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Submitted via email to Johnsonk@mydelraybeach.com and hard copy delivery to City Clerk's Office

October 29, 2021

City of Delray Beach
Attn: Katerri Johnson, City Clerk
City Clerk's Office
100 NW 1st Avenue
Delray Beach, Florida 33444

RE: Island Cove (2021-259-USM) – Appeal of the Condition of Approval Imposed by the Planning and Zoning Board on October 18, 2021

Dear Ms. Johnson,

I represent the Delray Beach Housing Authority and Island Cove, LLC (collectively, "Appellant"). The Appellant appeared before the Planning and Zoning Board ("PZB") on October 18, 2021 seeking the approval of a modification to an existing conditional use for the project entitled Island Cove (File Number 2021-259-USM). The Appellant sought to modify the existing conditional use approval by increasing the approved density from 54 units to 60 units. The PZB voted to approve the modification on the condition that the Appellant provide 114 on-site parking spaces. For the reasons set forth below, it is the Appellant's position that Site Plan Review and Appearance Board ("SPRAB") is the governing body which acts upon the attendant site plan, including parking; thus, the PZB had no authority to impose conditions that usurp the power of SPRAB to review and act on the technical requirements of a site plan, including parking, that are generally reserved as a SPRAB function. ***As such, the Appellant submits this letter to appeal the condition of approval imposed by PZB on the project Island Cove.*** Enclosed is a check for the appeal fee in the amount of \$1,100.00.

Pursuant to the City of Delray Beach's ("City") Land Development Regulations ("LDR") Chapter 2, Article 2.4, Section 2.4.7(E)(1), this appeal is appropriate because it was a decision made by an approving body, the PZB. In this case, the appeal of an action by the PZB, an

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approving board, shall be made to the City Commission. Moreover, the Appellant has standing to make this appeal under this code section as the applicant.

Pursuant to LDR Section 2.4.7(E)(2), this appeal contains the required information. The Delray Beach Housing Authority and Island Cove, LLC are the applicants/appellants. The action being appealed is the condition of approval imposed by the PZB at the October 18, 2021 meeting regarding on-site parking at Island Cove. The basis of the appeal is that the PZB had the authority under the City's LDRs to take action on the requested increase in density only. The Class IV site plan submitted by the Appellant is heard by SPRAB. Pursuant to LDR Section 2.2.3(a) & (b), SPRAB has the authority to take action on site and development plans as well as granting relief from the number of parking spaces required for specific uses. This is reiterated in LDR Section 4.6.9(F)(1), which states that, "when, upon receipt and acceptance of special documentation, it is conclusively demonstrated that a reduced number of parking spaces will accommodate a specific use, the body which acts on the attendant site plan may reduce the parking requirements accordingly." Here, the body which is acting on the attendant site plan for this project is SPRAB. As such, the parking condition imposed by the PZB usurps the power of SPRAB to review, analyze, and take any action on parking that is delegated specifically to SPRAB under the City's LDRs. Therefore, PZB's imposition of a parking condition was plainly erroneous and inconsistent with the City's ordinances and regulations and meets the standard of review for an appeal pursuant to LDR section 2.4.7(E)(5)(a).

Pursuant to LDR Section 2.4.7(E)(3)(a), this appeal is timely because this appeal letter has been submitted to the City Clerk less than **ten (10) business days** of the action being appealed, which occurred on October 18, 2021. Therefore, the deadline for this appeal is Monday, November 1, 2021.

Section 2.4.7(E)(3)(c) requires that the appeal hearing be scheduled no more than 60 days from the date the Clerk receives this appeal letter. ***The Appellant respectfully requests that this appeal be scheduled after the SPRAB meeting for this project, which should occur in less than 60 days.***

Sincerely,

Andrea M. Keiser, Esq.
On behalf of Appellants