



## Cover Memorandum/Staff Report

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**File #:** 26-0218

**Agenda Date:** 2/24/2026

**Item #:** 7.F.

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**TO:** Mayor and Commissioners  
**FROM:** Lynn Gelin, City Attorney  
**DATE:** February 24, 2026

RESOLUTION NO. 53-26 APPROVING RECONSIDERATION OF RESOLUTION 62-23

**Recommended Action:**

Motion to approve Resolution No. 53-26.

**Background:**

On April 18, 2023, the City Commission approved Resolution No. 62-23 granting an in lieu of parking request for the property located at 302 NE 6<sup>th</sup> Avenue, Delray Beach (the "Property"). A quasi-judicial proceeding was held wherein the applicant, Rodney Mayo (the "Applicant"), testified in support of the request. By way of background, as part of a change in the use of the Property from a business office to a restaurant, the Property was required to provide thirteen parking spaces. The property had eight existing on-site spaces and was required to provide an additional five. An application seeking relief of the parking requirement through the use of the City's in lieu of parking program was made during the site plan approval process.

As part of the discussion during the quasi-judicial proceeding, the Applicant testified that "eight [parking] spaces including the handicap [spaces] are onsite." See In the Matter of Delray Beach City Commission Meeting Excerpt April 18, 2023 (hereinafter referred to as the "Transcript"), attached hereto and incorporated herein. The Applicant sought to purchase five in lieu of parking spaces because the Property was unable to accommodate all thirteen required spaces on-site. In furtherance of his request, the Applicant testified that the proposed business, known as Subculture Coffee Delray, would provide "grab and go" services, and proffered that customers would be on the premises "less than fifteen minutes." See Transcript at page 6, lines 10-12. In order to address the concerns associated with minimal on-site parking, the Applicant stated that, at his other locations, he would enter into agreements with neighboring businesses to address the overflow of cars. By way of example, the Applicant suggested that he could speak to a gentleman named "Rich" and enter "some agreement where we use his spaces for a fee or something, that's an option." See Transcript at page 14, lines 20-25. Applicant further testified that employees would not be permitted to use customer parking spaces and even suggested purchasing monthly parking passes at nearby garages, an idea that was rejected by then-mayor Shelly Petrolia because there were no garages nearby. See Transcript at page 16, lines 6-17. Despite the legitimate concerns voiced by the members of the Commission, the request was approved. Indeed, in voting to approve the request, then-Commissioner Rob Long specifically noted that his approval was based, in part, on the Applicant's testimony that most of the usage would be "grab and go" so the request seemed like a "very reasonable" request to him. See Transcript page 21, lines 1-4.

To date, Subculture Coffee has not operated as a grab and go coffee shop as described by the

Applicant in April 2023. To the contrary, the coffee shop has become a host to numerous special events, several of which have resulted in the issuance of Code violations and the imposition of fines. As a result of these unpermitted/unauthorized events, the City has received, and continues to receive, numerous complaints related to the current parking condition at Subculture. To further exacerbate the situation, on-site inspections reveal that parking spaces have not been delineated. As a result, the Property does not meet its on-site parking requirement.

The City Commission is authorized to reconsider its approval. According to the Section 1.4.3 of the City of Delray Beach Land Development Regulation, “nothing herein shall prevent the City of Delray Beach from taking such other lawful action deemed necessary to prevent or remedy any violation.”

Here, at the January 6, 2026, regular commission meeting, the City Commission expressed a desire to reconsider the parking requirement and approvals for the Property. It is evident that the approval of Resolution 62-23 was based on the Applicant’s proffer of a “grab and go” business. However, based on the observations of staff and the complaints from businesses, the promises made in furtherance of the approval have never materialized. Rather, the business has become a self-described “community cultural gathering place” for students and adults who stay longer than 15-minutes. The Applicant has organized special events such as concerts and open-mic nights that are not only inconsistent with the City’s zoning approvals but, more importantly, do not lend themselves to parking space turnover, a critical element of a grab and go business that was the basis for Applicant’s 2023 approval. By way of example, had these types of community events been proposed by the Applicant during the site plan approval process, staff’s analysis would have resulted in a greater parking requirement. The current use of the Property requires the City Commission review and reconsideration.

Procedurally, if the City Commission approves Resolution 53-26 reconsidering its approval of Resolution 62-23, a *de novo* quasi-judicial proceeding would be scheduled wherein the City Commission would have an opportunity to consider the current condition of the Property’s on-site parking as well as the historical use of the property to determine whether the purchase of five in lieu of spaces was appropriate to satisfy Subculture’s parking requirement.

**City Attorney Review:**

Approved as to form and legal sufficiency.