



**DUNAY
MISKEL
BACKMAN** LLP

Gary Dunay
Bonnie Miskel
Scott Backman
Eric Coffman
Hope Calhoun

Dwayne Dickerson
Ele Zachariades
Matthew H. Scott
Matthew Kwasman
Christina Bilenki

Lauren G. Odom
Nicole Jaeger
Rachael Bond Palmer

March 31, 2022

By Email

Terrence Moore, City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

Re: View Optical

Dear Terrence:

On behalf of our client, View Optical, we respectfully request an item be added to the next available City Commission workshop meeting for discussion. Specifically, we are asking for Commission discussion of and seeking a sponsor for a City text amendment to permit retail eyeglass stores to include ancillary optometry services for the purpose of eye exams related to the purchase of prescriptive eye and sun glasses within the "Required Retail Frontage" areas of the City's Central Business District ("CBD").

Critical to the success of modern eyeglass stores is creating a convenient customer experience with designer interior spaces which are inviting and convenient to the passersby. This interest aligns with the Central Business District's "Required Retail Frontage" provisions which aim to promote "lively, highly active pedestrian environments," and therefore we believe a Code amendment here is consistent with the overall intent for the CBD.

View Optical is currently operating a retail eyeglass store in the ground floor retail space at 302 East Atlantic Avenue which is located in the "Required Retail Frontage" Central Core subdistrict of the CBD. The store is designed with a strong retail frontage, including floor to ceiling storefront windows, a variety of display cases, and accent lighting, along with other attractive design features. To support the primary business of selling eyewear, our client would like to also provide limited optometry services in the way of eye exams in order for customers to obtain prescriptions for and purchase eye and sun glasses. The state of technology in this industry allows for basic optometry services to be performed quickly without the need for long exams or dilation.

The View Optical use is marketed for the purpose of selling eyewear. The optometry component does not function apart from the sale of eyeglasses. No appointments are made for the optometrist unless a customer needs an examination to establish visual defects and prescribe corrective lenses to be put into the eyeglasses. This examination is not part of a medical practice in an office form.

As this use is not considered a medical office use and is for the sole purpose of selling the prescriptive eye and sun glass products, we are respectfully requesting that this text amendment be placed on the next available Commission workshop agenda. We have spoken with Commissioner Boylston who suggested that we prepare this letter and forward it to you so that we can request a sponsor for the text amendment. He has agreed to support the scheduling of this item on the workshop agenda. He is copied below.

We are also enclosing with this letter draft text language to facilitate discussion.

Thank you in advance for your consideration of this matter. Please contact me should you wish to discuss further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bonnie Miskel".

Bonnie Miskel, Esq.

BM/rmm

Enclosure

cc: Commissioner Ryan Boylston

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

EXTERIOR. All outside surfaces of any building or structure.

EYEGLASS STORE. Shall mean a retail establishment offering eyeglasses, sunglasses, and related optical goods for sale. A retail eyeglass store may also offer accessory optometry services such as eye exams and eye tests to assist customers in purchasing prescription eyeglasses, sunglasses, and related optical goods. No more than 40% of the total revenue may be generated by optometry services and no more than 40% of the floor plan may be allocated to optometry services.

FACADE. That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

FAMILY. "Family" shall mean two or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption, and/or a group of persons not more than three in number who are not so interrelated, occupying the whole or part of a dwelling as a single housekeeping unit that shares common living, sleeping, cooking, and eating facilities. Any person under the age of 18 years whose legal custody has been awarded to the State Department of Health and Rehabilitative Services or to a child-placing agency licensed by the Department, or who is otherwise considered to be a foster child under the laws of the state, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this definition. Occupancies in excess of the number allowed herein shall have 12 months from the date of the enactment of this definition or the termination of the current lease agreement to come into compliance, whichever occurs first. Anyone who has applied for or received a reasonable accommodation from this definition prior to June 16, 2009 shall be allowed to proceed under the definition in existence on June 16, 2009 with the total number granted under the reasonable accommodation without having to re-file an application for a reasonable accommodation. A family does not include any society; nursing home; club; boarding or lodging house; dormitory; fraternity; sorority; or group of individuals whose association is seasonal or similar in nature to a resort, motel, hotel, boarding or lodging house. [Amd Ord. 27-09 7/7/09]; [Amd. 1/8/91] (Ord. No. 25-17, § 36, 7-18-17)

FAMILY COMMUNITY RESIDENCE. A family community residence is a relatively permanent living arrangement for four to ten unrelated people with disabilities with no limit on how long a resident may live in the home. The length of tenancy is measured in years. Oxford House is a family community residence. (Ord. No. 25-17, § 36, 7-18-17)

FAMILY DAY CARE HOME. An accessory use conducted in an occupied residence in which custodial care is rendered to one to six children, inclusive, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit. Baby-sitting services provided by an individual at the home of the parents or legal guardians is not deemed to be a Family Day Care Home. [Amd. Ord. 25-10 10/19/10]

FENESTRATION. The arrangement of windows and doors on the elevations of a building. (Ord. No. 28-15, § 10, 12-8-15)

FINGER PIER. A structure, not exceeding five feet in width, which projects into the waterway perpendicular to the seawall, bulkhead line, or property line and extends more than five feet from the seawall, bulkhead line, or property line.

FLAG. A piece of cloth usually attached at one edge to a staff/pole or cord. [Amd. Ord. 78-06 1/2/07];[Amd. Ord. 5-93 2/9/93]