

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

**CONDITIONAL USE AND WAIVER REQUEST FOR THE METROPOLITAN
AT THE NORTHEAST CORNER OF SE 3RD AVENUE AND SE 1ST STREET**

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

1. This conditional use request and waiver request for The Metropolitan mixed-use development came before the City Commission on April 21, 2015. The conditional use request is to allow an increase in building height to 57 feet and an increase in residential density of the project to 51.67 dwelling units per acre. The waiver request is to allow a 50% one-bedroom unit mix.

2. The City staff and Applicant presented documentary evidence and testimony to the City Commission pertaining to the conditional use request and the waiver request for The Metropolitan mixed-use development. All of the evidence is a part of the record in this case. Required findings are made in accordance with Sections I and II.

A. CONDITIONAL USE FOR HEIGHT

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 5

No 0

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 Central Core (CC) and is zoned Central Business District (CBD).

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

Yes 5

No 0

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 5

No 0

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

Are the consistency requirements met?

Yes 5 No 0

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 LDR section 2.4.5(E)(5) met?

Yes 5 No 0

b. **Increase in Height**: Pursuant to LDR Section 4.3.4(J)(4)(b)(i)(9), an increase to a maximum height of 60' may be approved by the City Commission as a conditional use for property within the Central Core portion of the CBD (Central Business District). The City Commission may approve an increase in height to a maximum height of 60' based upon a finding of compliance with each of the enumerated criteria listed in LDR section 4.3.4(J)(4)(b)(ii)-(iv), as listed below:

LDR 4.3.4(J)(4)(b)(ii) That the increase in height will not provide for, nor accommodate, an increase in the floor area (within the structure)

beyond that which could be accommodated by development which adheres to a height limitation of 48 feet, except for the following situations:

- (1) An increase in height is allowed when the increase from 48 feet to 60 feet is for the purpose of accommodating residential use on the top floor of the structure; however, the increase in height is only for the added residential use area.

LDR 4.3.4(J)(4)(b)(iii): Workforce housing units, equal to at least twenty percent (20%) of the residential units on the top floor, shall be provided within the development onsite, offsite, or through monetary contributions as referenced in Article 4.7 (fractions shall be rounded up). The workforce housing units shall be at the low or moderate income levels and shall comply with other applicable provisions of Article 4.7.

LDR 4.3.4(J)(4)(b)(iv): That the increase in height shall be allowed if two or more of the following subsections, LDR 4.3.4(J)(iv)(1), (2) or (3), are met:

- (1) That for each foot in height above 48 feet, an additional building setback of two feet is provided from the building setback lines which would be established for a 48-foot tall structure. The additional setback is required from all setback liens (i.e., front, side, and rear) for the portion of the building that extends above 48 feet. In lieu of this setback requirement, buildings in the CBD zone shall adhere to the setback requirements of that district;

(2) That a minimum of 50% of the ground floor building frontage consist of nonresidential uses (excluding parking);

(3) That open areas, such as courtyards, plazas, and landscape setbacks, be provided in order to add interest and provide relief from the building mass.

Are the requirements of LDR sections 4.3.4(J)(4)(b)(ii)-(iv) met?

Yes 5 No 0

B. CONDITIONAL USE FOR DENSITY

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 5 No 0

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 Central Core (CC) and is zoned Central Business District (CBD).

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

Yes 5

No 0

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 5

No 0

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

Are the consistency requirements met?

Yes 5

No 0

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:

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

Are the requirements of LDR section 2.4.5(E)(5) met?

Yes 5

No 0

b. **Increase in Density**: Pursuant to LDR Section 4.4.13(I), an increase in density greater than 30 dwelling units per acre may be approved by the City Commission as a conditional use for property within the Central Core portion of the CBD, provided that 20% of the residential units above 30 dwelling units per acre in the commercial core shall be workforce housing units. The workforce housing units shall be divided between low and moderate income levels and shall be provided either onsite, offsite or through a monetary contribution.

The applicable performance standards for development under this section are met if the standards as described in LDR section 4.4.13(l)(2)(a)-(i), as described below, are met:

- (a) The development offers variation in design to add interest to the elevations and relief from the building mass.
- (b) If the building includes a parking garage as an associated structure or within the principal building, the garage elevation provides unified design elements with the main building through the use of similar building materials and color, vertical and horizontal elements, and architectural style.
- (c) A number of different unit types, sizes and floor plans are available within the development. Two and three bedroom units are encouraged, as are a combination of multi-level units and flats. In projects consisting of more than twelve (12) dwelling units, the proportion of efficiency or studio type units may not exceed 25% of the total units.
- (d) The project design shall create an overall unified architectural character and image by the use of common elements between the building(s), parking lot, and landscaping.
- (e) The development provides common areas and/or amenities for residents such as swimming pools, exercise rooms, storage rooms or lockers, covered parking, gardens, courtyards or similar areas and/or amenities.

(f) The development promotes pedestrian movements by providing convenient access from the residential units to the public sidewalk system.

(g) The development provides opportunities to share parking, accessways, driveways, etc., with adjoining properties, or provides additional parking spaces that may be used by the public.

(h) Projects fronting on Atlantic Avenue, NW/SW 5th Avenue, NE 1st Street or SE 1st Street contain nonresidential uses on the ground floor. At least 75% of the surface area of the front street wall(s) at the ground floor area of each such building is devoted to display windows and to entrances to commercial uses from outside the building.

(i) The landscape plan for the development preserves and incorporates existing native vegetation (where available), provides new landscaping that is in excess of minimum standards (in height and quantity), demonstrates innovative use of plant material, improves site design, provides useable open space or public plazas, and maximizes available areas for pedestrian interaction.

Are the performance standards of LDR sections 4.4.13(l)(2)(a)-(i) met?

Yes 5 No 0

C. WAIVER

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,

- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

A. Waiver to LDR Section 4.7.9(i)

Pursuant to LDR Section 4.7.9(i), the total number of one bedroom units in any qualifying project shall not exceed 30% of the total number of units in the project.

The applicant is requesting a waiver to allow an increase in the percentage of one bedroom units from the 30% maximum allowed to 50%.

Should a waiver to LDR section 4.7.9(i) be granted to allow the number of one bedroom units equal 50% of the total units of the project?

Yes 5 No 0

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 and waiver request were 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 ✓
denies _____ this conditional use request for increased height.

7. Based on the entire record before it, the City Commission approves ✓
denies _____ this conditional use request for increased density.

8. Based on the entire record before it, the City Commission approves ✓
denies _____ this waiver request.

9. Based on the entire record before it, the City Commission hereby adopts
this Order this 21st day of April 2015, by a vote of 4 in favor and 1 opposed.

ATTEST:


Chevelle Nubin
City Clerk


Cary D. Glickstein, Mayor



EXHIBIT A

TO THE CONDITIONAL USE REQUEST FOR THE METROPOLITAN

Conditional Use For Height:

1. That the applicant submit a revised application for Class V Site Plan approval which at a minimum addresses the following issue identified in the staff report:
 - a. That the required number of workforce housing units is noted on the proposed floor plans and the 50%/50% matching ratio of the market rate to workforce housing units is met.

Conditional Use For Density:

1. That the applicant submit a revised application for Class V Site Plan approval which is generally consistent with the conditional use exhibits.
2. That the applicant submit a revised application for Class II Site Plan modification approval which at a minimum addresses the following issues identified in this staff report:
 - a. A waiver to LDR Section 4.6.16(H)(3)(d), which requires a minimum five foot (5') landscape buffer separating a parcel boundary line and a vehicular use area. The applicant proposes to provide a three foot (3') landscape buffer at the south property line, which is two feet (2') less than the minimum requirement.
3. Verification from the Palm Beach County School District that the revised project containing 48 units will meet school concurrency.