

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

MEETING DATE: November 14, 2022

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

This meeting was called to order by Chris Davey, Chair at 5:13pm.

2. ROLL CALL

A quorum was present at call to order.

Members Present: Chris Davey, Chair; Joy Howell, Vice Chair; Julen Blankenship, 2nd Vice Chair; Allen Zeller; Christina Morrison; and Gregory Snyder

Members Absent: Chris Brown

Staff Present: William Bennett, Assistant City Attorney; Rebekah Dasari, Principal Planner; Amy Alvarez, Principal Planner; Alexis Rosenberg, Senior Planner; Julian Gdaniec, Senior Planner; and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Item 8A was removed from the agenda.

Item 8D was postponed to the December 12, 2022, meeting, at the request of the applicant but was read into the record.

Item 8D became item 8A and item 8E become 8D.

Motion to APPROVE the amended November 14, 2022, agenda by Christina Morrison and seconded by Julen Blankenship.

MOTION CARRIED 6-0

4. MINUTES

The June 20, 2022, minutes should read that the vote was 5-2 for item 2022-183.

Motion to APPROVE the minutes of the June 20, 2022, meeting as amended, was made by Christina Morrison and seconded by Julen Blankenship.

Motion Carried 6-0

Motion to APPROVE the minutes of the July 18, 2022, August 15, 2022, and September 12, 2022, meetings was made by Julen Blankenship and seconded by Joy Howell.

Motion Carried 6-0

5. SWEARING IN OF THE PUBLIC

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

6. COMMENTS FROM THE PUBLIC

None

7. PRESENTATIONS

None

8. QUASI-JUDICIAL HEARING TERMS

A. Delaire Country Club (File No. 2022-265): Provide a recommendation to the City Commission on Resolution No. 168-22, to rename a portion of Live Oak Boulevard, a private right-of-way that runs from South Military Trail to the intersection of White Cedar Lane, to Delaire Boulevard.

Applicant: Delaire Country Club Property Owners' Association, Inc.

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

Item was removed from the agenda at the request of the applicant.

B. Abandonment of Alley Right-of-Way, Adjacent to 201 and 213 SE 2nd Avenue, and 206 SE 3rd Avenue (File No. 2021-236): Provide a recommendation to the City Commission regarding a privately initiated request to abandon an unimproved portion of a City-owned right-of-way (alley) totaling approximately 1,496 square feet and located adjacent to 201 and 213 SE 2nd Avenue, and 206 SE 3rd Avenue.

Applicant: The Hutt, LLC; tyler@knightgroupfl.com

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

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

Amy Alvarez, Principal Planner, entered File No. 2021-236 into the record.

Applicant Presentation

Bonnie Miskel, Esq.; Dunay, Miskel & Backman, LLP; 14 SE 4th St #36, Boca Raton, FL 33432

Staff Presentation

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

Exparte Communication

Julen Blankenship- Visited the site and spoke with Bonnie Miskel

Joy Howell- Visited the site

Allen Zeller- Visited the site

Chris Davey- None

Christina Morrison- Spoke with Tyler Knight, Bonnie Miskel, the Community Redevelopment Agency and visited the site.

Gregory Snyder- None

Public Comment

Jason Hersh, 319 NW 2nd Avenue. Mr. Hersh stated that the applicant should state how the abandoned property will be utilized.

Rebuttal/Cross

Bonnie Miskel noted that the applicant is required to meet the criteria set forth by the Land Development Regulations regarding this abandonment request and stated that the applicant is requesting the abandonment to prevent additional nonconformities that could result from a potential alley dedication request in the future.

Board Comments

Julen Blankenship asked staff for clarification as to which portion of the alleyway was subject to the abandonment request. Ms. Blankenship noted that there was no access to the alleyway on the north side currently and that the alleyway is not serving any purpose and considered the area at issue to be blighted.

Christina Morrison noted that the area in question is often subject to illegal dumping.

Chris Davey was concerned that if the alleyway was abandoned and the adjacent Community Redevelopment Agency parking lot to the south is developed access on the northern portion of the alleyway would be blocked. Mr. Davey noted that the Board needs to make a determination that there will not be a future use of the property and opposed the granting of a recommendation to the City Commission as the request is not meeting the criteria listed in the Land Development Regulations and the City's Comprehensive Plan.

Joy Howell asked Patrick Figurella, City Engineer, why he issued a recommendation of denial. Mr. Figurella noted that the City's Comprehensive Plan recommends that City alleyways should not be abandoned.

Allen Zeller noted that the City's Comprehensive Plan (Policy 2.7.7) states that an abandonment of a right of way should not be granted unless there is not nor will be any need for the use of the right of way for any public purpose. Mr. Zeller stated that he cannot find that the applicant's request meets the City's Land Development Regulations required findings.

MOTION to move a recommendation of denial to the City Commission regarding a privately-initiated request to abandon an unimproved portion of a City-owned right-of-way (alley) totaling approximately 1,496 square feet and located adjacent to 201 and 213 SE 2nd Avenue, and 206 SE 3rd Avenue, by finding that the request and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations was made by Joy Howell and seconded by Allen Zeller.

MOTION CARRIED 4-2

DISSENTING Christina Morrison and Julen Blankenship

C. The North Edge (2022-239): Consideration of a Conditional Use request to allow free standing multiple-family housing at 1405 N. Federal Highway and 716 N Lake Avenue within the General Commercial (GC) zoning district.

Address: 1405 N Federal Highway and 716 N Lake Avenue

PCN: 12-43-46-09-11-004-0012; 12-43-46-09-11-004-0011; 12-43-46-09-11-004-0050

Applicant / Agent: Lake Ave Federal LLC / Jeffrey A. Costello, JC Planning Solutions; jcostello@jcplanningsolutions.com

Planner: Julian Gdaniec, Senior Planner; gdaniec@mydelraybeach.com

Julian Gdaniec, Senior Planner, entered File No. 2022-239 into the record.

Applicant Presentation

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

Staff Presentation

Julian Gdaniec, Senior Planner, presented the project from a Microsoft PowerPoint presentation.

Exparte Communication

Julen Blankenship- Drove by the site

Joy Howell- Drove by the site

Allen Zeller- Visited the site and knows the applicant

Chris Davey- Drove by the site

Christina Morrison- Visited the site

Gregory Snyder- Visited the site

Public Comment

None

Rebuttal/Cross

Jeffrey Costello noted that the area contains a mix of residential and commercial uses and that this proposed project would be consistent with the surrounding community.

Board Comments

Allen Zeller requested clarification that the height of the building will be limited to 35 feet with a 16-foot side interior setback.

Julen Blankenship and Gregory Snyder asked about the height of the proposed structure and were in support of granting the conditional use.

Joy Howell and Christina Morrison were in favor of the proposed project as this development provides revitalization to the area and contributes to the mixed-use nature of the surrounding area.

Chris Davey was supportive of the project.

MOTION to move to recommend approval to the City Commission of a Conditional Use request for The North Edge to allow free standing multiple-family housing on the subject property addressed as 1405 N. Federal Highway and 716 N. Lake Avenue, finding that the request is consistent with the Comprehensive Plan and meets the criteria in the Land Development Regulations, subject to conditions of a 35 foot maximum roof height and a 48 foot limitation for any permitted architectural features, roof top appurtenances, parapets and certain building structures constructed or placed above the roof was made by Julen Blankenship and seconded by Joy Howell.

MOTION CARRIED 6-0

D. Venetian Arcade Delray, Conditional Use (File No. 2022-231-USE-PZB): Provide a recommendation to the City Commission regarding a Conditional Use request to allow a +/- 2,363 square foot Adult Gaming Center at the property located at 14406 South Military Trail. (PUBLIC HEARING)

Agent: Ricardo Oscheneek, Red and Blue Constructions.

Ricardo@RedandBlueConstructions.com

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

Exparte Communication

Julen Blankenship- None

Joy Howell- None

Allen Zeller- Visited the Site

Chris Davey- None

Christina Morrison- None

Gregory Snyder- Visited the site and spoke with property owner

Public Comment

Beverly Diamond, owner of Turtle Diamond was concerned regarding the traffic that would be generated by the Venetian Arcade. Ms. Diamond noted that the traffic study provided was over 2 years old.

Rebuttal/Cross

None

MOTION to postpone to the December Planning and Zoning Board meeting was made by Christina Morrison and seconded by Julen Blankenship.

MOTION CARRIED 6-0

E. Cason Court, Land Use Map Amendment (2021-268), Rezoning (2021-269), and Master Development Plan (2021-270): Provide a recommendation to the City Commission on a privately-initiated request for a Land Use Map Amendment (LUMA) from Community Facilities (CF) to Low Density (LD) (Ordinance No. 39-22), rezoning request from Community Facilities (CF) to Planned Residential Development - 4 du/acre (PRD-4) (Ordinance No. 38-22) for a 2.83-acre portion of the 5.88 acre property located at 342 North Swinton Avenue, and to approve the associated Master Development Plan (MDP) with three variances and a special parking reduction, for the entire subject property.

Agent: Marcela Camblor and Associates, Inc; marcela@marcelacambolor.com

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

Alexis Rosenberg, Senior Planner, entered File Numbers. 2021-268, 2021-269 and 2021-270 and into the record.

Applicant Presentation

Marcela Camblor, Principal; Marcela Camblor and Associates, Inc; 12 Ridgeview Rd S, Stuart, FL, 34996

Staff Presentation

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

Exparte Communication

Julen Blankenship- Drove past the site

Joy Howell- Visited the site

Allen Zeller- Drove past the site

Chris Davey- Drove past the site

Christina Morrison- Visited the site

Gregory Snyder- Visited the site and spoke with staff

Public Comment

Barbra Wooden, 220 NW 7th Street- Ms. Wooden explained to the Board that the buyer, Azure Development, will act responsibly in developing the parcel and that the sale will provide needed funding to the Cason United Methodist Church.

Gary Broidis, 98 SE 6th Avenue- Mr. Broidis noted that Azure Development has provided a development plan that aligns with the Church's mission and goals.

Jason Hersh, 319 NW 2nd Avenue- Mr. Hersh was concerned that the property owner may seek additional variances and waivers in the future.

Mike Wohler 322 NW 2nd Avenue. Mr. Wohler voiced concern about a potential ingress/egress access point onto NW 2nd Avenue.

Rebuttal/Cross

None

Board Comments

Julen Blankenship was concerned about the number of parking spaces provided within the proposed Planned Residential Development and the internal circulation of traffic if the provided parallel on street parking is utilized. Ms. Blankenship noted concerns regarding utilizing the alleyway on the west side of the proposed development as a primary means of egress and ingress for the residents abutting the alleyway. In regard to the requested variances Ms. Blankenship indicated that she stated that the granting of the variances would grant the property owner a special privilege.

Allen Zeller asked the applicant if the property will be subdivided and if the access point onto Lake Ida Road would be modified Mr. Zeller did not think that the Applicant has met the standards set forth by the Land Development Regulations in regard to the requested variances and was concerned about additional traffic generated by this development onto Lake Ida Road and North Swinton Avenue.

Christina Morrison was concerned regarding the access points into the development and egress from Lake Ida Road. Ms. Morrison inquired if the alleyway to the west would be improved, regarding the wall that will be installed adjacent to Lake Ida Road and if the community would be gated.

Joy Howell inquired about the building setbacks.

Gregory Snyder was concerned about the access into the development and asked staff if the applicant has met the intent of the 5-acre minimum requirement for Master Development Plans established by the City's Land Development Regulations.

Chris Davey inquired about the improvements and dedications that need to be made to the alleyway located to the west of the proposed development. Mr. Davey was concerned that adequate parking is not provided as residents may utilize the guest parking primarily and was concerned about egress and ingress to the community.

MOTION to continue with direction to a date certain of February 27, 2023, for Item 8D (formerly 8E) made by Julen Blankenship and seconded by Christina Morrison.

MOTION CARRIED 6-0

9. LEGISLATIVE ITEMS

A. Medical Marijuana Treatment Centers (File No. 2022-136). Provide a recommendation to the City Commission regarding Ordinance No. 33-22, a privately initiated amendment the Land Development Regulations (LDR), amending Section 4.3.3(G), "Medical Marijuana Treatment Center-Dispensing Facility" to allow such uses subject to terms and conditions; amending Section 4.3.3(LLL), "Pharmacies" to subject such uses to the regulations in Section 4.3.3(G); and amending Section 4.4.9, "General Commercial (GC) District," Section 4.4.11, "Neighborhood Commercial (NC) District," Section 4.4.13, "Central Business (CBD) District," Section 4.4.18, "Planned Commerce Center (PCC) District," and Section 4.4.29, "Mixed Residential, Office, and Commercial (MROC) District to allow the operation of Medical marijuana treatment centers-Dispensing facilities in such districts.

Agent: Neil M. Schiller, Esq., Government Law Group; nschiller@govlawgroup.com

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

THE ITEM WAS ON THE OCTOBER 17, 2022, AGENDA, AND WAS POSTPONED AT THE REQUEST OF THE APPLICANT

Rebekah Dasari, Principal Planner entered File No. 2022-136 and into the record.

Applicant Presentation

Neil M. Schiller, Esq., Government Law Group; 137 NW 1st Avenue, Delray Beach FL 33444

Staff Presentation

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

Public Comment

None

Board Comments

Chris Davey opposed the requirement that an establishment must obtain a conditional use if the business was located within certain areas within the City of Delray Beach. Mr. Davey requested clarification if existing pharmacies would be considered to be legal nonconformities and not subject to the 4,000-foot distance requirement.

Julen Blankenship asked the applicant the intent behind the 4,000-foot distance separation and was supportive of requiring a conditional approval for new pharmacies and recommended that Medical Marijuana Treatment Center-Dispensing Facilities not be allowed within the Central Core Sub-district of the Central Business District.

Allen Zeller inquired whether the requirement to obtain a conditional use applies to an existing pharmacy if the use transitions into a Medical Marijuana Treatment Center-Dispensing Facility. Mr. Zeller read into the record the Downtown Development Authority letter and requested that the applicant clarify if cannabidiol would be regulated by the proposed legislation.

Joy Howell recommended that the permissible areas to operate a Medical Marijuana Treatment Center-Dispensing Facility be more limited and located further away from residential areas.

Christina Morrison inquired about the state statute governing Medical Marijuana Treatment Center-Dispensing Facility relation to the City's current prohibition on such facilities. Ms. Morrison asked the applicant how other municipalities regulated Medical Marijuana Treatment Center-Dispensing Facility in their respective downtown areas.

MOTION to continue with direction for item 9A was made by Julen Blankenship and seconded by Christina Morrison.

MOTION CARRIED 6-0

10. REPORTS AND COMMENTS

A. CITY STAFF

Next meeting will be held on December 14, 2022, and January 23, 2023.

B. BOARD ATTORNEY

William Bennett informed the Board members of the attendance requirements and defined inadequate attendance as being three or more consecutive regular meeting absences or 30% or more absences of regularly scheduled meetings in a given year.

C. BOARD MEMBERS

None

11. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 10:00 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 **November 14, 2022**, which were formally adopted and **APPROVED** by the Board on **January 23, 2023**.

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.