

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

MEETING DATE: March 21, 2022

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

This meeting was called to order by Chris Davey, Chairman at 5:03PM.

2. ROLL CALL

A quorum was present at call to order.

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

Members Absent: None.

Staff Present: William Bennett, Assistant City Attorney; Amy Alvarez, Principal Planner; Elizabeth Eassa, Senior Planner; Alexis Rosenberg, Senior Planner; Katherina Paliwoda, Planner; Andrew Allen, Planner; and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Motion to APPROVE the March 21, 2022, agenda by Christina Morrison and seconded by Joy Howell.

MOTION CARRIED 7-0

4. MINUTES

None

5. SWEARING IN OF THE PUBLIC

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

6. COMMENTS FROM THE PUBLIC

None

7. PRESENTATIONS

A. Annual Infrastructure Improvement Hearing: Review the public comments collected during the Annual Infrastructure Improvement Hearing process since January 24, 2022, accept new public comments, and recommend which projects should be forwarded to City Staff for evaluation and inclusion in 2023-2027 Capital Improvements Plan (CIP).

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

Public Comments

Harvey Valdman 115 S Longport Circle Unit A1. Mr. Valdman indicated that he represented residents from Village at Swinton Square requested sidewalk and the landscaping improvements at SW 10th Avenue and S. Swinton Avenue.

Karen Gobrecht 123 S Longport Circle 9B. Mr. Gobrecht was concerned about the condition of the sidewalk on SW 10th Avenue and S. Swinton Avenue and the traffic lights in the area.

Gary Wulf 831 SE 4th Avenue. Mr. Wulf noted that the improvements in the Osceola neighborhood are taking too long, City staff indicated that improvements would be completed years ago.

Board Comments

Max Weinberg inquired if a new public announcement system was going to be installed in the Commission Chambers. Allen Zeller seconded Mr. Weinberg’s inquiry. Mr. Weinberg recommended that the City explore options for the parking lot for Atlantic Dunes Park in order better utilize that parking area.

Christina Morrison was concerned about the condition of Veterans Park; she recommended that the condition of the benches and landscaping need to be addressed and recommended that the City enact an adopt a park program. Ms. Morrison noted that Old Germantown Road needs to be resurfaced, Mr. Long seconded her concern.

Julen Blankenship suggested that a crosswalk is needed on Lawson Boulevard and Congress Avenue due to prevalent numbers of illegal pedestrian crossings in that area.

Chris Davey noted that the condition of Veterans Park needs to be addressed and the park needs to be revitalized.

8. QUASI-JUDICIAL HEARING ITEMS

A. Beach Dog Daycare, Conditional Use (2022-083-USE): Provide a recommendation to the City Commission regarding a Conditional Use request to allow a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) and a pet hotel with an outdoor use area at the property located at 820 SE 5th Avenue. (PUBLIC HEARING)

Agent: Jeffrey A. Costello, AICP, FRA-RA., jcostello@jcplanningsolutions.com

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

Exparte Communication

Julen Blankenship- None

Joy Howell- None

Allen Zeller- Visited the site, received emails

Max Weinberg- Received phone call from applicant and visited the site

Christina Morrison- Spoke with Applicant and visited the site

Chris Davey- Spoke with the Applicant and received emails

Rob Long- Spoke with the Applicant

Elizabeth Eassa, Senior Planner entered File No. 2022-083 into the record.

Applicant Presentation

Jeffrey A. Costello JC Planning Solutions 981 Delray Lakes Drive Delray Beach FL 33444

Staff Presentation

Elizabeth Eassa, Planner presented the project from a Microsoft PowerPoint presentation.

Public Comments

Steven Ferguson 823 SE 4th Avenue. Lives directly behind the establishment and indicated that the noise and odor is negatively affecting his property.

Annette Gallager-823 SE 4th Avenue. Lives 42 feet from the property line of Beach Dog, and indicated that the business is negatively affecting the neighboring residential properties. The LDR requires a 300-foot separation from residential properties for a reason.

Jen Barasso-235 NE 1st Street. Beach Dog provides a positive service in the community, and to her dog.

Robert Feinberg-142 B Marine Way. Brings his dog to the establishment, and states that the business provides a service to the community.

Albert Thorp-901 SE 4th Avenue. Dog are barking 24/7 and affecting the neighboring residential properties; she opposes granting a conditional use.

Mark Zuckley-629 SE 4th Avenue. Stated that the noise from the establishment is affecting the neighborhood and is opposed granting the conditional use approval.

Carolina Calderon-831 SE 4th Avenue. Lives behind the establishment. Ms. Calderon opposes the conditional use because the noise from the establishment affects the use and enjoyment of the property. Beach Dog has boarded dogs in violation of the Business Tax Receipt.

Terry Berman-2944 Needham Court. Stated that Beach Dog provides a needed service to the community.

Nick Matela-805 SE 4th Avenue. Lives within 300 feet of the establishment and opposes the granting of the conditional use. The noise from the establishment affects the surrounding community and the business operator has operated in violation of City Code.

Gary Wulf-831 SE 4th Avenue. Mr. Wulf played audio and 2 videos of dogs barking. He opposes the granting of conditional use and noted that the business operator has been operating in violation of the City Code. The noise from the establishment negatively affects his use of his property.

James Quilian-925 SE 2nd Avenue. Opposes the granting of the conditional approval. The noise from the establishment negatively affects the surrounding community. Mr. Quilian feels that efforts to mitigate noise will not be successful, as the building that Beach Dog operates from is metal.

Elizabeth McQue-732 SE 3rd Avenue. Is favorable to granting the conditional use and does not hear dogs barking when walking her dogs.

Stephanie Trigg-208 SE 8th Street. Supportive of granting the conditional use, as Beach Dog is a woman owned business and provides a needed service.

Anna Roselli-710 NW 1st Avenue. The City needs to have businesses of this type in the City, as Beach Dog provides a need service.

Randy Goldberg, attorney for the business owner-151 NW 1st Avenue. Requested approval of the conditional use request, and said that the business owner will make all efforts to be compliant with the City’s Land Development Regulations regarding animal boarding.

Rebuttal/Cross

Jeff Costello called Jennifer Roselli to speak to the Board. Ms. Roselli said that she has tried to comply with the City’s regulations. Mr. Costello noted that additional measures to minimize disruptions to adjacent properties will be installed.

Anthea Gianniotis stated that a Zoning Certificate of Use was obtained by the applicant in December 2019, which indicated that boarding was not a permitted use. A second Zoning Certificate of Use was submitted for animal boarding, it was denied.

Board Comments

Julen Blankenship is opposed granting the conditional use, as it does not meet the requirements set forth in the Land Development Regulations. Ms. Blankenship noted that the LDR required a 300-foot buffer for any outside use, this separation was enacted to prevent harm to adjacent properties.

Allen Zeller requested clarification if a denial from the Board would preclude the project from being presented before the City Commission. Mr. Zeller was in favor of voting to recommend approval of the conditional use, to allow the City Commission to make the ultimate determination whether to grant the conditional use.

Christina Morrison noted that the zoning district changed from General Commercial (GC) to Central Business District (CBD) and that the permissible uses in a CBD generally create additional noise. Ms. Morrison was supportive in granting the conditional use during daytime hours where noise from the establishment would have a less of a negative impact to the adjacent community.

Max Weinberg requested additional information from the applicant as to steps the property owner would take to make the structure compliant with the requirements listed in the Land Development Regulations. Mr. Weinberg noted that soundproofing within the building needs to be installed to eliminate noise emanating from the building. Mr. Weinberg stated that dog boarding is a needed service within the community, but would be supportive of conditional use to operate only during daytime hours.

Joy Howell requested clarification on whether the 300-foot separation requirement was in place prior to the rezoning to CBD. Anthea Gianniotis indicated that boarding was not an approved use within the General Commercial or Central Business District zoning districts at that time. Ms. Howell was not sympathetic to business owners who operate in contradiction to the allowable uses within a zoning district.

Rob Long's chief concern was regarding the ability to buffer the noise emitting from building. Mr. Long was favorable to require conditions to mitigate noise resulting from the business. Mr. Long indicated that the City Commission should make the ultimate decision whether to grant the conditional use.

Chris Davey was supportive of granting the conditional use between the hours of 6AM to 8PM for a limited time. The applicant would be able to appear before the board in the future to request additional operating hours.

MOTION to recommend approval to the City Commission of a conditional use request for Beach Dog Daycare to allow a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) at the property located at 820 SE 5th Avenue, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan, with the condition that the hours of operations be limited from 7AM to 7PM.

MOTION CARRIED 6-1

Dissenting Joy Howell

B. PopStroke Delray Plat (2022-029): Consideration of the Preliminary Plat and recommendation to the City Commission for the certification of the Final Plat, "Popstroke Delray," associated with the PopStroke Class V site plan application for a 4,628 square foot restaurant and 18-hole miniature golf course, provision of easements and dedication of right-of-way.

Address: 1314 North Federal Highway and associated parcels with PCN numbers 12-43-46-0912-000-0052, 12-43-46-0912-000-0061, 12-43-46-0912-000-0062, 12-43-46-0939-000-0045, generally located between Old Dixie Blvd and North Federal Highway, east of NE 14th Street.

Owner: Popstroke Land Delray Beach, LLC

Applicant: Mike Covelli, AICP, mike@covellidesign.com

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

Exparte Communication

Julen Blankenship- Drove by the site

Joy Howell- Spoke with applicant, drove by the site

Allen Zeller- Visited the site
Max Weinberg- Drove past the site, familiar with the project
Christina Morrison- Spoken to the business and property owner
Chris Davey- None
Rob Long- None

Elizabeth Eassa, Senior Planner entered File No. 2022-029 into the record.

Applicant Presentation

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

Staff Presentation

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

Public Comments

Alice Finst-707 Place Tavant. Requested the address of the project.

Rebuttal/Cross

None

Board Comments

Allen Zeller asked if the conditions imposed by the Board in a previous meeting were adhered to.

Christina Morrison asked if access to the business will be on Old Dixie Boulevard and/or Federal Highway.

MOTION to move approval of the preliminary plat and recommendation of approval to the City Commission for the certification of the Final Plat for Popstroke Delray, finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations was made by Julen Blankenship and seconded by Christina Morrison.

MOTION CARRIED 7-0

C. Sundy Village Plat (2020-112): Consideration of the Preliminary Plat and recommendation to the City Commission for the certification of the Final Plat associated with the creation of four parcels located on Blocks 61, 62, 69 and 70 of the Town of Delray subdivision (formerly the Town of Linton, Florida), the former Rectory Park Plat, and the former Sundy Estates subdivision.

Property Owner/Applicant: Sundy Village West, LLC

Authorized Agent: Covelli Design Associates, Inc.

Planner: Scott Pape, Development Permit Manager, pape@mydelraybeach.com

Exparte Communication

Julen Blankenship- Drove by the site

Joy Howell- None
Allen Zeller- Visited the Site, drive by
Max Weinberg- Spoke with principals, familiar with the project
Christina Morrison- Spoke with the developer.
Chris Davey- None
Rob Long- None

Scott Pape, Development Permit Manager entered File No. 2020-112 into the record.

Applicant Presentation

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

Staff Presentation

Scott Pape, Development Permit Manager presented the project from a Microsoft PowerPoint presentation.

Public Comments

None

Rebuttal/Cross

None

Board Comments

Allen Zeller inquired if any road closures will occur during construction.

Christina Morrison noted that the traffic study submitted was conducted in 2017, Ms. Morrison asked City staff if the study was relevant as the project has been amended since 2017. An updated traffic study was provided.

MOTION to move approval of the Preliminary Plat and recommendation of approval to the City Commission for the Certification of the Final Plat for Sundry Village, finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations was made by Julen Blankenship and seconded by Christina Morrison.

Motion Carried 7-0

9. LEGISLATIVE ITEMS

A. Retail Establishment with Optometrist Services, Similarity of Use Determination (2022-105): Determination of a similarity of use of "retail establishment with optometrist services" to "pharmacy".

Agent: Mathew H. Scott, Esq.; Dunay, Miskel, & Backman LLP; mscott@dmblaw.com

Planner: Rachel Falcone, Planner; FalconeR@mydelraybeach.com

Rachel Falcone, Planner entered File No. 2022-105 into the record.

Applicant Presentation

Mathew H. Scott Esq Dunay, Miskel, & Backman LLP 14 SE 4th St #36, Boca Raton, FL 33432

Staff Presentation

Rachel Falcone, Planner presented the project from a Microsoft PowerPoint presentation.

Public Comments

None

Rebuttal/Cross

Matthew Scott indicated that if approved this similarity of use would apply to several zoning districts.

Board Comments

Julen Blankenship asked if the request was approved if a retail optometrist and a pharmacy would be allowable uses within the same zoning districts.

Chris Davey asked if there was a limitation on the amount of square footage the optometrist can use to ensure that the non-retail is an accessory to the retail principal use. Mr. Davey opposed granting the similarity of use as granting the request may result in unintended consequences in regard to other sections of the Land Development Regulations.

Allen Zeller inquired why the similarity of use was not site specific, and expressed concern that, if granted, there can be future unintended consequences. If approved, this similarity of use may conflict with retail frontage requirements within certain subdistricts.

Christina Morrison was supportive of the request if a percentage limitation of nonretail use was imposed to indicate that the primary use was retail sales.

MOTION to find that the Planning and Zoning Board does not find that the use of “retail establishment with optometrist services” is similar to “pharmacies,” which is a permitted use within the following zoning districts: GC, NC, PC, CBD, PCC, and MROC was made by Julen Blankenship and seconded by Christina Morrison.

Motion Carried 6-1

Dissenting Rob Long

B. Capital Improvements Plan: Provide a statement of finding that the 5-Year Capital Improvement Plan for FY 2021-22 through FY 2025-26 and the FY 2021-22 Capital Improvement Budget are consistent with the Comprehensive Plan and providing a recommendation to the City Commission on Ordinance No. 12-22.

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

Rebekah Dasari, Senior Planner entered the item into the record.

Allen Zeller asked Ms. Dasari if the Comprehensive Plan from 2021 was being followed.

Christina Morrison asked why the water plant was not a top priority in the proposed Capital Improvement Plan.

Motion to provide a statement of finding that the Five-Year Capital Improvement Plan for FY 2021-22 through FY 2025-26 and the FY 2021- 22 Capital Improvement Budget are consistent with the Comprehensive Plan and recommend approval of Ordinance No. 12-22 to the City Commission was made by Joy Howell and seconded by Christina Morrison.

Motion Carried 7-0

10. REPORTS AND COMMENTS

A. City Staff

Upcoming board meetings are April 18, 2022 and May 16, 2022.

B. Board Attorney

None

C. Board Members

None

11. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 9:36 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 **March 21, 2022**, which were formally adopted and APPROVED by the Board on _____.

ATTEST:

Chair

Board Secretary

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