



## Legislation Text

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**TO:** Mayor and Commissioners  
**FROM:** Tim Stillings, Director of Planning and Zoning  
**THROUGH:** Donald B. Cooper, City Manager  
**DATE:** January 5, 2016

APPEAL OF SPRAB APPROVAL OF A CHANGE OF USE FROM PROFESSIONAL OFFICE TO MEDICAL OFFICE AT 830-836 SE 5TH AVENUE FOR SOBER LIVING OUTPATIENT.

**Recommended Action:**

Approve the Class III Site Plan Modification for Sober Living Outpatient, located at 830-836 SE 5<sup>th</sup> Avenue, subject to the following conditions:

1. That the solid doors to the rear of the building be equipped with peepholes, and bushes/shrubs be no higher than two feet and all trees should grow to a height of at least six feet;
2. That security cameras be placed throughout the property specifically at the main entrance and at the parking lot;
3. That a Life Safety Plan showing emergency lighting, exit signs and fire extinguishers be provided at the time of Building Permit to assure compliance with the Fire Code;
4. That a manufacturing cut-sheet detail of the proposed bike rack is submitted;
5. That the photometric plan be revised to accommodate wall mounted light fixtures and illumination levels (10 f.c max/1.0 f.c. min) for the building entrances and include manufacturing cut-sheet details of the wall mounted light fixture; and,
6. That four sets of revised plans be submitted for site plan certification which address the conditions of approval.

**Background:**

**COMMISSION AND SPRAB ACTIONS**

The item before the City Commission is an appeal of the SPRAB (Site Plan Review and Appearance Board) action on the Class III Site Plan Modification for Sober Living Outpatient. At its meeting of November 17, 2015, the City Commission voted 5 to 0 to appeal the SPRAB approval associated with a change of use from Professional Office to Medical Office at 830-836 SE 5<sup>th</sup> Avenue.

The subject property consists of 0.40 acres (17,299 sq. ft.) and is located at the northwest corner of SE 5<sup>th</sup> Avenue and SE 9<sup>th</sup> Street. The property is zoned GC (General Commercial) and has a Future Land Use Map designation of GC (General Commercial). Two, one-story office buildings totaling 2,655 square feet were constructed on the property in 1934. The northernmost building located at 830 SE 5<sup>th</sup> Avenue measures 1,230 square feet. The southernmost building located at 836 SE 5<sup>th</sup> Avenue measures 1,425 square feet. Both buildings were previously occupied as Professional Offices, most recently as State Farm Insurance at 836 and Moore Hearing Aid Center at 830.

At its meeting of October 28, 2015, SPRAB approved the Class III Site Plan Modification for the change of use subject to the following conditions:

1. That all Site Plan Technical Items be addressed with the submittal of four (4) copies of the revised plans prior to the certification of the site plan;
2. That the solid doors to the rear of the building be equipped with peepholes, and bushes/shrubs be no higher than two (2) feet and all trees should grow to a height of at least six (6) feet;
3. That security cameras be considered throughout the property specifically at the main entrance and at the parking lot;
4. That a life safety plan showing emergency lighting, exit signs and fire extinguishers be provided at the time of Building Permit to assure compliance with the Fire Code;
5. That a manufacturing cut-sheet detail of the proposed bike rack is submitted; and,
6. That prior to the certification of the site plan, the photometric plan shall be revised to accommodate wall mounted light fixtures and illumination levels (10 f.c max/1.0 f.c. min) for the building entrances. Manufacturing cut-sheet details of the wall mounted light fixture shall be provided.

The vote to approve the Class III Site Plan Modification was 3 to 1 (James Chard dissenting; Jim Knight stepped down; Andrew Youngross and Brett Porak absent). The complete SPRAB Staff Report for this item is included as an attachment, along with the minutes of this meeting.

This appeal is being processed pursuant to LDR Section 2.4.7(E), Appeals.

### **CHANGE OF USE - PROCESS**

The subject request by Sober Living Outpatient was for a change of use from Professional Office to Medical Office at 830-836 SE 5<sup>th</sup> Avenue, which is a permitted use in the GC zoning district, as opposed to Conditional Use requiring additional review. While Business, Professional, and Medical Offices are listed together in the GC zoning district, the site plan modification for the change of use request is processed as a Site Plan Modification (Class III) requiring SPRAB approval. It is considered a Class III because it is a "change in intensity" due to a higher parking requirement of 5 spaces/1,000 square feet for Medical Offices versus 4 spaces/1,000 square feet for Professional Offices. The parking requirement for the proposed medical office is 13 spaces, and there are 16 spaces on site. It should be noted that a change of use which results in a decrease in intensity also requires the same process for approval.

Pursuant to "Appendix A" (Definitions) of the LDRs, the definition of Medical Office is as follows:

"an office providing services to the public by physicians, dentists, surgeons, chiropractors, osteopaths, physical therapists, nurses, acupuncturists, podiatrists, optometrists, psychiatrists (who are also known as health care practitioners) or others who are duly licensed to practice their respective professions in the State of Florida, as well as others, including but not limited to technicians and assistants, who are acting under the supervision and control of a licensed health care practitioner. Also included in this LDR Section is all providers or facilities licensed under Fla. Stat. Sections 397.311 (18)(a)6, "Intensive Outpatient Treatment" and 397.311(18)(a)8, "Outpatient Treatment"."

All outpatient treatment centers are reviewed as a medical office, prohibited from on-site dispensing of medicine. This restriction on Medical Offices was added by Ordinance 50-09 in response to local issues regarding pain management clinics.

### **CLASS III SITE PLAN MODIFICATION: REVIEW REQUIREMENTS & STANDARDS**

Pursuant to LDR Section 2.4.5(G)(1)(c), a Class III Site Plan is “a modification to the site plan which represents either a change in intensity of use, or which affects the spatial relationship among improvements on the land, requiring partial review of Performance Standards found in Section 3.1.1.” Partial review requires review of those items which are applicable to the specific request. The change of use from Professional Office to Medical Office was determined to be a change in intensity as a result of the different parking requirement (noted above).

The review of 3.1.1 was done, which includes the required findings with respect to consistency with the following:

- Future Land Use Map designation: 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 Future Land Use Map. The property has a zoning designation of General Commercial (GC) and a General Commercial (GC) Future Land Use Map designation which are consistent. Given that Medical Offices are a permitted use, the request is consistent with the FLUM designation.
- Concurrency: A review of Concurrency is included in Appendix A of the Staff Report. This review includes water and sewer, streets and traffic, drainage, and solid waste. The water and sewer exist on site, and no extensions are required at this time. The treatment capacity is available for the City at build-out. No site improvements are proposed which would alter the existing site drainage, and the existing system will be maintained. The provided Traffic Statement indicates that six new net trips will be generated from the change of use, which illustrates that the new use will be more intense than the previous Professional Office use. However, these added trips are minimal and, therefore, are typically not considered to have a negative or significant impact on adjacent traffic circulation or the adjacent neighborhood as the property is located along SE 5th Avenue/South Federal Highway, the roadway by which clientele would likely arrive. As a comparison, a retail use which is also a permitted use in GC and has a higher turn-over rate, would have a larger amount of added trips than the proposed Medical Office use. A review of solid waste impacts show a decreased generation rate as the professional office use generates approximately 7.16 tons per year, whereas the medical office use will generate 6.10 tons per year. Retail, which is also permitted use.
- Consistency: A review of Consistency is included in Appendix B of the SPRAB Staff Report, which lists the criteria of Section 3.2.3. This review is general and each of the listed criteria are not specifically analyzed, as the general review within Appendix B indicates whether the requirement is “not applicable” or if the proposal “meets the intent of standard” or “does not meet intent” of the standard, which are based on the complete review of the applicable LDRs within the Staff Report. When a request has met the intent of a standard, this is an indication that there were no significant issues which remained outstanding. The subject request met the intent of each standard as presented.

Regarding the criteria of Section 3.2.3, Standard F requires that the property shall be developed to be complementary to adjacent land uses. The property was previously improved as a non-residential use; the structures were likely originally constructed as residences and later converted. Within the GC zoning district, medical offices are a permitted use, as opposed

to a conditional use, which require additional review to ensure compatibility with adjacent uses and zoning districts for the specific property. Therefore, it is predetermined that the Medical Office use, as a permitted use, is compatible with adjacent land uses both within and outside of the zoning district.

If the change of use to Medical Office were reviewed for compatibility with adjacent zoning and existing uses, similar to a review conducted for Conditional Use requests, this review would show that a single-family residence (R-1-AA zoning) is located to the west, the Veterans of Foreign Wars meeting hall (GC zoning) is to the north, a Professional Office (GC Zoning) is to the south, and a parking lot associated with an adjacent bank (GC zoning) is to the east. The adjacent GC zoned parcels are compatible given the same zoning designation. The single-family zone to the west may cause concern; however, the LDRs do not provide additional standards for Medical Office uses adjacent to single-family residential zones, such as a distance separation, size limitation, hours of operation, etc.

Standard (H) of Section 3.2.3 states that “the City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If it is determined that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.” Medical offices do not generally require mitigation to noise, odors, or dust. Traffic volumes and circulation were noted and addressed in the Concurrency review above. Further, the property was previously improved as a non-residential site, and there were no noted concerns regarding an impact on the adjacent neighborhood. Given that there are no additional review criteria specific to Medical Offices, no additional mitigation was required as it is a permitted use.

During site plan review, the Police Department reviewed the request for CPTED (Crime Prevention Through Environmental Design) compliance based upon the CPTED standards for Lighting, Natural Surveillance, and Natural Access Control. As indicated in the Staff Report, the recommendations by this review requested that peepholes be provided at rear entry doors, that the landscaping be limited to no higher than 2', with trees grown to a minimum of 6', and suggested the installation of security cameras throughout the property. This review determined that the existing illumination levels were adequate.

- Compliance with the LDRs: Given that the site was already developed, the request was in compliance with the applicable LDRs with the exception of a few items which are mitigated by the conditions of approval. It should be noted that when a change of use request is submitted for review which is not a conditional use, the applicable LDRs are those which apply to that use, such as parking in this case. Therefore, there may be non-conformities on-site such as landscaping, drive aisle dimensions, etc. which are permitted to be maintained until such time that the site is redeveloped and requires compliance with all requirements.

### **Review by Others**

At its meeting of October 28, 2015, the CRA (Community Redevelopment Agency) recommended approval of the request with one member expressing concern regarding the impact of the outpatient center and its clients on the adjacent neighborhood.

**City Attorney Review:**

The item should be fully vetted with legal for adherence with existing ordinances and laws.

**Funding Source:**

N/A

**Timing of Request:**

N/A

N/A