



**MEMORANDUM DATE:** September 30, 2021 PZB | October 6, 2021 HRPB

**AGENDA DATE:** October 6, 2021 PZB | October 13, 2021 HRPB

**TO:** Planning and Zoning Board  
Historic Resources Preservation Board

**RE:** **307 North J Street – Aviara on the Ave**

**FROM:** Erin F. Sita, AICP, Assistant Director  
Debora Slaski, Principal Planner  
Abraham Fogel, Preservation Planner  
Department for Community Sustainability

**PZB/HRPB Project Number 20-01100001:** A request by MAG Real Estate & Development, Inc. on behalf of Hammon Park on the Ave, LLC, for consideration of a replat to subdivide a portion of ‘Hammon Park’ to the development known as ‘Aviara on the Ave’, which is the subject property. The property is located within the Northeast Lucerne Local Historic District and is located within the Mixed Use - Dixie Highway (MU-DIXIE) zoning district with a Future Land Use of Mixed Use East (MU-E).

**Owner:** Hammon Park on the Ave, LLC  
933 South Congress Avenue  
Delray Beach, FL 33445

**Applicant:** MAG Real Estate & Development, Inc.  
933 South Congress Avenue  
Delray Beach, FL 33445

**PCNs:** 38434422410000790; 38434422410000800; 38434422410000810; 38434422410000820;  
38434422410000830; 38434422410000840; 38434422410000850; 38434422410000860;  
38434422410000870; 38434422410000880; 38434422410000890; 38434422410000900;  
38434422410000910; 38434422410000920; 38434422410000930; 38434422410000940;  
38434422410000950; 38434422410000960; 38434422410000970; 38434422410000980;  
38434422410000990; 38434422410001000; 38434422410001010; 38434422410001020;  
38434422410001030; and 38434422410020000.

**PROJECT HISTORY:**

- The subject property received the original approval for the project known as Hammon Park in 2004 via Ordinance No. 2004-50, which amended the Future Land Use designation of the property from General Commercial to High Density Residential. A concurrent rezoning petition was approved by Ordinance No 2004-51 that rezoned the property from High Intensity Commercial to Medium Density Multiple Family Residential, 30 units to the acre. Subsequently, infrastructure was added to the site, construction commenced on the northern parcel, and two (2) residential buildings were completed.

- In 2008, the City Commission adopted Ordinance No. 2008-01 approving the rezoning of the parcel to a Residential Planned Development (RPD) District. The RPD included a mixed-use development, allowing both residential and commercial uses. The RPD contained a total of 130 residential units and 4,544 square feet of commercial space.
- In 2009, Ordinance 2009-28 was approved to allow a major amendment to the Hammon Park RPD, facilitating the development of Publix Supermarket on the southern parcel.
- In 2010, modifications were made to the Master Development Plan, which included the elimination of the external catwalks and a provision for enclosed garages. The modifications were approved by the City Commission via Ordinance No. 2010-18.
- In 2015, the applicant received approval for a Major RPD Amendment and to rename the project from Hammon Park to Bella Terra via Ordinance 2015-05. The modifications affected the northern portion of the RPD. The applicant proposed to replace the approved building floor plans and upgrade the building architecture. The revised floor plans retained the previously approved building footprint. Overall, the proposed changes were minor in nature and preserved the intent of the previously approved site plan.
  - In Ordinance 2015-05, Condition of Approval #3 indicates “Prior to the issuance of a Certificate of Occupancy, the property shall be replatted to reflect the conversion from townhouse to multi-family condominium structures.”
- In 2019, buildings permits were submitted to construct four, three-story buildings with nine units in accordance with the Major RPD Amendment.

#### Current Request

- In 2020, the applicant submitted a replat request to satisfy Condition of Approval #3 in Ordinance 2015-05.
  - The application was determined insufficient on August 6, 2020.
  - On December 8, 2020, additional documentation was provided and review of the request initiated.
  - After several rounds of review by the City’s Site Plan Review Team (SPRT), City Attorney, and Mock Roos & Associates, Inc., engineering consultant, the final plat was submitted on August 13, 2021.
  - On August 24, 2021, Mock Roos & Associates, Inc. issued a Letter of Conformity indicating the plat had addressed all review comments and was in compliance with Florida Statute 177.81.
  - Subsequently, the replatting request was scheduled for the next available advisory board City Commission meetings.
- In 2021, construction of the four buildings was completed and a temporary Certificate of Occupancy was granted by the City. The Certificate of Occupancy will only be granted once the replatting of the subject property is completed.

The files associated with the project history are included as **Attachment A**.

#### **PROJECT DESCRIPTION:**

The applicant, MAG Real Estate & Development, Inc., is requesting approval of the following:

1. Approval of a Final Replat;
2. Authorization for the Planning and Zoning Board and Historic Resources Preservation Board Chairman to execute the Replat; and
3. A recommendation to the City Commission to approve the Final Replat.

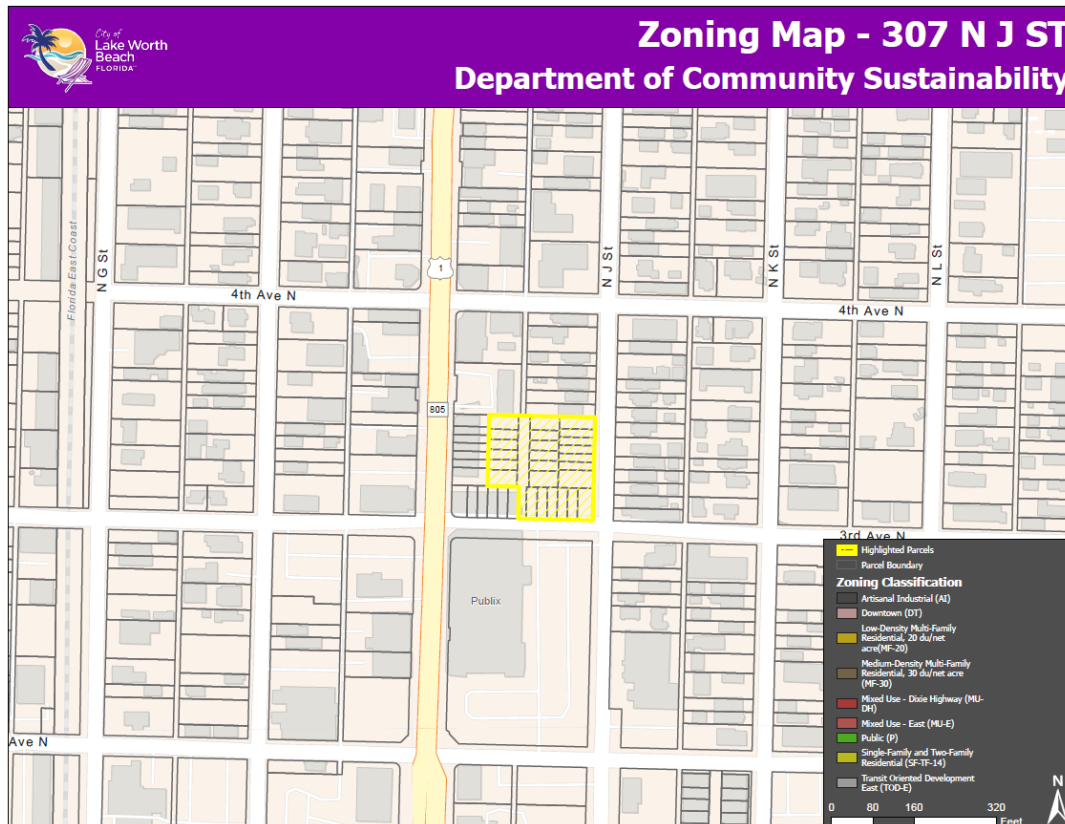
The subject site is located north of 3<sup>rd</sup> Avenue North abutting Dixie on the West and North J Street on the East. The current subdivision name is “Hammon Park”, but the proposed replat impacts Lots 79 through 103 and Tract B, proposing the new name “Aviara on the Ave”.

**STAFF RECOMMENDATION:**

Staff recommends that the Planning and Zoning Board (PZB) and the Historic Resources Preservation Board (HRPB) forward a recommendation of approval to the City Commission concerning for the proposed Replat.

**PROPERTY DESCRIPTION:**

Owner	Hammon Park on the Ave, LLC
Applicant	MAG Real Estate & Development, Inc.
General Location	North of 3 <sup>rd</sup> Avenue North abutting Dixie on the West and North J Street on the East
Zoning	Mixed Use - Dixie Highway (MU-DIXIE)
Existing Land Use	Multi-Family Residential
Future Land Use Designation	Mixed Use East (MU-E)



**ZONING ANALYSIS:**

As outlined in the project history, in 2015, the property received approval for a Major RPD Amendment via Ordinance 2015-05. The modifications affected the northern portion of the RPD, where the building floor plans were modified and the building architecture was upgraded. In Ordinance 2015-05, Condition of Approval #3 indicates “Prior to the issuance of a Certificate of Occupancy, the property shall be replatted to reflect the conversion from townhouse to multi-family condominium structures.” The subject replatting request will satisfy Condition of Approval #3 once it is approved by the City Commission. The final plat is included as **Attachment B**.

The comprehensive site plan review that addressed subdivision provisions related to drainage, water, sewage, design standards, easements, and required improvements took place in the approval of Ordinance 2015-05. Therefore, the existing configuration of the site is vested and the subject replatting application is required due to the change from townhouse to multi-family condominium or apartment structures and to satisfy to condition of approval listed in the ordinance.

**ADVISORY BOARD AUTHORITY:**

Pursuant to LDR Section 23.5-2(g)(6):

*Review board recommendation. The review board shall determine whether a tentative plat is in conformity with the provisions and requirements of these regulations and other applicable requirements of the ordinances of the city. It shall make such investigations and recommendations as may be deemed necessary to insure such conformity and to cause the tentative plat to be consistent with the city's comprehensive plan. The board shall recommend approval, approval with conditions, or disapproval of the tentative plat. The board's recommendation shall be forwarded to the city commission, signed by the chairman of the board, and filed with the city clerk. Upon recommending approval, approval with conditions, or disapproval, such action shall be endorsed on the face of each copy of the tentative plat by the secretary of the board. The city commission shall either approve, approve with modifications or conditions, or disapprove the tentative subdivision plat, or may refer the plat to any board or officer of the city for further consideration, after considering the recommendation of review board and all aspects of the plat necessary to meet the intent and requirements of this section and the comprehensive plan.*

**Staff Analysis:** The eastern portion of the site falls within the Northeast Lucerne Local Historic District. Therefore, review by both the Planning and Zoning Board (PZB) and the Historic Resources Preservation Board (HRPB) is required.

The procedures for platting are outlined in Land Development Regulation Section 23.5-2. The City's Site Plan Review Team (SPRT), City Attorney, and Mock Roos & Associates, Inc., engineering consultant, have reviewed the final plat for compliance with the City's LDRs and Florida Statutes.

The Letter of Conformity by Mock Roos & Associates, Inc., is included as **Attachment C**.

In addition, the de-annexation agreement with the townhomes and easement agreement are included as **Attachment D**.

**PUBLIC COMMENT:**

At the time of publication of the agenda, staff has received no public comment.

**CONCLUSION:**

The proposed plat will satisfy Condition of Approval #3 in Ordinance 2015-05. Furthermore, the plat complies with the City's Land Development Regulations and Florida Statutes. Staff recommends that the Planning and Zoning Board (PZB) and the Historic Resources Preservation Board (HRPB) forward a recommendation of approval to the City Commission for the proposal.

**POTENTIAL MOTION:**

I MOVE TO **RECOMMEND APPROVAL** OF PZB/HRPB PROJECT NUMBER 20-01100001 for a replat of a portion of Hammon Park to Aviara on the Ave. The proposal meets the applicable criteria based on the data and analysis in the staff report.

I MOVE TO **RECOMMEND DENIAL** OF PZB/HRPB PROJECT NUMBER 20-01100001 for a replat of a portion of Hammon Park to Aviara on the Ave. The project does not meet the applicable criteria for the following reasons [Board member please state reasons.]

**ATTACHMENTS**

- A. Project History Documentation
- B. Plat
- C. Letter of Conformity
- D. Homeowner's Association Documentation