

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

**REQUEST FOR EXTENSION OF FEBRUARY 7, 2012 CITY COMMISSION
CONDITIONAL USE APPROVAL TO ALLOW OUTDOOR DINING AT NIGHT
FOR 27-43 SOUTH SWINTON AVENUE**

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

1. This request for extension of the February 7, 2012 City Commission conditional use approval to allow outdoor dining at night in the OSSHAD district at 27-43 S. Swinton Avenue has come before the City Commission on July 5, 2016.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the request for an extension of the conditional use approval to allow outdoor dining at night for 27-43 S. Swinton Avenue. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsection I.

I. LDR REQUIREMENTS:

Pursuant to LDR Section 2.4.4(F) , Extensions, extensions may be granted to a project approval listed under Sections 2.4.4(F)(1) and (3) pursuant to the following:

(1) **General:**

- (a) A written request for an extension must have been received by the City at least forty-five (45) days prior to the expiration date;
- (b) The letter must set forth the basis and reason for the extension;
- (c) The extension shall be considered by the same body which granted the original approval;
- (d) The extension, if granted, shall be for eighteen months unless otherwise stated;

The applicant submitted the subject extension request concurrent with the Site Plan Extension request on November 2, 2015. The applicant has requested a twenty-four (24) month extension, which, if approved, would extend the approval to July 15, 2018

Pursuant to LDR Section 2.4.4(F)(3), Extensions: No Construction, when the project has not commenced construction, or construction has not been deemed substantial, the request for extension shall be considered pursuant to the following:

- (a) The project shall be evaluated pursuant to the land development regulations in effect at the time of consideration of the extension request and shall comply with such current requirements;
- (b) Additional submittal information including a new application and copies of previously submittal material may be required;
- (c) The granting body must make findings pursuant to 2.4.4(B);
- (d) The granting body may impose additional conditions of approval pursuant to 2.4.4(C) to insure compliance with any applicable changes to regulations or changes in circumstances which have occurred since the previous approval.

The project has not yet commenced, and therefore the extension request has been reviewed in accordance with the criteria noted above. Those regulations applicable to the outdoor dining have not been revised since the approval. Any regulations which have been revised since the Site Plan approval were reviewed accordingly with the Site Plan extension request. LDR Section 2.4.4(B) requires that certain findings be made as set forth in Article 3.1 of the LDRs. These required findings with respect to consistency with the Future Land Use Map, Concurrency, Consistency, and Compliance with the LDRs were all applied to the Site Plan Application, and positive findings were made. Those conditions placed upon the original request remain valid and should continue to be applied to the approval as they address concerns regarding parking and hours of operation.

Should the request for extension of the February 7, 2012 conditional use approval be granted for 27-43 S. Swinton Avenue until July 15, 2018 pursuant to LDR Sections 2.4.4(F)(1) and (3)?

Yes _____ No _____

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

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

4. 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, testimony of experts and other competent witnesses supporting these findings.

6. Based on the entire record before it, the City Commission approves ____ denies ____ the request for extension of 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 5th day of July, 2016, by a vote of ____ in favor of approval and ____ opposed.

Cary D. Glickstein, Mayor

ATTEST:

Chevelle Nubin
City Clerk

City Attorney

Timothy Stilling
Planning, Zoning, and Building Director

EXHIBIT A

REQUEST FOR EXTENSION OF THE FEBRUARY 7, 2012 CITY COMMISSION CONDITIONAL USE APPROVAL TO ALLOW OUTDOOR DINING AT NIGHT FOR 27-43 S. SWINTON AVENUE

1. That the Outdoor Dining seating not be expanded in quantity or floor area from what is indicated on the submitted plan;
2. That a Sidewalk Café permit be obtained which indicates no more than the twelve seating areas and 42 seats indicated on the submitted plans;
3. That the Valet Parking Agreement for be accepted by the City Commission prior to issuance of a Building Permit; and,
4. That a Parking Management Plan be submitted which indicates all travel routes for the valet services to and from the subject location; and,
5. That all outside seating areas subject to this approval shall have hours of operation not exceeding 12am, Sunday through Thursday, and 2am, Friday and Saturday.