

PALM BEACH COUNTY COMMISSION ON ETHICS

## MEMORANDUM OF INQUIRY

To: Alan S. Johnson, Executive Director

From: Mark E. Bannon, Investigator

Re: C12-005 – Nelson “Woodie” McDuffie, Mayor, City of Delray Beach

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- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through a formal sworn complaint submitted by Richard Van Gemert, 912 Eve St., Delray Beach, FL 33483-4967. The Complaint was dated June 6, 2012, and was properly notarized. Attached to the Complaint was a three (3) page typewritten document detailing the information that forms the basis of the complaint.

The Complaint was based on reported actions taken by Mayor Nelson “Woodie” McDuffie, City of Delray Beach (the City), during two (2) regular meetings of the City Commission on March 20, 2012 and April 3, 2012. Information provided by the Complainant indicated that a portion of these commission meetings involved public hearings concerning a private party application to change the land use designation and zoning for a tract of land within the City, located at 1801 and 1845 South Federal Highway. This property lies on the southeast corner of Linton Boulevard and Federal Highway. The relevant parcel was listed in the City’s Future Land Use Map as “Transitional” (TRN), and the applicant requested that this designation be changed to “General Commercial” (GC). This parcel was zoned “Planned Office Center” (POC), and the applicant requested that this zoning be changed to “Planned Commercial” (PC). The Complainant also notes that the City Planning and Zoning Board had unanimously voted to recommend against this land use change at their meeting on February 27, 2012. The matter was initially discussed at the March 20<sup>th</sup> hearing, and was completed at the April 3<sup>rd</sup> hearing.

According to the Complaint, during the public comment portion of the April 3<sup>rd</sup> hearing, several residents spoke against the changes in land use for this application. After the close of the public comment section of the meeting, Mayor McDuffie and the other City Commissioners engaged in discussions among themselves about the application. The Complainant states that it became clear that the other commissioners were leaning toward denying the application. According to the Complaint, Mayor McDuffie made it know that he was in favor of granting the application “so as to increase the tax base for Delray and other reasons.” A dialogue then ensued between the commission members, City staff, and the agent for the applicant who was appearing before the City Commission. Instead of calling for a vote on the application as submitted, Commissioners, City staff and the applicant’s agent discussed the possibility of withdrawing the application, and re-submitting it at a later time asking for a different zoning change that would still allow the proposed commercial development. When persons attending the meeting stood up to object, Mayor McDuffie stated that the public comment portion of the meeting was closed, and refused to allow any further public comments. However, the dialogue between the Commissioners, City staff, and the Applicant’s agent continued. Eventually, the Application was withdrawn, and the matter was tabled in order for the Applicant to re-submit the application under a different zoning change request.

The Complainant believes that Mayor McDuffie had an absolute duty to call for a vote in this matter, and failed to do so, which is a violation of his ethical responsibility. Further, he believes that the application would have been defeated, and states that under the City rules of procedure, the application could not have been re-submitted for six (6) months. The Complainant does not allege that Mayor McDuffie had any financial stake in this decision, or that it was done for a corrupt reason, only that the rules of procedure for a quasi-judicial hearing have been violated by this action. Complainant also makes clear that his Complaint is regarding only Mayor McDuffie’s actions during this meeting, not those of City staff or any other City Commissioner. Finally, he states that the

Mayor was bound to follow the letter of the law and to act in a manner that “does not leave the public suspecting any form of wrongdoing and collusion between the Applicant, City staff, and elected officials.”

- **Inquiry**

In the initial Inquiry into this Complaint, I reviewed the information provided by Complainant. I then printed a copy of the meeting minutes of the Delray City Commission for the most important date in question, April 3, 2012, from the City website ([www.mydelraybeach.com](http://www.mydelraybeach.com)). A review of these minutes showed that the following officials and City staff were present for this meeting: Thomas F. Carney, Jr., Commissioner; Alson Jacquet, Commissioner; Adam Frankel, Commissioner; Angeleta E. Gray, Commissioner; Nelson S. McDuffie, Mayor; David T. Harden, City Manager; Brian Shutt, City Attorney; Chevelle D. Nubin, City Clerk; and Paul Dorling, Director of Planning and Zoning. Based on the minutes, the proposed change in land use and zoning was to be accomplished via City Ordinance No. 05-12.

At the beginning of the public hearing on this issue on April 3<sup>rd</sup>, City Attorney Brian Shutt read the caption of the proposed ordinance into the record, and advised that the required public hearing into this matter was properly noticed as pursuant to Florida law. He further advised that this hearing was continued from March 20, 2012, and that the Planning Director [Paul Dorling] would be speaking, and that he remained under oath from the previous meeting.

Mr. Dorling spoke at the hearing, advising that the hearing had been postponed from the March 20<sup>th</sup> date, based on a suggestion that the Applicant consider revising their application to consider “Special Activities District” (SAD)<sup>1</sup> zoning instead of “Planned Commercial” (PC) zoning, which he stated is consistent with all land uses listed in the current application, so the land use portion of this application could be withdrawn as it is no longer necessary. The Applicant’s agent [Michael Covelli] requested six (6) months to obtain the necessary documents for the application for a zoning change to SAD.

After this presentation, the City Attorney recommended to the commission that if they voted to continue this application to consider allowing this change, that they do so for a period not to exceed six (6) months, and that since this matter would have to be re-noticed and re-advertized, that they have the applicant pay the cost of re-noticing the public hearing, unless the Applicant instead choose to withdraw it completely. There was some discussion between Commissioner Carney and the City Attorney as to whether such an application for SAD zoning wouldn’t be a new application, to which the City Attorney replied that it essentially was. Commissioner Carney then asked why not just withdraw the application and re-submit it, to which Mr. Dorling replied that the applicant wanted to show that this is a continuing process, because of negotiations with tenants of the current buildings in that space. There were then further discussions by the commission and staff, with Mayor McDuffie supporting this application being extended for six (6) months as the Applicant requested. Commissioner Jacquet moved to have it continued for a period not to exceed six (6) months, including the added requirement that if not withdrawn, the Applicant pay for the re-notice and re-advertising of the public hearing. This motion was seconded by Commissioner Gray, and passed unanimously (5-0). Mayor McDuffie did vote on this issue at the meeting.

After reviewing these documents, I obtained a copy of the original application from the City via a public records request. The listed Applicant is Delray Place, LLC, with the proposed project listed as “Delray Place.” The agent for this project is listed as Covelli Design Associates, Inc, 2295 NW Corporate Blvd, Suite 213, Boca Raton, FL 33431, telephone number (561) 910-0330. The application lists the present property use as, “2 multi story office buildings with a drive through bank, and 1 single story office building.” The proposed use is listed as, “A multi building shopping center.” The application contains an affidavit of compliance with property owners and property descriptions within 500 feet of the proposed development. This affidavit is signed by Mr. Joe Carosella.

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<sup>1</sup> “Special Activities District” (SAD) zoning is listed in Section 4.4.25 of the Delray Beach Land Use Regulations.

A check of the Florida Division of Corporations (FDOC) website ([www.sunbiz.org](http://www.sunbiz.org)), listed Delray Place, LLC as being an active for-profit corporation, with a principle address of 101 Plaza Real South, Suite 200, Boca Raton FL 33432. Joe Carosella is listed as the registered agent. Delray Place Manager, Inc., at this same address, is listed as the "Manager" of Delray Place, LLC in these records. It is not unusual for a developer to form a limited liability corporation for each specific development project as a way to reduce overall liability to the organization. Delray Place Manager, Inc., is also listed by FDOC as an active for profit corporation which lists Joe Carosella as both registered agent and President. There is no listing of any member of the City Commission or staff as having an ownership share in either of these corporations, including Mayor McDuffie. I next pulled the corporate information for the listed "agent" who submitted the Application, and a representative of which appeared before the City Commission on this matter. FDOC records show that Covelli Design Associates, Inc., is an active Florida for profit corporation, listing an address of 2295 NW Corporate Blvd., Suite 213, Boca Raton, FL 33431. Michael Covelli is the registered agent and President of Covelli Design Associates, Inc., as well as the person who appeared before the City Commission at the April 3<sup>rd</sup> meeting as agent for the Applicant.

After obtaining this information, I made contact with Mayor McDuffie by telephone. He provided me the following information. Mayor McDuffie does have an outside business as defined in the Code, and is employed as the Chief of Information Technology for the PBC Property Appraiser's Office. Mayor McDuffie advised he has no other outside businesses or employment, although he is currently actively seeking the position of PBC Supervisor of Elections. Mayor McDuffie states that he is not related to, by blood or marriage, either Joe Carosella or his family, or to Michael Covelli or his family. Further, he has no business connection to Joe Carosella, Delray Place, LLC, or Delray Place Manager, Inc., or to Michael Covelli, or Covelli Design Associates, Inc., nor do any of his relatives have any such connection. He has met both individuals before, but has no ongoing association with either.

After speaking with Mayor McDuffie, I checked the Supervisor of Elections website ([www.pbcelections.org](http://www.pbcelections.org)), specifically to see whether any of these individuals or entities had contributed to Mayor McDuffie's campaign for Supervisor of Elections. As of the last candidate finance report filed on June 11, 2012, there was no contribution listed from these individuals or entities.

I made contact with the Complainant to ascertain whether he had any additional information regarding his Complaint, in particular regarding any improper financial benefit given to Mayor McDuffie for the actions he took at the meeting. Complaint stated that he was not aware of any financial benefit, but that he believes Mayor McDuffie improperly handled the hearing in violation of the rules for such hearings. I advised the Complainant that I could not opine as to whether the act of suggesting an alternative zoning in such circumstances violated any City rule, but that without some improper financial or other benefit, it did not violate the Code of Ethics. The Complainant and I spoke for several minutes concerning the jurisdiction and limitation of the Code, and I directed him to our website ([www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com)) to obtain a better understanding of our role concerning local government.

- **Documents submitted to file**

1. Copy of the initial Complaint. (3 pages)
2. Copy of the relevant pages of the minutes of the Delray Beach City Commission Meeting, held on April 3, 2012. (5 pages)
3. Copy of Public Records Request filed with City of Delray Beach on June 12, 2012. (1 page)
4. Copy of Application for Rezoning from Delray Place, LLC to City of Delray Beach (9 pages)
5. Copy of records from Florida Division of Corporations concerning corporate information for: 1. Delray Place, LLC, Delray Manager, Inc., and Covelli Design Associates, Inc. (6 pages)
6. Copy of Candidate finance report for Nelson S. McDuffie dated June 11, 2012 from the PBC Supervisor of Elections website ([www.pbcelections.org](http://www.pbcelections.org)). (3 pages)
7. Copy of Section 4.4.25, City of Delray Beach Land Use Regulations (3 pages)

8. Copy of Fax from Mayor McDuffie to Commission on Ethics, dated June 14, 2012, waiving his right to confidentiality for this Complaint. (1 page)

- **Legal Analysis**

The following portions of the PBC Commission on Ethics ordinance are relevant to this inquiry:

**Section 2-254. Creation and jurisdiction.**

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics*, the county lobbyist registration ordinance, and the county post-employment ordinance... (Emphasis added)

**Section 2-442. Definitions.**

*Official or employee* means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. (Emphasis added)

As the Mayor of the City of Delray Beach, Nelson "Woodie" McDuffie is subject to the provisions of the PBC Code of Ethics, as of June 1, 2011, when Delray Beach came under the jurisdiction of the PBC Commission on Ethics.

The following section of the Palm Beach County Code of Ethics is relevant to this inquiry.

**Section 2-443(a), *Misuse of public office or employment***, states in relevant portion:

An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care *will result in a special financial benefit*, not shared with similarly situated members of the general public, for any of the following persons or entities: Himself or herself; spouse, domestic partner or household member or dependant; any close family relative; outside employer or business; customer or client of such outside employer or business; any substantial creditor or debtor of his or hers, or of their spouse of domestic partner; or any civic group, union, or charitable or religious organization, of which he or she or their spouse or domestic partner is an officer or director. (Emphasis added)

There is no allegation by Complaint, or information known to either the Complainant or uncovered during this inquiry, to indicate that Mayor McDuffie acted in his official position in violation of this section. Further, there is evidence based on both records obtained during the Inquiry, and the statement of Respondent and the Complainant, that Respondent received no financial benefit, but based his actions on what he believed to be the best interests of the City during this meeting.

**Section 2-443(b) *Corrupt misuse of official position***, states:

An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties*. (Emphasis added)

There is no allegation or evidence provided or disclosed during this inquiry to show that Mayor McDuffie violated this section of the Code of Ethics by his actions at the City Commission Meetings on March 20, 2012, and April 3, 2012.

- Conclusion

Based on the fact that the information provided in the Complaint, even if true, did not allege a violation of any provision of the PBC Code of Ethics, and the COE Inquiry did not find any evidence of such a violation, there is no legal sufficiency to open a formal investigation into this matter.

It is the recommendation of staff that this Complaint be dismissed based upon a finding of NO LEGAL SUFFICIENCY.

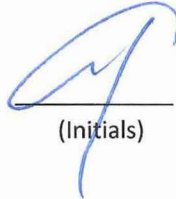
Submitted by:



Mark E. Bannon, Investigator  
PB County Commission on Ethics

6/15/2012  
Date

Reviewed by:

  
(Initials)

06/15/2012  
Date

PALM BEACH COUNTY COMMISSION ON ETHICS

## MEMORANDUM OF NO LEGAL SUFFICIENCY

To: Palm Beach County Commission on Ethics  
From: Alan S. Johnson, Executive Director  
Re: C12-005 – Nelson “Woodie” McDuffie, Mayor, City of Delray Beach

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- **Recommendation**

Regarding the Complaint against Respondent, Nelson “Woodie” McDuffie, Mayor, City of Delray Beach, COE staff recommends a finding of **NO LEGAL SUFFICIENCY** be entered in complaint number C12-005.

*Legal sufficiency exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.*

- **Background**

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The Complainant believes that Mayor McDuffie had an absolute duty to call for a vote in this matter, and failed to do so, which is a violation of his ethical responsibility. Further, he believes that the application would have been

defeated, and states that under the City rules of procedure, the application could not have been re-submitted for six (6) months. The Complainant does not allege that Mayor McDuffie had any financial stake in this decision, or that it was done for a corrupt reason, only that the rules of procedure for a quasi-judicial hearing have been violated by this action. Complainant also makes clear that his Complaint is regarding only Mayor McDuffie's actions during this meeting, not those of City staff or any other City Commissioner. Finally, he states that the Mayor was bound to follow the letter of the law and to act in a manner that "does not leave the public suspecting any form of wrongdoing and collusion between the Applicant, City staff, and elected officials."

- **Analysis**

As the Mayor of the City of Delray Beach, Nelson "Woodie" McDuffie is subject to the provisions of the PBC Code of Ethics, as of June 1, 2011, when Delray Beach came under the jurisdiction of the PBC Commission on Ethics.

**The following section of the Palm Beach County Code of Ethics is relevant to this inquiry.**

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There is no allegation by Complaint, or information known to either the Complainant or uncovered during this inquiry, to indicate that Mayor McDuffie acted in his official position in violation of this section. Further, there is evidence based on both records obtained during the Inquiry, and the statement of Respondent and the Complainant, that Respondent received no financial benefit, but based his actions on what he believed to be the best interests of the City during this meeting.

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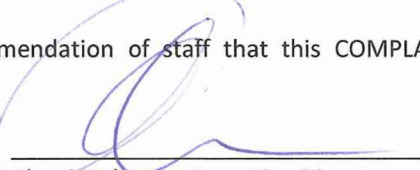
There is no allegation or evidence provided or disclosed during this inquiry to show that Mayor McDuffie violated this section of the Code of Ethics by his actions at the City Commission Meetings on March 20, 2012, and April 3, 2012.

- **Conclusion**

Based on the fact that the information provided in the Complaint, even if true, does not allege a violation of any provision of the PBC Code of Ethics, and the COE Inquiry did not find any evidence of such a violation, there is no LEGAL SUFFICIENCY to open a formal investigation into this matter.

It is the recommendation of staff that this COMPLAINT be DISMISSED based upon a finding of NO LEGAL SUFFICIENCY.

BY:

  
Alan S. Johnson, Executive Director  
Florida bar #223352  
Commission on Ethics

  
Date





## PALM BEACH COUNTY COMMISSION ON ETHICS

2633 Vista Parkway, West Palm Beach, Florida 33411

Hotline: 877-766-5920 or 561-233-0724

### COMPLAINT FORM

**1. Complainant (Person bringing Complaint) *Add pages, if necessary.***

Name: RICHARD VAN GEMERT

Address: 912 EVE STREET

City: DELRAY BEACH, FL

Zip: 33483-4967

Home #: 561-274-6656

Work #: \_\_\_\_\_

Cell #: \_\_\_\_\_

**2. Respondent (Person against whom complaint is made) *Add pages, if necessary.***

Name: WOODIE MCDUFFY

Address: 100 N.W. 1ST AVE.

City: DELRAY BEACH, FL

Zip: 33444

Home #: \_\_\_\_\_

Work #: 243-7000

Cell #: \_\_\_\_\_

Title/Office Held or Sought: MAYOR OF DELRAY BEACH

**3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY**

☒ Allegation is against person in  
County Government

☐ Allegation is about County:  
Whistleblower Retaliation

MUNICIPAL

**4. STATEMENT OF FACTS BASED ON YOUR PERSONAL KNOWLEDGE**

In a separate attachment, please describe in detail the facts and actions that are the basis of your complaint, including the dates when the actions occurred. Also attach any relevant documents as well as names and contact information of persons who may be witnesses to the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions, see page 2 of this form.

**5. OATH**

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.

Richard Van Gemert  
Signature of Person Making Complaint

STATE OF FLORIDA

COUNTY OF Palm Beach

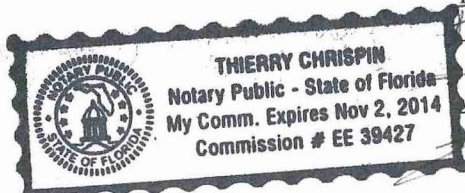
Sworn to (or affirmed) and subscribed before me this 6<sup>th</sup> day of June, 2012, by

Richard Charles Van Gemert,

(Name of Person Making Statement)

who is personally known to me \_\_\_\_\_ or produced identification ☒. Type of identification produced:

FL DL # 1525 743 35 2250



Thierry Chrispin  
(Signature of Notary Public, State of Florida)

Thierry Chrispin  
(Print, Type, or Stamp Commissioned Name of Notary Public)



After considerable effort in reviewing this matter, I have come to the conclusion that something is terribly wrong with the way the following "quasi-judicial" hearing was handled by the Mayor of the City of Delray Beach. The questionable circumstances of how this hearing, on a very important zoning application was handled, has led me to decide to file this complaint.

On March 20, 2012, there was a held during the regular meeting of the City of Delray Commission meeting as follows:

#### **PUBLIC HEARINGS:**

A. **ORDINANCE NO. 05-12:** Consider a privately-initiated Future Land Use Map change from Transitional (TRN) to General Commercial (GC), rezoning from (POC) Planned Office Center to (PC) Planned Commercial, and a Text Amendment of the Comprehensive Plan modifying the description of the (GC) General Commercial Future Land Use designation to limit the maximum FAR to 0.46 for a 9.95 acre property located on the southeast corner of Linton Boulevard and Federal Highway (1801 and 1845 South Federal Highway) known as Delray Place. **(Quasi-Judicial Hearing)**

(Motion to **POSTPONE** to April 3, 2012; Approved, 4-1; Commissioner Frankel dissenting)

And this rezoning item was continued at the City Commission's regular meeting on April 3, 2012 as follows:

#### **PUBLIC HEARINGS:**

A. **ORDINANCE NO. 05-12:** Consider a privately-initiated Future Land Use Map change from Transitional (TRN) to General Commercial (GC), rezoning from (POC) Planned Office Center to (PC) Planned Commercial, and a Text Amendment of the Comprehensive Plan modifying the description of the (GC) General Commercial Future Land Use designation to limit the maximum FAR to 0.46 for a 9.95 acre property located on the southeast corner of Linton Boulevard and Federal Highway (1801 and 1845 South Federal Highway) known as Delray Place. **(Quasi-Judicial Hearing)**

**(THIS ITEM IS A CONTINUATION FROM THE MARCH 20, 2012 PUBLIC HEARING; IT IS NOT OPEN FOR PUBLIC COMMENTS)**

(Motion to continue for a period not to exceed six (6) months and when the item comes back if not withdrawn by applicant, then the applicant will pay for the re-notice and re-advertisement of Ordinance No. 5-12; Approved, 5-0)

**QUASI-JUDICIAL:** having a partly judicial character by possession of the right to hold hearings on and conduct investigations into disputed claims and alleged infractions of rules and regulations and to make decisions in the general manner of courts (*quasi-judicial* bodies).

This complaint concerns a quasi-judicial meeting held as item #10-A on the commission agenda and covered ordinance #05-12, to hear arguments for a change from the current zoning of (POC) Planned Office Center, to (PC) Planned Commercial and (GC) General Commercial. Being a quasi-judicial hearing there is a certain protocol which must be followed and I believe this was violated in many ways.

1) The Commission's "printed and approved minutes" of the meeting do not accurately reflect what happened under item 10-A of that meeting and should not be considered when determining whether a



violation of ethics has occurred, as that which has been approved, in no way reflects the reality of that meeting. Viewing the "official video of the meeting" (available at the Delray Beach City web site [http://delraybeach.granicus.com/ViewPublisher.php?view\\_id=2](http://delraybeach.granicus.com/ViewPublisher.php?view_id=2)) is the only way the violation(s) can officially be identified and acknowledged. The video speaks for itself and is a copy of what actually happened and shows the alleged violations clearly.

2) The quasi-judicial meeting up to this point was conducted in a normal manner during which the Director of the City's Planning and Zoning Board Paul Dorling made his presentation. He presented that the City staff approved the change in zoning, although at **the February 27, 2012, City Planning and Zoning Board meeting that board had unanimously recommending that the City Commission deny the application for rezoning.** The Applicant, represented by his Agent, Covelli Design Associates, presented their application within their allocated time, after which, the Mayor opened the proceedings to the public for their comments. After a number of public citizens spoke, all of whom were in opposition to the rezoning, the **Mayor, Woodie McDuffie officially announced the public hearing closed and referred the matter to the Commission** for their comments.

3) Mayor, Woodie McDuffie, listened to the comments from the other Commissioners, in which all four of the other Commissioners indicated that they were opposed to the change of zoning and indicated that they would vote "no" on the proposal. The Mayor then stated that his vote was in opposition to their views, in which he wanted to approve the change so as to increase the tax base for Delray and other reasons as indicated on the video of the meeting. He then cited the reasons for wanting to approve the rezoning and began a dialogue with the applicant, other commissioners and City staff.

The Mayor after hearing the comments of the other Commissioners, and after making his own comments known, should have immediately called for a vote of the Commission. Each had discussed their position and it was now time to vote. The vote would have been a simple "one for," and "four against." The rezoning would have been defeated and the applicant would not have been able to re-apply for a period of six months. After a new application the applicant would then have to go through the entire process of hearings, approvals, etc., etc. I feel that the Mayor, by his actions of reopening the hearing (without saying so) has violated the rights of the citizens of Delray under the law.

After hearing the comments from the other commissioners and realizing that the rezoning application facing a DEFINITE defeat the Mayor attempted to revive the matter and this is where I believe the Mayor violated ethics and protocol, by deviating from established Quasi-Judicial hearings by conversing with the Applicant and the applicants Agent, asking them a variety of questions regarding their application and then suggesting to the Applicant and his Agent that they could withdraw the application, and re-apply under a different zoning.

**During this open conversation at least two persons in the audience, stood up to object to the proceedings, and were told by the Mayor they were out of order, had no right to be heard, and to sit down, THAT THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

At the same time the Mayor refused to hear comments from the public, he kept an open dialog with the other Commissioners, the Applicant, the Applicants Agent, and the City staff. The Mayor was in complete control of the conversation, and especially the direction he preferred it would go, sitting in the audience I got the distinct impression, as did others that the Mayor was in working with the applicant to get this rezoning approved. This I feel is a clear violation of ethics and the rules set forth for a quasi-judicial hearing.

4) Mayor, Woodie McDuffie, then continued on with his open conversation between himself, the other Commissioners, the Applicant, the Applicants Agents, and the City staff. After this somewhat lengthily discussion, the Applicant was allowed to withdraw his application for rezoning with the intent of re-applying in the near future under another zoning category called (SAD) (which was recommended by another Commissioner and the Mayor.)

5) Then Mayor, Woodie McDuffie, allowed City Staff to converse with the Applicant and the Applicants Agent, on the possible benefits to an alternative application. The questions and discussion did not deal with the rezoning request before them. Rather, the conversation dealt with options which the applicant had, regarding withdrawing his request and filing under different zoning specifications. Then a discussion took place between all parties (with the public excluded) as to the merits of an alternate zoning. The Mayor also suggested this alternate zoning would avoid other problems which would result in a denial of the current application. I believe this was a violation of our rights under the laws of this state, a clear violation of ethics, and the rules of a quasi-judicial hearing.

6) To be clear, I am not filing a complaint against the other commissioners, city employees, or any others, just Mayor Woodie McDuffie, for he was conducting the meeting, was in full control of the direction and content of the meeting, and allowed others to continue the dialogue which he, the Mayor, had opened. It is the Mayor's sole responsibility to conduct and lead the meeting in a way that is ethical and meets the letter of the law and DOES NOT LEAVE THE PUBLIC SUSPECTING ANY FORM OF WRONGDOING AND COLLUSION BETWEEN THE APPLICANT, CITY STAFF, AND ELECTED OFFICIALS.

I ask that you review the video of the meeting (making sure that the copy you view has not been cut or modified in any way) and make your own decisions as to whether this complaint is justified. I think you will concur with me that this meeting was a clear violation of not only ethics, but various laws, and an insult to the people of Florida and Palm Beach County.

As an American citizen and a resident of this county and city, I have the right, and our elected and appointed officials, have the duty to see that not only the code of ethics be adhered to, but that the laws governing this country are upheld to the letter of the law.

Thank you for you kind consideration of this complaint. I look forward to your findings in this matter and should you require more information, I am available as noted below.

Richard Van Gemert  
912 Eve Street  
Delray Beach, FL 33483  
Phone 561-274-6656

**APRIL 3, 2012**

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Nelson S. McDuffie in the Commission Chambers at City Hall at 6:00 p.m., Tuesday, April 3, 2012.

**1.** Roll call showed:

Present - Commissioner Thomas F. Carney, Jr.  
Commissioner Alson Jacquet  
Commissioner Adam Frankel  
Commissioner Angeleta E. Gray  
Mayor Nelson S. McDuffie

Absent - None

Also present were - David T. Harden, City Manager  
Brian Shutt, City Attorney  
Chevelle D. Nubin, City Clerk

**2.** The opening prayer was delivered by Reverend Nancy Norman with Unity of Delray Beach.

**3.** The Pledge of Allegiance to the flag of the United States of America was given.

**4.** **AGENDA APPROVAL.**

Mr. Frankel requested that **Item 8.E., Service Authorization No. 07-17.2/Mathews Consulting, Inc./Reclaimed Water Expansion – Area 12A** of the Consent Agenda be moved to the **Regular Agenda as Item 9.A.A.**

Mr. Frankel moved to approve the Agenda as amended, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes. Said motion passed with a 5 to 0 vote.

**5.** **APPROVAL OF MINUTES:**

Mrs. Gray moved to approve the Minutes of the Regular Meeting of March 20, 2012, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Jacquet – Yes. Said motion passed with a 5 to 0 vote.

like them and not our residences and our bed and breakfasts. He stated he will not support the appeal.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. Carney moved to adopt the Board Order as presented (denying the appeal), seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 8:50 p.m., the Commission took a short break.

At this point, the time being 8:57 p.m., the Commission moved to **Item 10, Public Hearings.**

**10. PUBLIC HEARINGS:**

**10.A. ORDINANCE NO. 05-12:** Consider a privately-initiated Future Land Use Map change from Transitional (TRN) to General Commercial (GC), rezoning from POC (Planned Office Center) to PC (Planned Commercial), and a Text Amendment of the Comprehensive Plan modifying the description of the GC (General Commercial) Future Land Use designation to limit the maximum FAR to 0.46 for a 9.95 acre property located on the southeast corner of Linton Boulevard and Federal Highway (1801 and 1845 South Federal Highway) known as Delray Place. *(Quasi-Judicial Hearing) (THIS ITEM IS A CONTINUATION FROM THE MARCH 20, 2012 PUBLIC HEARING; IT IS NOT OPEN FOR PUBLIC COMMENTS)*

The caption of Ordinance No. 05-12 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT, PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187, INCLUDING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT FROM TRN (TRANSITIONAL) TO GC (GENERAL COMMERCIAL) FOR LAND LOCATED AT THE SOUTHEAST CORNER OF LINTON BOULEVARD AND SOUTH FEDERAL HIGHWAY, AS MORE PARTICULARLY DESCRIBED HEREIN, AND AN ASSOCIATED TEXT AMENDMENT MODIFYING THE DESCRIPTION OF



THE GC (GENERAL COMMERCIAL) FUTURE LAND USE DESIGNATION PERTAINING TO SAID LAND; AND REZONING AND PLACING SAID LAND PRESENTLY ZONED POC (PLANNED OFFICE CENTER) TO PC (PLANNED COMMERCIAL) DISTRICT; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, JANUARY 2012"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 05-12 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated this was continued from the last meeting as a public hearing item and that public hearing was closed. The City Attorney stated the Planning Director is going to be speaking and he is still under oath from the prior meeting.

Paul Dorling, AICP, Director of Planning and Zoning, entered the Planning and Zoning project file #2012-058 and #2012-059.

Mr. Dorling stated this was postponed from the public hearing of March 20, 2012 at which time there was as suggestion that the applicant consider the SAD zoning. The applicant has submitted a letter dated March 29, 2012 and they are asking that they be given a period of six months which would give them adequate time to prepare and submit documents that are required for the SAD zoning piece. Mr. Dorling stated the applicant has asked that since SAD is consistent with all land uses that the land use portion of their current application is no longer necessary and that it be withdrawn.

The City Attorney recommends that if the Commission votes to continue this that in the motion to continue that it be for a time period not to exceed six months and prior to this item coming before the Commission again that it will have to be re-noticed and re-advertised and that the applicant would pick up the expense for Ordinance No. 05-12 unless they withdraw it completely.

Mr. Carney asked if the applicant comes in under the SAD availability isn't this a brand new application anyway. The City Attorney stated it is his understanding that it is. Mr. Carney asked what the rationale is for trying to keep this application still alive even in a suspended form. Mr. Dorling stated in his discussions with the applicant is that they would like to show that they are having a continuing process rather than a complete withdrawal and a new application. He stated that goes to their negotiations with tenants and if they show that they are in fact proceeding with a

continuing application that is better than starting anew. Mr. Dorling stated at the final stage the current ordinance could be eliminated and replaced with a new ordinance should it be necessary.

Mrs. Gray thanked the applicant for meeting with the residents from Tropic Bay and asked staff if he has heard anything about how the residents feel about this extended application. Mr. Dorling stated the previous meetings the City has had would appear to give them an opportunity to way in to the degree that they have not to date.

Mr. Frankel stated because this is a quasi-judicial hearing does he need to disclose any communications that have been made since the last hearing. Mr. Frankel stated he received an email from Mr. Carasello requesting to talk about this issue and he responded back to him and copied the Commission and Ms. Freeman that he would not have any more discussions because based on what his communications were with the City Attorney that because the presentation of evidence was closed he was not going to hear more. For the record, Mr. Frankel stated this is former Mayor Alperin's idea and believes this is a great idea because it is the hottest corner in the city that needs to be updated. Therefore, Mr. Frankel stated the ability to attract a first class tenant would help based on the postponement he is all for it in this SAD zoning but feels the Dr. Alperin deserve credit.

Mr. Jacquet disclosed that he received a letter from Mr. Carasello which he forwarded to the City Clerk and he met with Mr. Carasello and Mr. Covelli on the site and numerous times have driven around the site and have walked some portions of the site to take a look. Mr. Jacquet stated he met with Ms. Kelli Freeman a while back and briefly discussed this issue as well. Mr. Jacquet stated with the applicant proceeding in this manner does it require and asked if they have to get a consensus from the community or the Commission as to what is allowed. Mr. Dorling stated what the SAD does is physically ties the site plan to the zoning action and it does not require that they work with anybody.

Mr. Carney disclosed he too received an email from Mr. Carasello and spoke with Kelli Freeman and forwarded this email to the City Clerk.

Mayor McDuffie stated he received a voicemail and email from Mr. Carasello as well but did not respond.

Mrs. Gray disclosed that she too received the same email and spoke to staff. Mrs. Gray stated she received a telephone call from Bill Branning to meet with the applicant but she did not.

Mayor McDuffie echoed comments expressed by Commissioner Frankel and stated this is the most important corner that needs something done to it. Mayor McDuffie stated he supports a 6 month extension with pursuit of the SAD zoning.

Mr. Jacquet moved to continue for a period not to exceed of six (6) months and when this matter comes back if it is not withdrawn that the applicant must pay for the re-notice and re-advertising of this item, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Jacquet – Yes. Said motion passed with a 5 to 0 vote.

**10.B.        ORDINANCE NO. 09-12:** Consider a city-initiated amendment to Land Development Regulations (LDR) Appendix “A”, “Definitions”, to expand the definition of “Restaurant (Bona Fide)”, to clarify required operations and components for restaurant uses.

The caption of Ordinance No. 09-12 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF  
THE CITY OF DELRAY BEACH, FLORIDA,  
AMENDING THE LAND DEVELOPMENT  
REGULATIONS OF THE CODE OF ORDINANCES BY  
AMENDING APPENDIX "A", "DEFINITIONS", TO  
EXPAND THE DEFINITION OF "RESTAURANT  
(BONA FIDE)" TO CLARIFY REQUIRED  
OPERATIONS AND COMPONENTS FOR  
RESTAURANT USES, PROVIDING A GENERAL  
REPEALER CLAUSE, A SAVING CLAUSE, AND AN  
EFFECTIVE DATE.

(The official copy of Ordinance No. 09-12 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, AICP, Director of Planning and Zoning, stated this adds three specific sections to the existing definition of restaurant that says all tables, chairs, and counter areas are to remain available for full course meals during all hours of operation and tables and seatings cannot be cleared away to accommodate other activities such as dance floors or other occupancy areas. Mr. Dorling stated this is to really address an issue where restaurants more of a stand-alone bar in the evenings and in the cases when they do that either because they become a stand-alone bar and the City has a distance requirement for stand-alone bars, or they fail to satisfy requirements that are currently in place for operation of restaurant and that language is being proposed. He stated some additional language that facilities that qualify for a stand-alone bar facility serving food category per Florida Statute would not qualify as a bona fide restaurant. Mr. Dorling stated the Statutes say that if you provide more than 10% of the revenue from food then you cannot have that category so that says you are providing 90% liquor at a minimum.

Attachment "A"

CITY OF DELRAY BEACH  
REQUEST FOR PUBLIC RECORDS INFORMATION

REQUEST SUBMITTED BY:

NAME: MARK BANNON (C.O.E.)  
ADDRESS: 2633 VISTA PARKWAY  
W. PALM BEACH, FL 33411  
PHONE: (561) 233-0729  
FAX: (561) 233-0735

(Above information is optional and not required from requesting person.)

INFORMATION REQUESTED:

ORDINANCE # \_\_\_\_\_  
RESOLUTION# \_\_\_\_\_  
MEETING MINUTES \_\_\_\_\_  
Meeting & Date (entire set) \_\_\_\_\_  
Meeting & Date (excerpt only) \_\_\_\_\_

OTHER: file # 2012-059 Delray Place Rezoning

NOTICE: You are not required to fill out this form. Office personnel are required to complete this form, if you choose not to.

- A. The Custodian will charge the requesting party \$0.15 per copy for one-sided copies which are not more than 8 1/2 X 14, as well as \$0.20 for double-sided copies, and \$0.25 per microfiche page. This fee shall be paid in advance prior to providing the copies.
- B. For all other copies, the actual cost of duplication of the public record will be charged. Charges not specifically listed in this policy, but referred to by Florida Statutes Chapter 119 shall be followed.
- C. The Custodian will charge the requesting party \$1.00 per copy for a certified copy.
- D. If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the City, or both, the City may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the City or attributable to the City for the clerical and supervisory assistance required, or both. Charges for extensive clerical or supervisory assistance could begin to accrue after the first 15 minutes and such charges shall be at the employee's hourly rate, including benefit costs.

Date of Request: 6/12/2012

Date Completed: 6/12/2012

M. E. B.  
Signature of Requesting Party

R. Truitt  
Signature of Department Employee

Rez No. \_\_\_\_\_

Date Received \_\_\_\_\_

**CITY OF DELRAY BEACH PLANNING AND ZONING DEPARTMENT  
APPLICATION FOR REZONING**

Project Name: Delray Place

Address or General Location: 1801 S. Federal Highway

**PART ONE - APPLICANT INFORMATION:**

**APPLICANT**

Name: Delray Place, LLC

Address: Royal Palm Place, 101 Plaza Real South, Suite 200  
Boca Raton, Florida 33432

Telephone Number: 561-961-1732 E-Mail/Fax: 561-961-1744/jcarosella@rpg123.com

**AGENT**

Name: Covelli Design Associates, Inc.

Address: 2295 N.W. Corporate Boulevard, Suite 213  
Boca Raton, Florida 33431

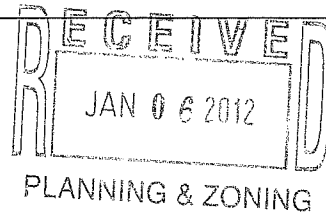
Telephone Number: 561-910-0330 E-Mail/Fax: Mike@covellidesign.com

**OWNER** (if other than applicant)

Name: same

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ E-Mail/Fax: \_\_\_\_\_





**PART TWO - PROPERTY INFORMATION:**

Property Control Number: 1243628480010000 1243628490010000

Legal Description (attach separate sheet if necessary): See Attached

Existing Future Land Use Map Designation: Transitional

Proposed Future Land Use Map Designation: General Commercial

Existing Zoning District: POC

Area of Property: 433,422 sq. ft. 9.95 acres

Briefly Describe the Present Use of the Subject Property: \_\_\_\_\_

2 - Multi story office buildings with a drive through bank and

1 - single story office building

Briefly Describe the Proposed Use of the Subject Property: \_\_\_\_\_

A multi building shopping center

Legal Description

ALL OF OLD HARBOR OFFICE AND BANK FACILITY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 42, PAGE 61, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THEREFROM THAT PARCEL OF LAND DESCRIBED AS PARCEL 103 IN THAT ORDER OF TAKING ON PALM BEACH COUNTY PETITION FILED IN PALM BEACH COUNTY CIRCUIT COURT UNDER CASE NO. CL99-228AN AND RECORDED MARCH 30, 1999 IN OFFICIAL RECORDS BOOK 11016, PAGE 226, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING IN SECTION 28, TOWNSHIP 48 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE PLAT OF "OLD HARBOR OFFICE AND BANK FACILITY", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 42, PAGE 61, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PLAT; THENCE NORTH 89°47'57" EAST, ALONG THE NORTHERLY BOUNDARY LINE OF SAID PLAT, A DISTANCE OF 25.00 FEET; THENCE SOUTH 57°28'45" WEST, A DISTANCE OF 42.24 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF SAID PLAT AND ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT, WHERE THE RADIAL LINE BEARS SOUTH 65°17'42" EAST; THENCE NORTHEASTERLY ALONG SAID WESTERLY BOUNDARY LINE AND THE ARC OF SAID CURVE, HAVING A RADIUS OF 1850.08 FEET AND A CENTRAL ANGLE OF 00°46'27", A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

AND:

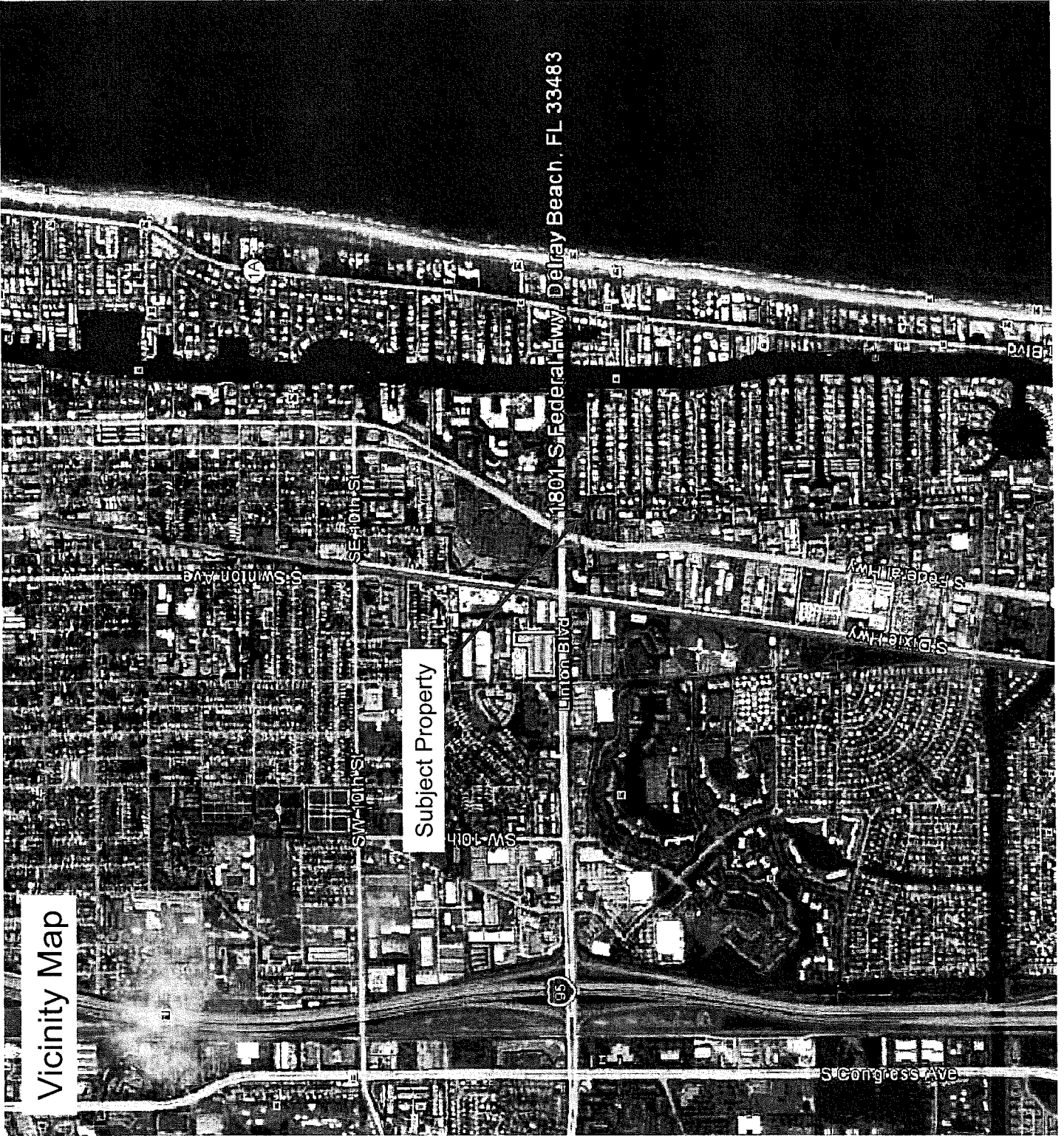
ALL OF OLD HARBOR OFFICE AND BANK FACILITY II, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 42, PAGE 62, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

---

# Vicinity Map

Subject Property

1801 S Federal Hwy Delray Beach, FL 33483



**PART THREE - STATEMENT OF REASONS FOR REZONING**

Land Development Regulations (LDR'S) Section 2.4.5(D)(2), requires a statement justifying the rezoning. The valid reasons stated in the code for approving a change in zoning include:

- A. That the zoning had previously been changed, or was originally established, in error;
- B. That there has been a change in circumstances which makes the current zoning inappropriate; and,
- C. That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

Identify the reason which applies and state specifically how your request fits within one or more of these reasons (if additional space is needed, please use separate sheet): \_\_\_\_\_

C. The proposal is to construct a shopping center which is  
\_\_\_\_\_

consistent with the development in the general vicinity.  
\_\_\_\_\_

Existing office buildings will be demolished to make room  
\_\_\_\_\_

for the proposed shopping center. The intensity of the development  
\_\_\_\_\_

is within the scale of the area and will provide support services  
\_\_\_\_\_

to the surrounding neighborhood.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has any previous application been filed within the last year in connection with the subject property? (Yes) (No). If yes, briefly describe the nature of the application.

no  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OWNER'S CONSENT**

(This form must be completed by **ALL** property owners)

I Delray Place, LLC, the fee simple owner of the following  
(Owner's Name)

described property (give legal description): See attached

hereby petition to the City of Delray Beach to change the zone district From  
POC To PC

I certify that I have examined the application and that all statements and diagrams submitted are true and accurate to the best of my knowledge. I consent to inspection and photographing of the subject property by the Planning and Zoning Department Staff for purposes of consideration of this application and/or presentation to the approving body. Further, I understand that this application, attachments and fees become part of the Official Records of the City of Delray Beach, Florida, and are not returnable.

Delray Place, LLC, a Florida limited liability company, by its Manager Delray Place Manager, Inc., a Florida corporation

by: Joe Carosella, President Joe Carosella (Owner's Signature)

The foregoing instrument was acknowledged before me this 6th, day of  
December, 20 11 by Joe Carosella, who is personally  
known to me or has produced \_\_\_\_\_ (type of  
identification) as identification and who did (did not) take an oath.

Michele Burns  
(Printed Name of Notary Public)

Michele Burns  
(Signature of Notary Public)

Commission # EE142447, My Commission Expires 10/30/2015

(NOTARY'S SEAL)





**OWNER'S DESIGNATION OF AGENCY**

(This form must be completed by **ALL** property owners if designating an Agent)

I Delray Place, LLC, the fee simple owner of the following  
(Owner's Name)

described property (give legal description): See attached

hereby affirm that Covelli Design Associates, Inc.  
(Applicants/Agent's Name)

is hereby designated to act as agent on my behalf to accomplish the above.

I certify that I have examined the application and that all statements and diagrams submitted are true and accurate to the best of my knowledge. Further, I understand that this application, attachments and fees become part of the Official Records of the City of Delray Beach, Florida, and are not returnable.

Delray Place, LLC, a Florida limited liability company, By it's Manager Delray Place Manager, Inc., a Florida corporation

by: Joe Carosella, President

(Owner's Signature)

The foregoing instrument was acknowledged before me this 6th, day of  
December, 20 11 by Joe Carosella, who is personally  
known to me or has produced \_\_\_\_\_ (type of  
identification) as identification and who did (did not) take an oath.

Michele Burns  
(Printed Name of Notary Public)

(Signature of Notary Public)

Commission # EE142447, My Commission Expires 10/30/2015

(NOTARY'S SEAL)



## AFFIDAVIT

Before me, the undersigned authority, personally appeared Delray Place, LLC,  
who being by me first duly sworn, deposes and says: (Applicant's Name)

1. That the accompanying property owners list is, to the best of my knowledge, a complete and accurate list of all property owners' names, mailing addresses, and legal descriptions of all property lying within five hundred feet (500') of the subject property as recorded on the latest official County tax rolls.
2. That the subject property is legally described as follows: (give legal description)

See Attached

Delray Place, LLC, a Florida limited liability company, By it's Manager Delray Place Manager, Inc., a Florida corporation

By: Joe Carosella, President *lc*

The foregoing instrument was acknowledged before me this 6th day of  
December, 20 11 by Joe Carosella, who is personally  
known to me or has produced (type of identification)  
as identification and who did take an oath.

Michele Burns

(Printed Name of Notary Public)

*Michele Burns*  
(Signature of Notary Public)

Commission # EE142447, My Commission Expires 10/30/2015

(NOTARY'S SEAL)



**CERTIFICATE**  
(if Corporation)

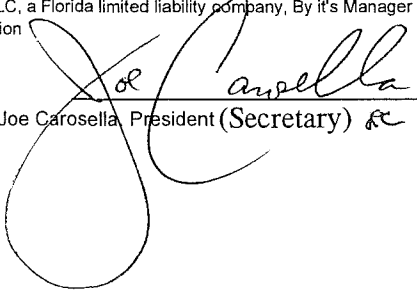
STATE OF FLORIDA       )  
  ) SS  
COUNTY OF               )  
\_\_\_\_\_ )

I HEREBY CERTIFY that a meeting of the Board of Directors of Delray Place, LLC, a corporation under the laws of the State of Florida held on December 6th, 2011 the following resolution was duly passed and adopted:

"RESOLVED", that Joe Carosella, as Agent of the Corporation, he is hereby authorized to petition for Delray Place, LLC, to the City of Delray Beach, Florida, and that his execution thereof, attested by the Secretary of the Corporation and corporate seal affixed, shall be the official act and deed of this corporation"

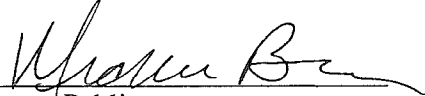
I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of December, 2011.  
Delray Place, LLC, a Florida limited liability company, By it's Manager Delray Place Manager, Inc., a Florida corporation

By: Joe Carosella, President (Secretary) 



**CORPORATE SEAL:**

Subscribed and sworn to before me this 6th day of December, 2011, by Joe Carosella who is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and who did take an oath.

  
Notary Public  
My Commission Expires: 10/30/2015

**NOTARY SEAL:**



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<b>No Events</b> <b>No Name History</b>			<input type="button" value="Submit"/>		
<b>Detail by Entity Name</b>					
<b>Florida Limited Liability Company</b>					
DELRAY PLACE, LLC					
<b>Filing Information</b>					
<b>Document Number</b> L11000110972					
<b>FEI/EIN Number</b> 453450184					
<b>Date Filed</b> 09/28/2011					
<b>State</b> FL					
<b>Status</b> ACTIVE					
<b>Effective Date</b> 09/27/2011					
<b>Principal Address</b>					
101 PLAZA REAL SOUTH SUITE 200 BOCA RATON FL 33432					
<b>Mailing Address</b>					
101 PLAZA REAL SOUTH SUITE 200 BOCA RATON FL 33432					
<b>Registered Agent Name &amp; Address</b>					
CAROSELLA, JOE 101 PLAZA REAL SOUTH SUITE 200 BOCA RATON FL 33432 US					
<b>Manager/Member Detail</b>					
<b>Name &amp; Address</b>					
Title MGR					
DELRAY PLACE MANAGER, INC. 101 PLAZA REAL SOUTH, SUITE 200 BOCA RATON FL 33432					
<b>Annual Reports</b>					
<b>Report Year Filed Date</b>					
2012      04/25/2012					
<b>Document Images</b>					
<a href="#">04/25/2012 -- ANNUAL REPORT</a>		<input type="button" value="View image in PDF format"/>			
<a href="#">09/28/2011 -- Florida Limited Liability</a>		<input type="button" value="View image in PDF format"/>			

**Note:** This is not official record. See documents if question or conflict.

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<a href="#">No Events</a>			<a href="#">No Name History</a>			<div>Entity Name Search <input type="text"/> <input type="button" value="Submit"/></div>	
<h2>Detail by Entity Name</h2>							
<h3>Florida Profit Corporation</h3>							
DELRAY PLACE MANAGER, INC.							
<h3>Filing Information</h3>							
<b>Document Number</b> P11000085214							
<b>FEI/EIN Number</b> 453450216							
<b>Date Filed</b> 09/27/2011							
<b>State</b> FL							
<b>Status</b> ACTIVE							
<b>Effective Date</b> 09/27/2011							
<h3>Principal Address</h3>							
101 PLAZA REAL SOUTH SUITE 200 BOCA RATON FL 33432							
<h3>Mailing Address</h3>							
101 PLAZA REAL SOUTH SUITE 200 BOCA RATON FL 33432							
<h3>Registered Agent Name &amp; Address</h3>							
CAROSELLA, JOE 101 PLAZA REAL SOUTH SUITE 200 BOCA RATON FL 33432 US							
<h3>Officer/Director Detail</h3>							
<b>Name &amp; Address</b>							
Title P							
CAROSELLA, JOE 101 PLAZA REAL SOUTH, SUITE 200 BOCA RATON FL 33432							
<h3>Annual Reports</h3>							
<b>Report Year Filed Date</b>							
2012 04/25/2012							
<h3>Document Images</h3>							
<a href="#">04/25/2012 -- ANNUAL REPORT</a>			<input type="button" value="View image in PDF format"/>				
<a href="#">09/27/2011 -- Domestic Profit</a>			<input type="button" value="View image in PDF format"/>				

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Entity Name Search

[Details](#) by Entity Name No Name History

Florida Profit Corporation

COVELLI DESIGN ASSOCIATES, INC.

## Filing Information

Document Number P06000046375  
FEI/EIN Number 204806120  
Date Filed 03/30/2006  
State FL  
Status ACTIVE  
Last Event REINSTATEMENT  
Event Date Filed 11/22/2010  
Event Effective Date NONE

## Principal Address

2295 NW CORPORATE BLVD  
SUITE 213  
BOCA RATON FL 33431

Changed 07/16/2008

## Mailing Address

2295 NW CORPORATE BLVD  
SUITE 213  
BOCA RATON FL 33431

Changed 07/16/2008

## Registered Agent Name &amp; Address

COVELLI, MICHAEL  
2295 NW CORPORATE BLVD  
SUITE 213  
BOCA RATON FL 33431 US

Address Changed: 07/16/2008

## Officer/Director Detail

## Name &amp; Address

## Title P

COVELLI, MICHAEL  
2295 NW CORPORATE BLVD, #213  
BOCA RATON FL 33431

## Title V

TATE, STEVEN  
2295 NW CORPORATE BLVD, #213  
BOCA RATON FL 33431

Title ST

COVELLI, LIANE  
2295 NW CORPORATE BLVD, SUITE 213  
BOCA RATON FL 33431

#### Annual Reports

Report Year Filed Date

2010 11/22/2010

2011 02/17/2011

2012 02/15/2012

#### Document Images

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[04/23/2007 -- ANNUAL REPORT](#)

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## Candidate Finance Reports

**Nelson McDuffie**

Select Election				
Date	Election	Office	Reports	
11/06/2012	<a href="#">2012 Election Cycle</a>	Supervisor of Elections	1	

Contributor	Contributor Address	Contributor City	Contributor State	Contributor Zip	Amendment	Entity Name	First Name	Middle Name	Last Name	Name Suffix	Address 1	Address 2	City	State	Zip
#####	500						Michael	E.	Maroone		909 Poinciana Drive		Fort Lauderdale	FL	33301
#####	50						Robert		Hiering		2961 San Remo Way		Delray Beach	FL	33445
#####	500						Francis	A.	Marincola		1138 Vista DelMar Drive		Delray Beach	FL	33483
#####	100						William	C.	McDonough		345 SE 7th Avenue		Delray Beach	FL	33483
#####	25						Mel		Sacharow		23287 Blue A-405		Boca Raton	FL	33433
#####	100						Robert	W.	Darr		902 NE 7 Street		Boynton Beach	FL	33435
#####	100						Edwin	A.	Jones		9659 Landings Drive		Port St. Lucie	FL	34986
#####	50						Joseph	Jeffrey	Thistle		303 Grove Way		Delray Beach	FL	33444
#####	25						Jeannine		Gila		610 45th Court SW		Vero Beach	FL	32968
#####	100						Jeffrey		Lynne		18213 103rd Trail South		Boca Raton	FL	33498
#####	25						Bern		Ryan		1041 SW 6th Street		Boca Raton	FL	33486
#####	25						Marjorie		Waldo		4550 Ellwood Drive		Delray Beach	FL	33445
#####	25						Jestena		Boughton		525 E. Atlantic Avenue		Delray Beach	FL	33483
#####	15						William		Branning		1461 SW 15 Street		Boca Raton	FL	33444
#####	50						Dale		Briese		P.O. Box 244047		Boynton Beach	FL	33424
#####	50						Roy	T.	Young		2102 S. Federal Highway		Delray Beach	FL	33483
#####	25						Jennifer		Aracri		1920 Linton Unit G		Delray Beach	FL	33445
#####	250						Linda		Bean		6 Derbyshire Lane		Port Clyde	ME	4055
#####	50						Bob		Rex		10 Country Rd., West		Village of Green	FL	33436
#####	500					Floridians for Economic Leadership					120 S. Monroe Street		Tallahassee	FL	32301
#####	100						Sheldon		Weil		925 Greensward Lane		Delray Beach	FL	33445



TypeOfCon	Contributo	Occupatio	InKindDescription
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CHE	I	President	
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CHE	I	Maine Lobster Dealer	
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CHE	C		
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**Section 4.4.25      Special Activities District (SAD):**

(A) **Purpose and Intent:** The Special Activities District (SAD) is established in order to provide a zone district which is appropriate for projects which are not otherwise classified or categorized in other zone districts; or, which for some other good reason, can not be properly accommodated in the other zone districts. Also, the SAD is to be used for large scale and mixed projects for which conventional zoning is not applicable. While SAD zoning is deemed consistent with any land use designation on the Future Land Use Map, the uses allowed within a specific SAD shall be consistent with the land use category shown on the Future Land Use Map. The uses, activities, and characteristics of a SAD are to be consistent with the Comprehensive Plan, suitable and compatible with surrounding existing development, and with the proposed character of the area.

(B) **Allowed Uses and Structures:**

(1) **General:** All uses which are to be allowed in a particular SAD shall be established at the time of establishment of the SAD zoning designation through inclusion in the rezoning ordinance. Additional uses may be allowed after review and recommendation by the Planning and Zoning Board and approval by ordinance of the City Commission.

(2) **SAD Required:** The SAD zone designation is required for the following:

- (a) Any development which is designated as a Large Scale Mixed Use pursuant to the Comprehensive Plan.
- (b) Any Development of Regional Impact (DRI)
- (c) A full service marina
- (d) Any use which is otherwise not accommodated in any of the other zone districts.

(C) **Review and Approval Process:**

(1) **General:** All SAD's are established by an ordinance which is processed as is a rezoning. Concurrent with processing of the rezoning application, a complete site and development plan with, at least, preliminary engineering plans shall be processed.

(2) **Alternative Processing:** A proposed SAD may proceed to first reading based upon a lesser submission provided that, if approved on first reading, prior to second reading a complete site and development plan including landscaping plans and

## SECTION 4.4.25 (C) (2)

architectural elevations must be processed through, and approved by the Site Plan Review and Appearance Board. However, in no event shall the time between first and second readings of the enacting ordinance exceed a period of 180 calendar days. In such an event, the rezoning process shall cease and the application considered denied without prejudice. A subsequent application may be processed thereafter anew. **[Amd. Ord. 20-07 6/19/07]**

(3) **Establishment**: Vesting of a SAD project shall occur in the same manner as set for the establishment of a site plan approval [reference Sections 2.4.4 (D) and (E)], except that when the SAD is for a large Scale Mixed Use Development, the initial approval (validity) period shall be specifically stated in the enacting ordinance, but shall, in no event, be less than six (6) years. In the event that a SAD project does not become established, all uses, waivers, adjustments, and other actions taken pursuant to the SAD shall be void. In order to proceed to establish the same, or another, use it shall be necessary to process a rezoning request. **[Amd. Ord. 47-92 10/13/92, Amd. Ord. 31-91 3/26/91]**

(D) **Development Standards**: The development standards as set forth in Section 4.3.4 shall apply except as modified by the following:

(1) A minimum setback of fifteen feet shall be established around the perimeter of any property developed under the SAD designation. Within the front and any street side setback, the fifteen foot (15') setback area shall be a landscape area and no pavement shall be allowed therein except for pedestrian ways and driveways (or streets) which provide access to the property and which are generally perpendicular to the abutting street.

(2) Setbacks for all interior spaces shall be as set forth on the site and development plan.

(E) **Supplemental District Regulations**: The supplemental district regulations as set forth in Article 4.6 shall apply except as modified by the following:

(1) Parking and loading requirements (number of spaces) shall be as set forth on the site and development plan. **[Amd. Ord. 60-93 10/12/93]**

(F) **Special Regulations**: Any special regulations may be applied through the SAD review and approval process.

(G) **S.A.D.s**: The following S.A.D.s are shown on the Official Zoning Map and are regulated by the provisions of this Section and the referenced Ordinance:

(1) The Extra Closet, Ordinance No. 28-89, which established the Extra Closet S.A.D. is modified by Ordinance No. 6-06, which is now named United Stor-All; **[Amd. Ord. 6-06 4/18/06]**

## **SECTION 4.4.25 (G) (2)**

(2) Laver's North, Ordinance No. 65-80, modified by Ordinance Nos. 21-95, 34-96, and 19-98, established; **[Amd. Ord. 19-98 5/19/98]; [Amd. Ord. 34-96 10/15/96]; [Amd. Ord. 21-95 5/16/95]**

(3) Waterford Place/Delint DRI, Ordinance No. 79-84, as amended by Ordinance Nos. 45-01, 96-87, 68-89, 64-92, 11-96 also governed by DRI Resolution No. 49-85, established; **[Amd. Ord. 45-01 9/19/01]; [Amd. Ord. 11-96 3/5/96]**

(4) Marina Cay, Ordinance No. 51-89, not established, approval expires on August 22, 1995; **[Amd. Ord. 47-92 10/13/92; Amd. Ord. 31-91 3/26/91]**

(5) Marina Delray, Ordinance No. 31-95, modified by Ordinance No. 25-96, established; **[Amd. Ord. 25-96 7/23/96; Amd. Ord. 31-95 6/20/95]**

(6) The HHH Bush Building, Ordinance No. 38-84, modified by Ordinance No. 39-90, modified by Ordinance 01-11. **[Amd. Ord. 01-11 2/1/11]**

(7) Tutor Time Plaza, Ordinance No. 72-89, not established, approval expires on November 8, 1991.

(8) Silver Terrace Subdivision, Ordinance No. 39-96, as amended by Ordinances 54-02, 51-02, and No. 30-00, established. **[Amd. 54-02 1/7/03]; [Amd. Ord. 51-02 10/15/02]; [Amd. Ord. 30-00 11/21/00]**

(9) Robotic Space Savers, Ordinance NO. 4-07. **[Amd. Ord. 4-07 2/6/07]**

(10) Midtown Delray, Ordinance No. 46-07, modified by Ordinance 07-10. **[Amd. 07-10 3/2/10]; [Amd. 46-07 12/11/07]**

**NOTE: Number (4), Delray Lakes (FKA Isles of Delray) has been deleted in its entirety. It was rezoned from SAD to PRD-4 on November 7, 1995.**

  
**FAX**

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For: Commission on Ethics

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Fax number: (561) 233-0735

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From: Mayor Woodie McDuffie

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Fax number: (561) 355-6501

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Date: June 14, 2012

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Regarding: Complaint

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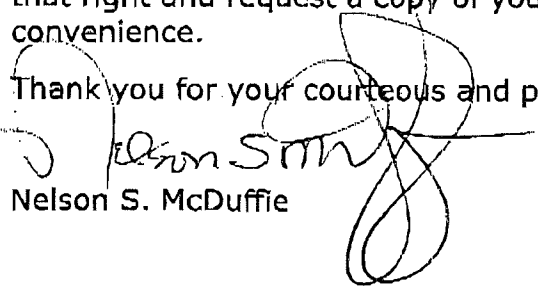
Number of pages: 1

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Comments:

Being fully aware that I have the right to confidentiality in the recent complaint files against me, I hereby waive that right and request a copy of your report at your convenience.

Thank you for your courteous and professional service.

  
Nelson S. McDuffie