golf course, it would insignificant

Thuy Shutt – Was the golf course zoned as part of the residential development or was it just zoned recreational and do we have a copy of the plat.

Mark McDonnell – To answer Ms. Shutt question, we don't have the answer. To answer Ms. Jarjura question, we do not know what the plat says.

Clifford Durden – What was used to determine the original 3 lots.

Tom Carney – That was in 2005, and I do not have that information.

Jordana Jarjura – Does staff have that information?

Mark McDonnell – No we do not.

Terrill Pyburn – At this point in the meeting, and not telling you how to vote, but you have the option to move to approve, move to continue or moving to deny. It seems that 2 board members are interested in continuing this meeting or is there a majority.

Motion

Clifford Durden made a motion to continue Seagate Country Club Villas, seconded Thuy Shutt with direction to the February 25, 2014 meeting. Said motion approved for continuation 7-0.

1. A copy of the Plat
2. The dedication language and any other attachment
3. Any Master Plan when the city first developed the Hamlet

Reports and Comments

- A. Staff
 - o Meeting Dates for February 25, 2014
 - o Project Updates
 - Rezoning for the Seagate/Hamlet
 - Depot Square Apartments
 - Seagate Yacht Club
 - Future Land Use Amendment
 - Work Force Housing
 - Extend the CBD Overlay in the OSHAD District

IX. ADJOURN

Adjourned: 10:30pm

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 **January 27, 2014** which were formally adopted and approved by the board on _____.

Diane Miller

Diane Miller, Executive Assistant

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.

DRAFT