

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

MEETING DATE: January 24, 2022

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

This meeting was called to order by Julen Blankenship, Vice Chairman at 5:01PM.

2. ROLL CALL

A quorum was present at call to order.

Members Present: Julen Blankenship, Vice Chairman; Joy Howell, 2nd Vice Chairman (arrived 5:04 PM); Allen Zeller; Max Weinberg, and Christina Morrison.

Members Absent: Chris Davey, Chairman and Rob Long

Staff Present: Anthea Gianniotis, Development Services Director; William Bennett, Assistant City Attorney; Amy Alvarez Principal Planner; Katherina Paliwoda, Planner; Andrew Allen, Planner; Alexis Rosenberg, Senior Planner; and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Motion to APPROVE the January 24, 2022, agenda by Christina Morrison and seconded by Max Weinberg.

MOTION CARRIED 5-0

4. MINUTES

Motion to APPROVE the amended minutes for the January 27, 2020 meeting, correcting the vote for item 8.B by Christina Morrison and seconded by Max Weinberg.

MOTION CARRIED 3-1

Dissenting Allen Zeller

5. SWEARING IN OF THE PUBLIC

Julen Blankenship, Vice Chair, read the Quasi-Judicial Rules for the City of Delray Beach and the Board Clerk swore in all who wished to give testimony.

6. COMMENTS FROM THE PUBLIC

None

7. PRESENTATIONS

A. Initiation of the City's Annual Infrastructure Improvement Hearing: Review the Capital Improvements Project (CIP) process and open the Annual Infrastructure Improvement Hearing. NOTE: This initiation also serves as an announcement to the City of Delray Beach's residents, property owners, and businesses to begin thinking about the infrastructure needs they observe so they can share them with City Staff. Information regarding the submittal of public comments is provided in the attachment.

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

Amy Alvarez, Principal Planner; entered the file into the record.

Board Comments

Christina Morrison inquired as to why the water and sewer plant was not included in the hearing.

Allen Zeller asked if there are any tree preservation measures contained within the Capital Improvements Project.

Julen Blankenship requested the date of the public infrastructure hearing. Amy Alvarez said it would be in March.

8. QUASI-JUDICIAL HEARING ITEMS

A. Outdoor Dining at Night, Sundry Village (2021-184): Consideration of a Conditional Use request to allow outdoor dining at night associated with restaurants located along West Atlantic Avenue within Buildings 1 & 2, of Sundry Village (fka Midtown), Old School Square Historic District. (PUBLIC HEARING)

Address: Sundry Village, Old School Square Historic District

Owner/Applicant: Sundry Village West LLC; jhochman@pebbcap.com

Agent: Mike Covelli, Covelli Design Associates; mike@covellidesign.com

Planner: Katherina Paliwoda, Planner; paliwodak@mydelraybeach.com

Exparte Communication

Julen Blankenship-Spoke with City Staff

Joy Howell- None

Allen Zeller- Visited Site

Max Weinberg- Familiar with project

Christina Morrison- Familiar with project

Katherina Paliwoda, Planner entered project file 2021-184 into the record.

Applicant Presentation

Mike Covelli, Covelli Design Associates, Inc., 1209 S Swinton Avenue, Delray Beach FL 33444

Staff Presentation

Katherina Paliwoda, Planner presented the project from a Microsoft PowerPoint presentation.

Public Comments

George Long, 46 N Swinton- Supportive of issuing the conditional use, and noted that outdoor dining generally does not create unreasonable noise.

John Mallon, 12 SE 1st Avenue-Speaks as representative of the Royal Atlantic Condominium Association, in opposition to the conditional use. States that late night

dining creates additional noise, and at times an unruly crowd after 10PM. Adequate parking and crowd control need be in place.

Dave Neavensal, 111 SE 1st Avenue-Requested a timeline for the completion of the construction. Additionally requested information regarding the zoning of a portion of the project.

Rebuttal/Cross

Mike Covelli noted that adequate onsite underground parking will be provided in order to minimize additional vehicle or pedestrian traffic through adjacent communities.

Katherina Paliwoda indicated that adequate onsite parking, as required by the City's Land Development Regulations, is provided to accommodate the patrons of the establishments.

Board Comments

Max Weinberg inquired as to the proposed number of parking spaces provided and if the parking is open to the general public. Mr. Weinberg was favorable to granting the conditional use if conditions are added regarding noise and public safety.

Allen Zeller asked the applicant if there will be outdoor amplified music. Mr. Zeller wanted to know if the outdoor seating area was off set from Atlantic Avenue, to prevent groups of people of congregating and creating pedestrian traffic obstructions. Mr. Zeller was supportive in granting the conditional use if pedestrian safety concerns are addressed.

Joy Howell requested clarification if the applicant was requesting extended hours and if it would be possible to change the working hours to 11PM as opposed to 12AM as permitted by the City's Land Development Regulations.

Christina Morrison noted that outdoor dining is a trend that will not dissipate, and asked if the underground parking lot is adequate for the business patrons. The previous submittals for the property proposed an elevated area; the plans no longer indicate that the grade along Atlantic Avenue is raised. Discussion. Restaurants will be located within buildings solely dedicated for office use. Ms. Morrison was concerned about additional music resulting from the outside dining, and potential safety concerns due to the proximity of vehicular traffic.

Julen Blankenship was concerned about public safety and requested information as to safety measures required by the Land Development Regulations. Ms. Blankenship requested clarification if there was a change in the grade from Atlantic Avenue; it was indicated that the project will be at grade on Swinton Avenue and Atlantic Avenue. Ms. Blankenship would be in favor of granting the conditional use if a safety buffer adjacent to the outdoor dining area be provided.

Joy Howell requested information regarding the restroom facilities and sanitation facilities to ensure that adequate facilities are provided.

MOTION to move a recommendation of approval with conditions to the City Commission for a Conditional Use request (2021-184) to allow outdoor dining at night associated with restaurants located along West Atlantic Avenue within Buildings 1 & 2, of Sundy Village (fka Midtown), Old School Square Historic District., by finding that the request is consistent with the land development regulations and the policies contained within the Comprehensive Plan subject to the following conditions: **1.** The noise be contained to a low decibel level after 10PM, and **2.** That safety mechanisms be installed to protect the business patrons was made by Christina Morrison and seconded by Joy Howell.

4-1 Motion Carried

Dissenting Allen Zeller

B. SE 3rd Avenue, Land Use Map Amendment (2022-033) and Rezoning (2022-034): Provide a recommendation to the City Commission on Ordinance Nos. 02-22 and 03-22, privately-initiated requests for a Land Use Map Amendment (LUMA) (Ordinance No. 02-22), and rezoning request (Ordinance No. 03-22) for the +/-0.1109 acre property located on the west side of SE 3rd Avenue between East Atlantic Avenue and SE 1st Street (PCN # 12-43-46-16-01-085-0050) with an associated amendment to the Land Development Regulations (LDR) Figure 4.4.13-B-1, Central Core and Beach Sub-districts Regulating Plan, to officially include the subject property. (PUBLIC HEARING)

Authorized Agent: Bonnie Miskel, Esq., Dunay, Miskel & Backman, LLP; bmiskel@dmbblaw.com

Planner: Alexis Rosenberg, Senior Planner; rosenberga@mydelraybeach.com

Alexis Rosenberg, Senior Planner entered project file 2022-033 into the record.

Exparte Communication

Julen Blankenship- Spoke with staff

Joy Howell- None

Allen Zeller- None

Max Weinberg- None

Christina Morrison- None

Applicant Presentation

Christina Bilenki, Dunay, Miskel & Backman, LLP 14 SE 4th St #36, Boca Raton, FL 33432

Staff Presentation

Alexis Rosenberg, Senior Planner presented the project from a Microsoft PowerPoint presentation.

Public Comments

None

Rebuttal/Cross

None

Board Comments

None

MOTION Move a recommendation of approval to the City Commission of Ordinance No. 02-22, a privately-initiated request to amend the land use map from Community Facilities (CF) to Commercial Core (CC) for the property located at SE 3rd Avenue (PCN # 12-43-46-16-01-085-0050), finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations was made by Christina Morrison and seconded by Max Weinberg.

MOTION CARRIED 5-0

MOTION to move a recommendation of approval of Ordinance No. 03-22, a privately-initiated request to rezone the property located at SE 3rd Avenue (PCN # 12-43-46-16-01-085-0050) from Community Facilities (CF) to Central Business District (CBD), within the Central Core Sub-district, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations was made by Christina Morrison and seconded by Joy Howell.

MOTION CARRIED 5-0

9. LEGISLATIVE ITEMS

A. Outdoor Consumption of Alcohol at Stand Alone Bars (2021-014): Provide a recommendation to the City Commission regarding Ordinance No. 08-22, a privately initiated amendment to Section 4.3.3(V), "Special Requirements for Specific Uses" and Section 4.6.6, "Commercial and industrial uses to operate within a building" of the Land Development Regulations (LDR) to allow outdoor consumption of alcohol at standalone bars serving only beer and wine, and to provide regulations to support the health, safety, and general welfare of the public.

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

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

Rebekah Dasari, Senior Planner, entered project file 2021-014 into the record.

Exparte Communication

Julen Blankenship- Spoke with staff

Joy Howell- Spoke with staff

Allen Zeller- Visited the site

Max Weinberg- Drive by, familiar with the site

Christina Morrison- Familiar with the site

Applicant Presentation

Andrea Keiser, Esq., Keiser Legal PLLC 55 SE 2nd Avenue Delray Beach FL 33444

Staff Presentation

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

Public Comments

None

Rebuttal/Cross

None

Board Comments

Allen Zeller inquired if Hoppportunities would be required to submit a conditional use and/or site plan modification if this Land Development Regulation takes effect. Mr. Zeller questioned why the Board is reviewing this request, he stated that the City Commission should make the determination.

Max Weinberg asked the applicant the distance from the Hoppportunities to the nearest residential structure. Mr. Weinberg read into the record Objective NDC 3.5 Element (Districts and Corridor Element). Due to Covid 19 standalone bars were able to utilize an outdoor area, if passed this Land Development Regulation will allow all standalone bars to apply for a conditional use to utilize an outdoor area.

Christina Morrison inquired as to current business that are within 300 feet of a residential structure.

Julen Blankenship was concerned that the use of outdoor spaces to consume alcohol will be detrimental to neighboring properties. Ms. Blankenship stated that the property line and not from the outdoor area should be utilized when determining the 300-foot distance.

MOTION to recommend denial to the City Commission of Ordinance No. 08-22, amending Section 4.3.3 “Special requirements for specific uses”, Subsection (V) “Uses involving alcoholic beverages”; and Section 4.6.6 “Commercial and industrial uses to operate within a building”, Subsection (B) “Allowable outside uses” of the Land Development Regulations, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations made by Joy Howell and seconded by Allen Zeller.

MOTION CARRIED 4-1

Dissenting Christina Morrison

B. Automotive Window Tinting and Styling Services, Similarity of Use Determination (2022-055-SIM-PZB): Determination of a similarity of use of automotive window tinting and styling services to "vehicle care limited to the changing of oil and filters, and lubrication with no mechanical work or outside storage of vehicles except as part of a gasoline station," which is permitted as a conditional use within the General Commercial (GC) zoning district, pursuant to Land Development Regulations (LDR) Section 4.4.9(D) (I3).

Agent: Christina Bilenki; Dunay, Miskel, & Backman LLP; cbilenki@dmbblaw.com

Planner: Andrew Allen, Planner/GIS Specialist; allena@mydelraybeach.com

Andrew Allen, Planner; entered project file 2022-055 into the record.

Exparte Communication

Julen Blankenship- None

Joy Howell- Spoke with staff

Allen Zeller- Visited the site

Max Weinberg- None

Christina Morrison- None

Applicant Presentation

Christina Bilenki, Dunay, Miskel & Backman, LLP 14 SE 4th St #36, Boca Raton, FL

Staff Presentation

Andrew Allen, Planner presented the project from a Microsoft PowerPoint presentation.

Public Comments

None

Rebuttal/Cross

None

Board Comments

Christina Morrison confirmed that window tinting was permitted within the automotive commercial zoning district.

MOTION that the Planning and Zoning Board find that the use of automotive window tinting, and styling services is similar to "vehicle care limited to the changing of oil and filters, and lubrication with no mechanical work or outside storage of vehicles except as part of a gasoline station," which is permitted as a conditional use within the GC zoning was made by Joy Howell and seconded by Christina Morrison.

MOTION CARRIED 5-0

10. REPORTS AND COMMENTS

A. City Staff

- Seawall LDR Amendment and Sherwood Land Use amendment and master development plan was adopted by the City Commission on January 11.
- Next Planning and Zoning Board meeting will be February 28th, and the meeting in March will be held on the 21st.

B. Board Attorney

None

C. Board Member

Allen Zeller requested an update regarding the road closure ordinance along with an update regarding the Affordable Housing Committee.

Julen Blankenship inquired when the Sundry Village project will be presented before the Historic Preservation Board.

11. ADJOURN. There being no further business to come before the Board, the meeting was adjourned at 8:20 PM.

The undersigned is the Board Secretary of the Planning and Zoning Board and the information provided herein is the Minutes of the meeting of said body for **January 24, 2022**, which were formally adopted and APPROVED by the Board on

_____.

ATTEST:

Chair

Board Secretary

NOTE TO READER: If the Minutes you have received are not completed as indicated above, then this means that these are not the official Minutes of the Planning and Zoning Board. They will become official minutes only after review and approval, which may involve some amendments, additions, or deletions.