

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

**CONDITIONAL USE REQUEST TO ALLOW A MOVIE THEATER
FOR FOURTH AND FIFTH DELRAY (iPic Movie Theater)**

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This conditional use request came before the City Commission on August 18, 2015. This conditional use request is to allow a movie theater for Fourth and Fifth Delray (iPic Movie Theater) located south of Atlantic Avenue between SE 4th Avenue and SE 5th Avenue.

2. The City staff and Applicant presented documentary evidence and testimony to the City Commission pertaining to the conditional use request to allow a movie theater for Fourth and Fifth Delray (iPic Movie Theater). All of the evidence is a part of the record in this case. Required findings are made in accordance with Sections I and II.

I. COMPREHENSIVE PLAN

a. **Comprehensive Plan – Future Land Use Element Objective A-1:** This objective requires that the property be developed or redeveloped in a manner so that the future use and intensity is appropriate and complies in terms of soil, topographic, and other applicable physical considerations, is complimentary to adjacent land uses, and fulfills remaining land use needs.

Is Future Land Use Element Objective A-1 met?

Yes X

No

b. **Future Land Use Map:** The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map. The subject property has a Future Land Use Map designation of Commercial Core and a zoning designation of Central Business District.

Is the project's proposed location consistent with the Future Land Use Map?

Yes X No

c. **Concurrency:** Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.

Concurrency as defined pursuant to Objective B-2 of the Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs of the requested land use and/or development application will not exceed the ability of the City to fund and provide, or to require the provision of, needed capital improvements for the following areas:

Are the concurrency requirements met with respect to water, sewer, drainage, streets and traffic, parks, open space, solid waste, and schools?

Yes X No

d. **Consistency**: Will the granting of the conditional use be consistent with and further the goals and policies of the Comprehensive Plan?

Yes ☒ X ☐

No ☐

II. LDR REQUIREMENTS:

a. **LDR Section 2.4.5(E) Required Findings (Conditional Use)**: Pursuant to Section 2.4.5(E)(5), in addition to the provisions of Chapter 3, the City Commission must determine that the conditional use will not:

- i. Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
- ii. Hinder development or redevelopment of nearby properties.

Are the requirements of Section 2.4.5(E)(5) met?

Yes ☒ X ☐

No ☐

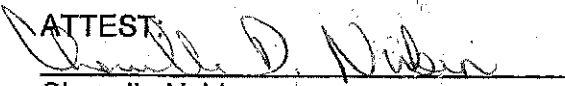
3. The comments and notes set forth in the staff report are hereby incorporated herein.

4. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the conditional use request was submitted.

5. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports and testimony of experts and other competent witnesses supporting these findings.

6. Based on the entire record before it, the City Commission approves X denies _____ the conditional use request set forth above subject to the conditions set forth in Exhibit A, attached hereto and made a part hereof, and hereby adopts this order this August 18, 2015 by a vote of 4 in favor and 1 opposed.

ATTEST:


Chevelle Nubin
City Clerk

Approved as to legal form
and sufficiency:


City Attorney

Department Head:

 8/31/15
Tim Stillings


Cary D. Glickstein, Mayor

Exhibit A

1. Approval of a site plan by SPRAB that is in general conformance to the concept plan approved as part of this Conditional Use. Any changes in site layout, access, or use configuration will require amendment to the conditional use and approval by the City Commission.
2. That the applicant address Palm Beach County Traffic Engineering Division's review of the revised traffic analysis prior to approval of the site plan.
3. That the property immediately south of the subject development be acquired and redeveloped with vehicular access to the north/south alley, include a public access easement, and additional landscape area prior to issuance of a building permit.
4. That the applicant provide measures to prevent the dropping off of patrons on Federal Highway prior to site plan approval.
5. That exterior public access is provided to the third story terrace.
6. That the Martini property be dedicated to the City of Delray Beach.
7. That there be no net loss in public parking spaces provided on the property.
8. That a security guard be posted along SE 5th Avenue to prevent dropping off of customers or employees.

