

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

**MEETING DATE:** October 18, 2021

**MEETING PLACE:** Commission Chambers

**1. CALL TO ORDER**

The Planning and Zoning Board meeting was called to order by Chris Davey, Chairman at 5:06 P.M.

**2. ROLL CALL**

A quorum was present.

**Members Present:** Chris Davey (Chairman), Julen Blankenship (Vice Chairman), Joy Howell (2<sup>nd</sup> Vice Chairman), Allen Zeller (left 7PM), Rob Long, Max Weinberg and Christina Morrison.

**Members Absent:** None

**Staff Present:** William Bennett, Assistant City Attorney; Amy Alvarez, Principal Planner; Rebekah Dasari, Senior Planner; Elizabeth Eassa, Senior Planner; and Diane Miller, Board Secretary.

**3. APPROVAL OF AGENDA**

Item 9A, Motorcycle Sales in the General Commercial Zoning District (File No. 2020-240), has been withdrawn from the agenda.

**Motion** to approve the amended October 18, 2021, agenda made by Christina Morrison and seconded by Julen Blankenship.

**MOTION CARRIED 6-0**

**4. MINUTES**

None

**5. SWEARING IN OF THE PUBLIC**

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

**6. COMMENTS FROM THE PUBLIC** *(Limited to 3 Minutes)*

None

**7. PRESENTATIONS**

None

## **8. QUASI-JUDICIAL HEARING ITEMS**

**A. Island Cove, Phase III of Village Square, Modification of Conditional Use (2021-259-USM):** Consider a request to modify the conditional use approval for the 18.18-acre three-phase Village Square development, increasing the approved density from 15.51 dwelling units per acre to 15.84 dwelling units per acre, to develop the 3.07-acre Phase III portion as Island Cove. (PUBLIC HEARING)

**Agent/Applicant:** Andrea Keiser, Esq., Keiser Legal PLLC; andrea@keiserlegal.com

**Planner:** Rebekah Dasari, Senior Planner; dasarir@mydelraybeach.com

Rebekah Dasari, Planner, entered the File No. 2021-259 into the record.

### **Exparte Communication**

Chris Davey- Received letter

Julen Blankenship- None

Joy Howell- None

Allen Zeller- Drive By

Rob Long-None

Max Weinberg- None

Christina Morrison- Spoke with Andrea Keiser and City staff

### **Applicant Presentation**

Andrea Keiser, Keiser Legal PLLC

### **Staff Presentation**

Rebekah Dasari, Senior Planner, presented the project through a PowerPoint presentation.

### **Public Comments**

None

### **Rebuttal**

None

### **Board Comments**

Christina Morrison clarified that the Applicant has received 2 approvals to increase the density and inquired about the parking spots provided for the proposed increased density.

Allen Zeller inquired regarding the number and location of resident and visitor parking spaces provided in addition to the deed restrictions imposed on the proposed project.

Julen Blankenship inquired regarding the 48 offsite parking parallel spots listed on the parking tabulation provided by the applicant. Ms. Blankenship was concerned that adequate parking was not provided, and the proposed bus shelter may pose an egress and ingress concern.

Max Weinberg did not believe that parking spaces along SW 13<sup>th</sup> Avenue and SW 12<sup>th</sup> Avenue should be considered when calculating the number of available parking spaces as those parking spaces are considered public parking that can be utilized by the public.

Chris Davey requested confirmation that the 48 off street parking spots provided in the required parking tabulations were deeded to the proposed development and not considered to be public access spaces that can be utilized by the general public. Mr. Davey proposed that the conditional approval be conditioned on the applicant providing 114 onsite parking spaces.

Rob Long indicated that surplus parking was provided in Phase 1 and 2, these spaces should be considered when regulating the required parking spaces in phase 3. Providing affordable housing needs to be balanced with the number of required parking spaces.

**MOTION** to approve request to modify the approved conditional use for the 18.18- acre three-phase Village Square development, increasing the approved density from 15.51 dwelling units per acre to 15.84 dwelling units per acre, to develop the 3.07-acre Phase III portion as Island Cove, with the condition that the applicant must provide a minimum number of 114 onsite parking spaces, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan was made by Julen Blankenship and seconded by Joy Howell.

**MOTION CARRIED 7-0.**

**B. Bounce Sporting Club, Conditional Use (2021-243-USE):** Provide a recommendation to the City Commission regarding a Conditional Use request to establish a Late-Night Business until 2:00A.M. for Bounce Sporting Club, located at 625 East Atlantic Avenue, Building I, Suite No. 115 at the southwest corner of East Atlantic Avenue and NE 7th Avenue within Atlantic Crossing. (PUBLIC HEARING)

**Agent:** Michael E. Dutko, Jr., Conrad & Scherer; MDutko@conradscherer.com

**Planner:** Rebekah Dasari, Senior Planner; dasarir@mydelraybeach.com

Rebekah Dasari, Senior Planner, entered the File No. 2021-243 into the record.

**Exparte Communication**

Chris Davey- Drive by

Julen Blankenship- Drive by received email from Michael Dutko

Joy Howell- Drive by received email from Michael Dutko

Allen Zeller- Visited the site, received email from Michael Dutko

Rob Long- Drive by

Max Weinberg- Drive by

Christina Morrison- Drive by

**Applicant Presentation**

Michael Dutko, Conrad & Scherer Law Firm

**Staff Presentation**

Rebekah Dasari, Senior Planner, presented the project through a PowerPoint presentation.

**Public Comments**

Claudia Willis- 116 Marine Way was concerned that noise emanating from the business and will negatively affect neighboring properties, specifically properties located with the Marina Historic District.

**Rebuttal/Cross**

Michael Dutko- the use is located on the western portion of the property, this use/ bar is not within 300 feet of residential structures and will not negatively affect residentially zoned properties.

**Board Comments**

Julen Blankenship was opposed to extending the hours of operation to 2:00A.M. as this establishment is located outside the entertainment district.

Allen Zeller stated that the noise will negatively affect residential properties located within the Marina Historic District and would oppose the extension of the operating hours.

Christina Morrison opposed the granting of the extended hours as the noise and overflow would negatively affect the neighboring community. Ms. Morrison found that the applicant did not meet the required findings necessary to grant a conditional approval to operate till 2:00 A.M.

Joy Howell stated that the Marina District would be negatively affected by the noise and neighboring residential residents did not expect the proposed business to operate late hours.

Rob Long stated that the applicant can initiate a private text amendment to extend the operating hours outside the entertainment district. Mr. Long concerned with setting a precedent of granting extended hours to establishments located outside the entertainment district.

Max Weinberg inquired as to the locations of Bounce establishments in Chicago and New York in relation to residential properties. The applicant stated that live music and special events would be held in the establishment, Mr. Weinberg would like additional information regarding noise mitigation efforts by the applicant.

Chris Davey noted that the establishment is not located within the entertainment district and thereby would not support allowing operations till 2 A.M. The applicant is free to initiate an LDR amendment to consider this establishment to be located within the entertainment district.

Mr. Zeller left the Dias at 7P.M, Mr. Long did not vote regarding this matter.

**MOTION** to table the matter to the December 13, 2021, meeting made by Christina Morrison and seconded by Joy Howell.

**MOTION CARRIED 5-1** Dissenting Julen Blankenship.

**C. Atlantic Grove Plat No. 2 (2021-148):** Certification of the Preliminary Plat and recommendation to the City Commission of the Final Plat, "Atlantic Grove Plat No. 2," associated with the Atlantic Grove development for the creation of 14 fee-simple lots and open space tracts, provision of easements and dedication of right-of-way for the properties currently addressed 35-37 NW 4th Avenue and generally located at the intersection of NW 1st Street and NW 4th Avenue.

**Address:** 35-37 NW 4th Avenue

**Owner:** Atlantic Grove Partners, LLC

**Applicant:** Timothy Hernandez, Atlantic Grove Partners  
thernandez@newurbancommunities.com

**Planner:** Elizabeth Eassa, AICP, Senior Planner; eassae@mydelraybeach.com

Elizabeth Eassa, Senior Planner, entered the File No. 2021-148 into the record.

**Exparte Communication**

Chris Davey- None

Julen Blankenship- None

Joy Howell- None

Allen Zeller- Absent

Rob Long- None

Max Weinberg- None

Christina Morrison- None

**Applicant Presentation**

Timothy Hernandez, Atlantic Grove Partners

**Staff Presentation**

Elizabeth Eassa, Senior Planner, presented the project through a PowerPoint presentation.

**Public Comments**

None

**Rebuttal/Cross**

None

**Board Comments**

None

**MOTION** Move approval of the preliminary plat and recommendation of approval to the City Commission for the certification of the Final Plat for Atlantic Grove Plat No. 2, finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations made by Christina Morrison and seconded by Max Weinberg.

**MOTION CARRIED 6-0**

**D. Delray Ridge Plat (2020-237):** Consideration of the Preliminary Plat and recommendation to the City Commission for the certification of the Final Plat, "Delray Ridge" with three waivers from Section 4.3.4(K) of the Land Development Regulations (LDR), associated with the creation of 14 fee-simple lots, for the properties currently addressed as 2201, 2275, and 2315 North Swinton Avenue and an unaddressed vacant parcel, located at the northeast corner of North Swinton Avenue and NE 22nd Street.

**Property Owner & Applicant:** Delray Ridge, LLC / Ron Elish Authorized

**Agent:** Allan Hendricks, RLA; allan@cwiasoc.com

**Planner:** Amy Alvarez, Principal Planner; alvarez@mydelraybeach.com

Amy Alvarez, Principal Planner, entered the file 2020-237 into the record.

**Exparte Communication**

Chris Davey- None

Julen Blankenship- None

Joy Howell- Walked the property, spoke with Allan Hendricks

Allen Zeller- Absent

Rob Long- None

Max Weinberg- Visited site, toured the property

Christina Morrison- None

**Applicant Presentation**

Allan Hendricks- Planner

**Staff Presentation**

Amy Alvarez, Principal Planner, presented the project through a PowerPoint presentation.

**Public Comments**

Gale Clark 124 NE 7<sup>th</sup> Avenue- would like to preserve an additional number of existing trees on the property.

**Rebuttal/Cross**

Allen Hendricks- 25% of the vegetation on the property comprises of bamboo, there is a balance of preserving existing vegetation and development of the properties. Funds are being placed into the tree trust fund.

Amy Alvarez- A limited access easement on NE 22<sup>nd</sup> Street and North Swinton Avenue was provided.

**Board Comments**

Joy Howell requested clarification as to if the parcels seeking waivers were considered to meet the definition to be corner lots. Ms. Howell believed that the amount of tree canopy and shade tree preserved should be increased.

Julen Blankenship questioned the applicant if the applicant took any efforts to relocate any existing trees to an offsite location or preserve the existing tree canopy.

Rob Long was supportive of the project, in addition found that the applicant exceeded the amount of mitigation required by the Land Development Regulations.

Max Weinberg inquired regarding preserving the existing structures and vegetation. Mr. Weinberg inquired regarding a large Ficus tree that is located in the center of the proposed project and the viability of building around the existing landscaping.

Christina Morrison stated that the requested waivers were unreasonable as the minimum waiver requested was 10 feet.

Chris Davey was concerned that the waivers if granted would create nonconforming parcels that will require ancillary improvements to seek variances in the future. Mr. Davey recommended that the applicant should take steps to preserve more of the additional existing canopy.

**MOTION** Move denial of the preliminary plat for Delray Ridge, finding that the request is inconsistent with the Comprehensive Plan and does not meet criteria set forth in the Land Development Regulations was made by Julen Blankenship and seconded by Rob Long.

**MOTION FAILED 2-4 Dissenting** Max Weinberg, Christina Morrison, Joy Howell and Rob Long

**MOTION** to table made by Christina Morrison seconded by Rob Long.

**MOTION CARRIED 4-2 Dissenting** Julen Blankenship and Chris Davey

## **9. LEGISLATIVE ITEMS**

**A. Motorcycle Sales in the General Commercial Zoning District (2020-240):** Provide a recommendation to the City Commission on Ordinance No. 36-21, a privately initiated amendment to the Land Development Regulations (LDR) to allow the sale and service of motorcycles with no outside display, outside storage, or outside service and including specific limitations as a conditional use within the General Commercial (GC) zoning district.

**Applicant:** James H. Batmasian

**Authorized Agent:** Robert A. Eisen; [reisen@investmentslimited.com](mailto:reisen@investmentslimited.com)

**Planner:** Amy Alvarez, Principal Planner; [alvarez@mydelraybeach.com](mailto:alvarez@mydelraybeach.com)

**THIS ITEM WAS WITHDRAWN BY THE APPLICANT PRIOR TO THE MEETING.**

**10. REPORTS AND COMMENTS**

**A. Staff (Amy Alvarez)**

- a. Railroad Corridor subdistrict workforce housing LDR Amendment
- b. Board of Adjustments Ordinance
- c. Seawall Ordinance
- d. Domestic Animal Services Ordinance
- e. CBD Expansion
- f. Green Building Ordinance

**B. Attorney-No comments.**

**C. Board Members-No comments.**

**10. ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 9:30pm.

The undersigned is the Secretary of the Planning & Zoning Board and the information provided herein is the Minutes of the meeting of said body for **October 18, 2021,** which were formally adopted and APPROVED by the Board on **XXXXX.**

**ATTEST:**

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**CHAIR**

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**BOARD SECRETARY**

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