



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Island Cove, Phase III of Village Square

Meeting	File No.	Application Type
October 18, 2021	2021-259-USM-PZB	Modification of a Conditional Use Approval
Property Owner	Applicant	Agent
Delray Beach Housing Authority	Island Cove, LLC Delray Beach Housing Authority	Andrea Keiser, Esq., Keiser Legal

### Request

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.

### Background Information

The subject property is located east of I-95, bounded by SW 13<sup>th</sup> Avenue to the west, SW 12<sup>th</sup> Avenue to the east, SW 10<sup>th</sup> Street to the south, and SW 8<sup>th</sup> Street to the north. The property is associated with the 18.18-acre, three-phase residential development known as Village Square, shown on the map at right. Phases I and II have been built and completed (outlined in blue), and Phase III (outlined in red) has a current valid site plan and plat approval for 54 townhome units that were never constructed.

The subject property is zoned Medium Density Residential (RM) with a Land Use Map (LUM) designation of Transitional (TRN). TRN land use has a Floor Area Ratio (FAR) of 1.0, a standard density of 5-12 dwelling units per acre, and a revitalization incentive density of 12-24 dwelling units per acre. Development must comply with both the intensity and density of the land use designations. Located within the Carver Estates Overlay District, the property is eligible to request an increased density of 12-24 dwelling units per acre.

Throughout its approval history, Village Square utilized the workforce housing revitalization incentive to increase the density to develop the property.



- 2011: The City Commission approved a conditional use request to allow an increased density up to 13.91 dwelling units per acre in accordance with the provisions of the Section 4.7, Family/Workforce Housing of the Land Development Regulations (LDR).
- 2012: A site plan was approved for 252 dwelling units in total; 228 units in Phases I and II, and 11 three-bedroom, single family homes and 14 three-bedroom, duplex units available for purchase in Phase III.
- 2019: Resolution No. 109-19 was approved by the City Commission modifying the approved conditional use to increase density for all three phases, increasing the total number of units to 282 (54 units in Phase III), with an increase in density up to 15.51 dwelling units per acre. Phase III has a current valid site plan for 54 townhome units, and an adopted plat recorded in Plat Book 188, Page 122 of the public records of Palm Beach County.

#### Project Planner:

Rebekah Dasari, Senior Planner / Waltayvis Carruthers, Assistant Planner  
dasariir@mydelraybeach.com  
561.243.7040, Ext. 7044

#### Attachments:

- Applicant Request
- Site Plan

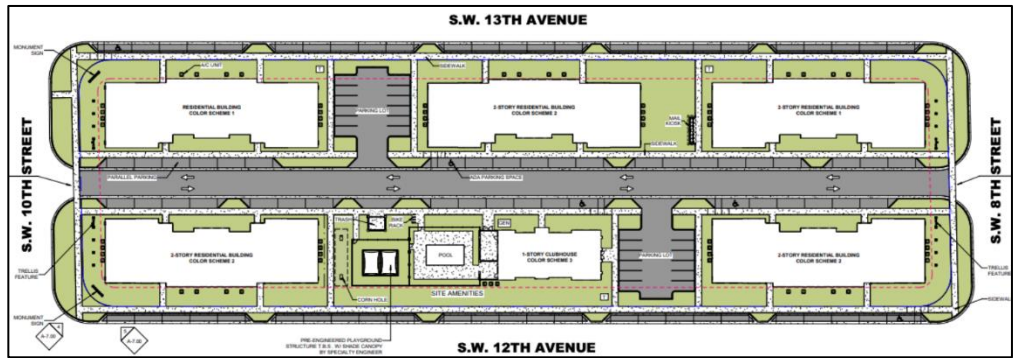
The chart below provides the full history of approvals for Village Square.

Property History		Acres	No. of Units	Density
2011 (Conditional Use)	Phase I & Phase II	18.18	228	13.91 du/ac
	Phase III		25	
2012 (Site Plan Approval)	Phase I	18.18	84	13.86 du/ac
	Phase II		144	
	Phase III		24	
2019 (Conditional Use & Site Plan)	Phase I & Phase II (Built/Complete)	15.11	228	15.51 du/ac
	Phase III (approved for 54 townhome units)	3.07	54	

### Project Description

Island Cove LLC and the Delray Beach Housing Authority (collectively known as "Applicant") have requested a conditional use modification for the development of Island Cove, aka Village Square Phase III. The requested modification is to increase the overall approved density for the three-phase Village Square development.

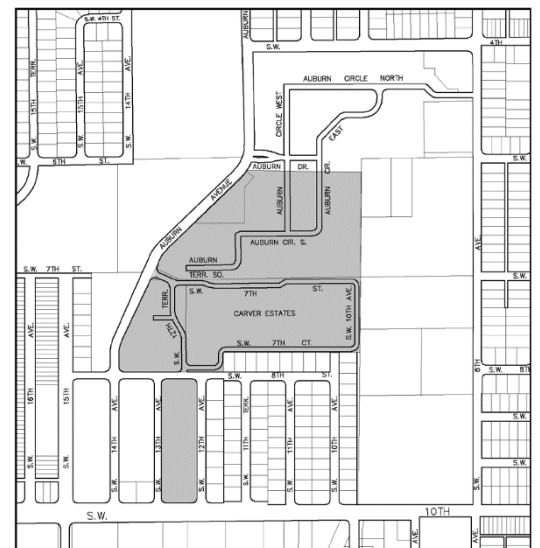
The proposed development (see graphic) consists of a 2-story, 60-unit apartment community with associated parking, landscaping, one-story clubhouse with recreation area, pool, and playground (see figure at left). The 60 units will be distributed among five two-story buildings with 12 units per building. The unit mix consists of 40 two-bedroom / two-bathroom units and 20 three-bedroom / two-bathroom units. The buildings are arranged around a center alleyway with parallel parking on both sides of the two-way alley. Parking is also proposed in two small lots within the development, and parallel along SW 13<sup>th</sup> Avenue and SW 12<sup>th</sup> Avenue.



The Property is located within the Carver Estates Overlay District (see LDR map below); pursuant to LDR Section 4.4.6(D)(10) a maximum of 24 units per acre is allowed within the revitalization incentive area, subject to the provisions of LDR Section 4.4.6(I), and Article 4.7. The Applicant is seeking to increase the density from the approved density of 15.51 to 15.84 dwelling units per acre, which does not represent a significant change in intensity from the existing conditional use approval.

Within the Carver Estates Overlay district, the density increase for developments is determined by a tiered bonus system, with units that are affordable to very low, or low-, or moderate-income families. Pursuant to LDR Section 4.4.6 (H)(1), Special Regulations, the subject property is allowed a base density of six units per acre for multiple family housing projects. Density may exceed the base of six units per acre only after the approving body makes a finding that the project has substantially complied with performance standards as listed in 4.4.6(I). In no event shall a development's total density exceed 12 units per acre, except within the Southwest Neighborhood Overlay District, Carver Estates Overlay District and the Infill Workforce Housing Area, as allowed by Section 4.4.6(D)(9) and 4.4.6(D)(10).

LDR Section 4.7.4 of the LDR allows for two bonus units for every one workforce unit provided at a moderate household income level, three bonus units for every workforce unit provided at a low-income housing level, and four bonus units for every one workforce housing unit provided at the very low income level. The applicant is proposing 9 units for households earning 30 percent or less of the Area Median Income (AMI), 33 units for households earning 60 percent of the AMI, 9



units for households earning 70 percent of the AMI, and 9 units for households earning 80 percent of the AMI. A comparison of the applicant's proposal to the City income levels is provided in the chart above. The applicant is eligible to request the proposed density of 15.84 dwelling units per acre.

The request is accompanied by a request for Class IV site plan approval (reviewed by the Site Plan Review and Appearance Board), to amend the approval for Phase III and establish a master plan for all three phases that reflects the current approval. A plat exemption is being processed for administrative approval to revert the property to a single parcel and abandoning the approved plat that established the existing 25 lots.

NOTE: The joint request by Island Cove LLC and the Delray Beach Housing Authority is due to the ownership structure of the property and the nature of the existing approvals. The Delray Beach Housing Authority (DBHA) partners with a developer to develop housing affordable products. The applicants are a partnership between the DBHA, the Delray Housing Group (the non-profit of DBHA), and the developer (Island Cove LLC). The ownership structure for Island Cove is the same as the existing development in Phase I and Phase II of Village Square, but with a different developer partner. The closing of the Island Cove property will take place after the development approvals are obtained, and the property ownership will transfer to these entities. After closing, Island Cove will be owned in part by the Delray Housing Group of the DBHA, and the partner developer, Island Cove. There is a common owner among all phases, and the properties will be run and managed in the same manner as Phase I and Phase II of Village Square. Timely review of the project is essential to ensure the applicants meet the deadlines given by the funding agencies.

## Review and Analysis

### **LDR Section 2.2.2, The Planning and Zoning Board**

Pursuant to **LDR Section 2.2.2(E)(4), Duties, powers, and responsibilities**, *the Board hereby has the authority to take action on approval or denial of a minor modification of a conditional use pursuant to Section 2.4.5(E)(7).*

### **LDR Section 2.4.5(E), Establishment of a Conditional Use:**

Pursuant to **LDR Section 2.4.5(E)(7), Modification of a conditional use approval**, *an approved Conditional Use may be modified. If the modification involves only the implementation or compliance with conditions of approval, the modification may be approved by the Director. If the modification involves intensity of use or hours of operation, the modification must be approved by The Planning and Zoning Board. If the Board finds that the requested modification is significant, then the modification must be heard as a new Conditional Use application. Any request for a modification may be denied.*

Given the minor increase in density for the overall Village Square development from 15.51 du/ac to 15.84 du/ac, which results in an additional 6 dwelling units, the request is being processed as a modification. If the Board finds that the increased density is significant and should be processed as a new conditional use application, the required public notice for a new conditional use has been completed to allow the applicant to move forward to City Commission without needing to come back to the Planning and Zoning Board for a new review.

Pursuant to **LDR Section 2.4.5(E)(4), Conditions**, *conditions may be imposed pursuant to Section 2.4.4(C). In addition, limitations on the hours of operation and/or the longevity of the use may be imposed.*

**LDR Section 2.4.4(C), Imposition of conditions.** In granting approval to any development application, the granting body may impose whatever conditions it deems necessary in order to insure:

- *The compatibility of the use with nearby existing and proposed uses.*
- *Concurrency.*
- *Consistency with objectives and policies of the Comprehensive Plan.*
- *The fulfillment of requirements of these Regulations which should have or could have been fulfilled prior to the approval action but which were not, due to conditions beyond the control of the applicant.*
- *The fulfillment of requirements of these Regulations which could have been fulfilled prior but remain outstanding; thus, providing that they will be accommodated in a later stage of processing.*

To address any concerns identified by the Board, specific conditions may be included to address those concerns.

The LDRs provide general required findings for all development applications; there are also requirements in the LDRs specific to the conditional use request. An analysis of each is provided below.

### Required Findings: LDR Section 3.1.1

*Prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.*

**(A) LAND USE MAP.** *The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.*

The property has a LUM designation of TRN, and a zoning designation of RM, which are compatible with each other. Pursuant to LDR Section 4.4.6(B)(3), multiple family structures are an allowed use in the RM zoning district with a base density of 6 dwelling units per acre and a maximum density of 12 dwelling units per acre. Pursuant to LDR Section 4.4.6(D)(10), additional density may be granted by conditional use approval in the Carver Estates Overlay District, subject to compliance with LDR Section 4.4.6(I) and Article 4.7. The conditional use modification is required as the applicant is proposing a density of 15.84 dwelling units per acre, which represents a minor increase from the 15.51 dwelling units per acre approved for Village Square. The TRN land use designation allows for a standard density of 5 to 12 dwelling units per acre, and a revitalization / incentive density of 12 to 24 dwelling units per acre. The site is within the Carver Estates Overlay District and provides this incentive for developments that provide workforce housing. Thus, the project is consistent with the provisions of the land use designation. An overview of the current approved conditional use is provided below in comparison to the requested modification.

	Acres	No. of Units	Density
<b>Approved Conditional Use</b> Phase I & Phase II (Built/Complete) Phase III (Approved for 54 du/acre)	18.18	282	15.51 du/ac
<b>Modification of Approved Conditional Use</b> Phase I & Phase II (Built/Complete) Phase III (Requesting an increase from 54 to 60 units)		288	15.84 du/ac

The proposed modification of the approved conditional use represents a nominal increase in the density, with a significant community benefit provided by the income levels served by the development.

**(B) CONCURRENCY.** *Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

Compliance with traffic, schools, utilities, and solid waste is described below:

**Traffic.** The Applicant has received a Traffic Performance Standards (TPS) approval letter from Palm Beach County for 60 Multi-Family Residential dwelling units. The proposed 60-unit development is anticipated to generate 80 New Net Daily trips (4 fewer Net AM Peak Hour and 2 fewer Net PM Peak Hour trips than the traffic study performed for the 54-unit townhome development).

**Schools.** As part of the Class IV site plan submittal, the applicant submitted a School Capacity Availability Determination (SCAD) for approval by the Palm Beach County School District. The approval must be provided prior to site plan approval.

**Water & Sewer.** Water service is available on SW 12<sup>th</sup> Avenue by connecting to an 8-foot water main and a 6-foot water main along SW 13<sup>th</sup> Avenue. Sewer service is available by connection along SW 12<sup>th</sup> Avenue by a 12-foot sewer main and an 8-foot sewer main on SW 13<sup>th</sup> Avenue. Utilities will provide confirmation of service at the time of site plan review.

**Solid Waste.** The approved project was anticipated to generate a total of 168.31 tons of solid waste per year which was determined to be of sufficient capacity by the Solid Waste Authority. The new proposed project will generate a total of 149.76 tons of solid waste per year. This is 18.55 tons in decrease of solid waste per year from the previously approved 54-unit townhome development. While there are 6 more units, the calculation differs between a townhouse-type development and apartments.

**Drainage.** At the time of site plan approval, the applicant provided a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3(D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into the City's sewer system.

**Parks.** Residential developments are assessed an impact fee of \$500 per unit, for a total impact fee of \$30,000, which is due at the time of building permit.

**(C) CONSISTENCY.** A review of the objectives and policies of the adopted Comprehensive Plan was conducted and the following applicable objectives and policies that are relevant to Conditional Use applications are noted:

### **Housing Element**

**Objective HOU 3.1** *Provide opportunities for residential development to accommodate the housing needs of existing and future residents.*

**Objective HOU 3.2** *Expand the housing supply by allowing different unit types in a variety of locations for all income levels.*

**Policy HOU 5.1.1** *Encourage construction of mixed-income housing developments to avoid a concentration of affordable units in one development or neighborhood and to provide a full range of residential unit types and prices.*

**Policy HOU 6.1.1** *Provide opportunities for income diversity by allowing a mix of housing types and ownership options.*

**Policy HOU 6.4.1** *Continue to utilize funds from federal state and local housing programs to provide or maintain workforce housing units for eligible income levels.*

**Objective HOU 6.1.4** *Implement incentives in the Land Development Regulations, such as increases in density, to establish workforce housing units within targeted areas.*

**Policy HOU 6.2.8** *Protect the affordability of units at risk of losing subsidies or being converted to market rate housing and retain workforce housing options in existing neighborhoods that will allow long-term residents to age in place.*

**Policy HOU 6.4.1** *Continue to utilize funds from federal state and local housing programs to provide or maintain workforce housing units for eligible income levels.*

The applicant's request to increase the utilization of the revitalization incentive in the Carver Estates Overlay District is consistent with comprehensive plan directives to implement incentives to increase the supply of workforce housing. This public-private partnership development and ownership structure utilized in the development of Island Cove exemplifies industry best practices for the development of affordable housing. The public private partnership used to develop the subject property is essential because funding for these types of projects flow from the DBHA and the private developer, both of whom procure and combine their government funding to make the project feasible.

The applicant has submitted a concurrent request for site plan approval for 60 apartment units distributed among five two-story buildings with 12 units per building. The unit mix consists of 40 two-bedroom / two-bathroom units and 20 three-bedroom / two-bathroom units. 9 units (15 percent of the total) are reserved for households earning 30 percent or less of the AMI, 33 units (55 percent of the total) are reserved for households earning 60 percent of the AMI, 9 units (15 percent of the total) are reserved for households earning 70 percent of the AMI, and 9 units (15 percent of the total) are reserved for households earning 80 percent of the AMI. The Island Cove proposal adds an additional 6 affordable housing units to the supply within the city and supports a mix of income diversity as well as family type that complements the existing housing product in Phases I and II. The property owner will be required to execute a restrictive covenant ensuring that the workforce housing unit will be retained for a 40-year period.

### **Neighborhoods, Districts, and Corridors Element**

**Policy NDC 1.1.2** *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:*

- Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.
- Uses that meet the daily needs of residents.
- Public open spaces that are safe and attractive.

**Policy NDC 1.1.12** Develop and redevelop remaining infill lots in residential neighborhoods using zoning that is identical or most similar to the zoning of adjacent properties or that results in same or less intense development.

**Policy NDC 1.1.14** Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

The adopted Comprehensive Plan anticipates the population of the city to increase from 70,520 in 2020 to 81,874 in 2024; additional housing inventory is needed to accommodate the projected population increase. In 2017, the mean single-family sales price for new homes in Delray Beach was \$623,035, and in 2016 42.4 percent of renters were paying more than 30 percent of their income in rent – which is considered cost burdened (Source: Shimberg Center for Housing Studies). There is a significant need for affordable housing products to diversify the housing supply in the city.

**Policy NDC 1.3.13** Allow a wide range of residential and low intensity nonresidential uses for properties with a Transitional land use designation to address varied community needs, unique development patterns, and/or distinctive uses.

**Policy NDC 1.3.14** Use the Transitional land use designation for properties located between two or more land use designations that allow different building scale, heights, uses, or levels of intensity to create development patterns that balance the changes in intensity relative to the specific, unique surrounding conditions.

**Policy NDC 1.3.15** Allow a maximum floor area ratio of 1.0, a maximum standard density of 12 dwelling units per acre, and a revitalization/incentive density of 12-24 dwelling units per acre in the Transitional land use designation to provide a mix of uses and potential development patterns to provide an appropriate scale, height, and intensity, and other essential transitions among areas with different land uses or levels of intensity.

	Acreage (SF)	Building Square Footage	FAR
Phase I	15.11 (658,192 SF)	68,040	0.35
Phase II		163,272	
Phase III	3.07 (133,729 SF)	68,880	0.51
Total	18.18 (791,921 SF)	300,192	0.38

The Property has a Transitional land use designation and is eligible for the revitalization/incentive density of 12-24 dwelling units per acre because of its location within the Carver Estates Overlay District. Development in TRN land use must comply with both the FAR and the density. The project proposes a density of 15.84 dwelling units per acre, and a FAR of 0.38, thereby complying with the density and intensity limitations of the Transitional land use designation.

**LDR Section 4.7.4, Density Bonus Program for the Southwest Neighborhood Overlay District, the Carver Estates Overlay District and the Infill Workforce Housing Area** provides the requirements for developments to request and receive bonus units to increase the density of a proposed development by constructing workforce housing for very low, low and moderate income households. The applicant is utilizing the revitalization incentive density in the Carver Estates Overlay District to request an increase in density. The size of the bonus is dependent upon the following:

- Affordability (i.e., homes affordable to very low, low, or moderate income families)
- Home Size (i.e., workforce housing units with four or more bedrooms are awarded larger bonuses)
- Ownership versus rental (i.e., larger bonuses are awarded for workforce housing units offered for sale to low and very-low income families and larger bonuses are awarded for ownership versus rental units.)

To be eligible for bonus units, developers must meet one or more of the following criteria:

- i. A designated number of the total units are restricted to very low income households, and/or
- ii. A designated number of the total units are restricted to low income households, and/or
- iii. A designated number of the units are restricted to moderate income households

The applicant is proposing 60 dwelling units, all affordable housing. 70 percent of the total units are classified as very low income (under 60 percent of the AMI) and 30 percent of the units are classified as low income (61 to 80 percent of the AMI), by City definitions in Article 4.7. Thus, the proposal complies with the LDR requirements in Section 4.7.4 that must be met to increase the density on the subject property.

**COMPLIANCE WITH THE LDRs.** If the conditional use modification is approved, a site plan approval complying with LDR Sections 2.4.3 and 4.4.6 will be required. The Class IV site plan was distributed to the City's Technical Advisory Committee on October 1, 2021 and is under review. Compliance with the regulations specific to the conditional use request is discussed below.

#### **LDR Section 2.4.5(E)(7), Modification of a Conditional Use Approval**

To establish a conditional use, the Commission must make the findings that approval of the request will not a) have a significantly detrimental effect upon the stability of the neighborhood within which it will be located or b) hinder development or redevelopment of nearby properties. Positive findings were made at the time of the initial conditional use approval. Per LDR Section 2.4.5(E)(7), the Planning and Zoning Board has the authority to modify a conditional use approval, unless the requested modification is deemed to be significant. The request would then be treated as a new conditional use application with approval by the City Commission required.

The chart below identifies the adjacent land uses, which are a mix of residential and industrial type uses.

Adjacent Zoning, Land Use, and Use			
	Zoning Designation	Land Use	Use
<b>North</b>	Multiple Family Residential (RM)	Transitional (TRN)	Village Square, Phases I and II
<b>South</b>	Industrial (I)	Industrial (IND)	Outdoor storage, warehousing / distribution
<b>East</b>	Multiple Family Residential (RM)*	Transitional (TRN)	Single and multi-family residential
<b>West</b>	Light Industrial (LI)	Industrial/Commerce (IND/CMR)	Warehousing / distribution, multi-family residential
* The western half of the adjacent block is TRN land use / RM zoning, and the eastern portion of the adjacent block is LD land use / R-1-A zoning.			

The requested increase in density is minimal, and the proposed development is compatible with the character of the surrounding development.

#### **Review By Others**

Subsequent to approval of the modification of the approved conditional use, the Class IV site plan will require approval by the Site Plan Review and Appearance Board (SPRAB).

Should the Board determine that the conditional use modification represents a significant change from the initial approval, the modification would be treated as a new conditional use approval and scheduled for a City Commission hearing.

### Options for Board Action

- A. Move to **approve** a 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, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan.
- B. Move to **approve, with conditions**, a 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, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan.
- C. Move to **deny** a 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, finding that the request is inconsistent with the Land Development Regulations and the Comprehensive Plan.
- D. Move to review the request as a new conditional use, for review by the City Commission.

### Public and Courtesy Notices

X Courtesy Notices were sent to the following neighborhood association representatives:

- Delray Beach Heights HOA
- Carver Estates HOA

X Public Notice was posted at the property 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

X Public Notice was posted to the City's website 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall 10 working days prior to the meeting.

X Agenda was posted at least 5 working days prior to meeting.