

**DUNAY
MISKEL
BACKMAN** LLP

Gary Dunay
Bonnie Miskel
Scott Backman
Hope Calhoun

Dwayne Dickerson
Ele Zachariades
Matthew H. Scott
Christina Bilenki

Heather Jo Allen
Lauren G. Odom
Zach Davis-Walker

June 17, 2019

Tim Stillings, AICP, Director
Sent Via Email To: stillings@mydelraybeach.com
Planning and Zoning Department
City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL 33444

Re: Determination of Existing Vested Parking Rights and Parking Requirements for Redevelopment of Delray Place South, Delray Beach, Florida

Dear Mr. Stillings:

As you know and as discussed during our recent meeting, this law firm represents Delray Place, LLC ("Petitioner"), the owner of the +/- 1.78-acre property located at 1911 South Federal Highway ("Property"), which is generally located on the east side of South Federal Highway between Eve Street and Tropic Boulevard within the City of Delray Beach ("City") in matters concerning the development of the Property.

As background, the Property is comprised of one (1) parcel identified by Property Control Number 12-43-46-28-06-001-0010, is designated GC, General Commercial, on the City's Future Land Use Map, and is located within the PC, Planned Commercial, zoning district. The Property is located in a predominantly commercial area and was developed as a +/- 22,089 square foot shopping center comprised of three (3) buildings ("Shopping Center") – a +/- 9,539 square foot building located along the northern property line ("Building 1"), a +/- 10,554 square foot building located along the eastern property line ("Building 2"), and a +/- 1,996 square foot building located in the southwest corner of the Property ("Building 3") and was originally approved and built in 1977 as the Gateway Shopping Center.

In accordance with the original Shopping Center approval and regulations in effect at the time, the Property provided parking for the existing Shopping Center use consistent at the City's Shopping Center parking rate, which required 4 parking spaces per 1,000 square feet of gross leasable floor area, irrespective of uses and inclusive of all outdoor dining areas ("Existing Shopping Center Parking Ratio").

The Shopping Center is in need of redevelopment and revitalization and is specifically identified as such in the South Federal Highway Redevelopment Plan, which was adopted by the City Commission on September 20, 2012. In order to stimulate activity in the Shopping Center and economic growth within the City, Petitioner proposes to redevelop the Shopping Center by amending the site plan to demolish +/- 2,898

square feet from the eastern portion of Building 1 and to add +/- 2,860 square feet to the north side of Building 2 ("Addition"), resulting in a net reduction of +/- 44 square feet for a new total building area of +/- 22,045 square feet within the Shopping Center ("Project").

Considering that the Shopping Center Parking Ratio is irrespective of uses and is based on gross leasable area, which does not require additional parking for outdoor dining areas, the existing parking requirement for the Shopping Center is eighty-eight (88) parking spaces regardless of the mix of uses for the existing building area, and as such the eighty nine (89) parking spaces currently provided satisfy the parking code requirements.

Section 4.6.9(B)(1), Applicability of Off-Street Parking Regulations, requires off-street parking facilities in the following situations:

- (a) For any new building constructed;
- (b) For any new category of use established including a new conditional use;
- (c) For any addition or enlargement of an existing building or use;
- (d) For any change in the occupancy of an existing building or the manner in which a use is conducted that would result in additional parking spaces being required.

Section 4.6.9(B)(2) states: "For items (c) and (d) from above, the additional parking spaces shall be required only for such addition, enlargement, or change and not for the entire building or use, unless required as a condition of approval associated with the approval of the addition, enlargement, or change."

Pursuant to the off-street parking code regulations detailed above, which explicitly state that additional parking spaces shall only be required for addition, enlargement, or change and not for the entire building or use, the parking code requires that the existing +/- 19,191 square feet (22,089 square feet existing less 2,898 square feet to be demolished) of Shopping Center use that remains unaffected shall continue to be assessed utilizing the Existing Shopping Center Parking Ratio, irrespective of uses and not including outdoor dining areas that are not classified as gross leasable area. As such, the parking requirement for the Shopping Center building areas that are not being relocated and their related outdoor dining areas is seventy-seven (77) parking spaces (19,191 square feet existing and remaining/1000 x 4) irrespective of uses and based on the gross leasable floor area, which does not include outdoor dining areas that are not classified as gross leasable area ("Vested Parking Requirements").

Applying the above parking code requirements to the Project, the parking code only requires additional parking for the Addition as outlined above in subsection (c), which applies today's parking requirements to any addition or enlargement of an existing building or use, and does not require any parking in excess of the Vested Parking Requirements for the unchanged building areas. As such, the parking ratio under the current Code will only apply to the +/- 2,860 square foot Addition utilizing today's additional varied off-street parking regulations for specific uses.

Considering that the nature of shopping center development and leasing requires flexibility to allow change of tenancy without any additional governmental parking approval requirements, for the purposes of determining the additional required parking for the +/- 2,860 square foot Addition, Petitioner is requesting to apply the restaurant parking rate of twelve (12) parking spaces per 1,000 square feet of gross floor area to the Addition. As applied, the restaurant parking ratio would require thirty-four (34) (2,860 square foot Addition/1000 x 12) parking spaces, (the, "Addition Parking Requirements"). The Vested Parking

Requirements of seventy-seven (77) parking spaces together with the Addition Parking Requirements of thirty-four (34) parking spaces create an overall parking requirement of one hundred eleven (111) parking spaces, where it is only possible to provide ninety (90) parking spaces. As such, a twenty-one (21) parking space shortfall exists based on an aggregation of the Vested Parking Requirements and Addition Parking Requirements.

Considering the foregoing, Petitioner has retained a third party traffic engineer to complete a professional engineering review and analysis to evaluate anticipated parking demand for the Project in order to determine whether a parking reduction is warranted and allowed by the City's parking code as related to the Property ("Parking Demand Analysis").

As detailed in the Parking Demand Analysis, a copy of which is attached hereto as Exhibit "A", the City's cumulative parking code for shopping centers under 25,000 square feet requires the parking to be calculated based on specific uses, which significantly overestimates parking requirements because it does not recognize shared parking principles that occur with multiple-tenant commercial developments and internal trips that occur when you have an integrated group of commercial establishments on a common parcel.

As such, parking occupancy counts were recently collected at the Delray Plaza located at 2275 North Federal Highway in Delray Beach, which is a similar shopping center nearby, and an analysis of the parking demand was completed in accordance with actual on-site parking counts and the most up-to-date information from the Institute of Transportation Engineers (ITE) Trip Generation Manual (9th Edition). Based on these analyses, the third party traffic engineer recommends a parking ratio of 3.3 parking spaces per 1,000 square feet for the interior of stores and for any outdoor seating areas, irrespective of different uses, ("Engineer Recommended Parking Ratio") for purposes of determining the amount of parking spaces required.

Applying the Engineer Recommended Parking Ratio to the Addition, ten (10) parking stalls are required to serve the Addition, (the, "Addition Parking Requirements", (2,860 square foot Addition/1000 x 3.3), which generates a total parking requirement of eighty-seven (87) parking spaces for the Shopping Center (existing Vested Parking Requirements of seventy-seven (77) parking spaces plus the ten (10) parking spaces required for the Addition). Since there are ninety (90) parking spaces proposed, the proposed site plan for the Project provides sufficient parking as outlined herein.

As justified herein and as a result of construction of the Addition, Petitioner is requesting a Special Action Parking Reduction Request to allow for the above outlined shortfall of twenty-one (21) parking spaces shortfall pursuant to LDR Section 4.6.9(F)(1) for purpose of determining the amount of parking spaces required ("Parking Required") outlined as follows and to be included on the final City approved site plan:

Parking Required: 3.3 parking spaces per 1,000 square feet of gross leasable floor area, irrespective of uses and inclusive of all outdoor seating and other areas.

The foregoing analysis, together with the attached Parking Demand Study, provides a professional engineering analysis detailing how the Project satisfies LDR Section 4.6.9(F)(1) for purpose of determining the amount of parking spaces required.

As provided herein, we would appreciate your confirmation of the above determined "Vested Parking Requirements" of 77 parking spaces and your recommendation of approval of the Special Action Parking Reduction Request to establish the Parking Required for the Addition Parking Requirement of 10 spaces based upon the engineer's recommended rate of 3.3 parking spaces per 1,000 square feet of gross leasable floor area, irrespective of uses and inclusive of all outdoor seating and other areas, pursuant to LDR Section 4.6.9(F)(1).

Please do not hesitate to contact me directly at (561) 405-3321 or Beth Schrantz directly at (786) 763-0565 should you have any questions or need additional information. Thank you.

Sincerely,



Bonnie Miskel, Esq.

Dunay, Miskel and Backman, LLP

cc: Joe Carosella, President – *Retail Property Group, LLC* – Via Email: jcarosella@rpg123.com
Louis Carosella, Vice President – *Retail Property Group, LLC* – Via Email: lcarosella@rpg123.com
Michele Burns, Retail Property Group, LLC – Via Email: admin@rpg123.com
Scott Pape, Principal Planner – City of Delray Beach – Via Email: pape@mydelraybeach.com

Exhibit "A"

Traf Tech

ENGINEERING, INC.

June 12, 2019

Tim Stillings, Director of Planning & Zoning
Sent Via Email To: stillings@mydelraybeach.com
Scott Pape, Principal Planner
Sent Via Email: pape@mydelraybeach.com
Delray Beach Planning and Zoning
100 NW 1ST Avenue
Delray Beach, Florida 33444

RE: Special Action Parking Reduction Request pursuant to LDR Section 4.6.9(F)(1), supported by Parking Utilization Study to determine Parking Requirements for proposed redevelopment of Delray Place South f/k/a Tropic Square located at the Northeast Corner of Federal Highway & Tropic Blvd, in the City of Delray Beach, Palm Beach County, Florida.

Dear Tim & Scott:

The Shopping Center Owner is requesting a Special Action Parking Reduction Request pursuant to LDR Section 4.6.9(F)(1), for purpose of determining the amount of parking spaces required. The purpose of this Parking Utilization Study is to provide a professional engineering analysis on how the existing and proposed redevelopment of Delray Place South satisfies LDR Section 4.6.9(F)(1), for purpose of determining the amount of parking spaces required.

Traf Tech Engineering, Inc has undertaken the following professional engineering review and analysis to evaluate anticipated parking requirements for the redevelopment of the Delray Place South Shopping Center, and Figure 1 attached shows the location & proposed site plan.

Project Overview

The existing Delray Place South shopping center has a back-corner L-shaped design, with no direct access to Eve Street, and includes one outparcel building, for a total shopping center size of approximately 22,089 square feet. A total of 89 existing parking spaces are provided for an existing parking ratio of approximately 4.03 parking spaces per 1,000 square feet of commercial space.

With the planned renovation of the Delray Place South shopping center, the back-corner L-shaped portion will be removed, and will provide direct access to Eve Street, and the one outparcel building will remain. Once renovated, Delray Place South, will be reduced in size by approximately 44 sf to 22,045 sf and provide a total of 90 parking spaces, for a parking ratio of approximately 4.08 parking spaces per 1,000 square feet.

Historical Parking

According to the property owner, the following three informational bullets are provided:

(1) the existing approximately 30-year-old Delray Place South has been occupied by a diverse mix of commercial tenants and has been operating as a Shopping Center under LDR Section 4.6.9 (C) (3) (e) Shopping Centers, for purposes of determining the amount of parking spaces required.

(2) Historically, the existing Delray Place South with 22,089 sf, was under the City of Delray Beach parking code for Shopping Centers, which allows an overall 4.0 parking spaces per 1,000 square feet, irrespective of individual different uses, and without additional parking requirements for outdoor seating. However, as time passed, the City of Delray Beach parking code for Shopping Centers, was revised so that only shopping centers with at least 25,000 sf or more would qualify and since the existing Delray Place South with 22,089 sf, was approximately 2,911 sf under the City of Delray Beach revised parking code for Shopping Centers, this Special Action Parking Reduction Request pursuant to LDR Section 4.6.9(F)(1), for purpose of determining the amount of parking spaces required, would need to be conducted

(3) throughout past years, other tenants with higher parking requirements other than retail have been allowed to occupy Delray Place South. Existing restaurants Dunkin Donuts, and Jimmy Johns Sub Shop, and past restaurant tenants such as IL Girasole with 2,300 sf, Last Resort Restaurant & Bar with 3,516 sf, Cucina Romano Restaurant with 3,516 sf, Middle Eastern Delights with 925 sf, Little Italy Restaurant with 7475 sf, along with Dental Offices and personal service providers have all been allowed to fall within LDR Section 4.6.9 (C) (3) (e) Shopping Centers, for purposes of determining the amount of parking spaces required, and Delray Place South has never had a parking problem.

Code Required Parking Ratio

According to current City of Delray Beach Code of Ordinances (Code Section 4.6.9), the required parking for a commercial center of less than 25,000 square feet is determined by adding the parking requirements of the individual uses. For example, restaurants with less than 6,000 square feet require 12.0 parking spaces per 1,000 square feet, medical office use requires 5.0 parking spaces per 1,000 square feet, retail uses require 4.5 parking spaces per 1,000 square feet and office use requires 4.0 parking spaces per 1,000 square feet. This cumulative approach overestimates parking requirements because it does not recognize shared parking principles that occur with multiple-tenant commercial developments and internal trips that occur when you have an integrated group of commercial establishments on a common parcel.

Comprehensive Parking Demand Study

In order to determine the actual parking requirements of a commercial establishment of a comparable size as Delray Place South, parking occupancy counts (number of actual counted vehicles parked on site) were conducted at the existing Delray Plaza shopping center, which is located nearby to the south, at 2275 North Federal Highway in Delray Beach, and consists of approx. of approximately 35,080 square feet.

Parking occupancy counts were conducted at Delray Plaza on Wednesday, May 8 and Saturday, May 11, 2019.

Tables 1 and 2 present the results of the parking occupancy counts recorded during the two-day study period. The results of the parking counts indicate that:

- The maximum number of parking spaces occupied on Wednesday, May 8, 2019 was 81. This resulted in a peak parking ratio of 2.31 parking spaces per 1,000 square feet. The peak parking period occurred at 11:30 AM.
- The maximum number of parking spaces occupied on Saturday, May 11, 2019 was 84. This resulted in a peak parking ratio of 2.39 parking spaces per 1,000 square feet. The peak parking period occurred at 11:30 AM.

Adjustments to Account for Peak Season

According to seasonal variation in traffic conditions published by the Florida Department of Transportation, traffic data recorded in east Palm Beach County in early-May should be increased by approximately 15% in order to reflect peak season conditions. Therefore, the peak parking demand for the Delray Plaza commercial center during the peak season is determined as follows:

84 parked cars x 1.15 = 97 parked cars required at maximum capacity.

Based on the above parking information and analysis, the existing comparable Delray Plaza shopping center is currently consuming at maximum capacity, approximately 2.76 parking spaces per 1,000 square feet.

Institute of Transportation Engineers

According to the Institute of Transportation Engineers (ITE) Trip Generation Manual (9th Edition), a shopping center is defined as an integrated group of commercial establishments that are planned, developed, owned and managed as a unit, such as how the existing and proposed redevelopment of Delray Place South operate. ITE defines Shopping Centers to include a mix of uses other than retail such as restaurants, banks, offices, etc. As such, internal trips occur within the shopping centers due to the mixed-use nature of the development, thereby reducing the amount of parking required. Moreover, the size of the existing and proposed redevelopment of

Delray Place South as outlined above, both adequately fall within the range of shopping centers as defined by ITE.

According to the Institute of Transportation Engineers (ITE) *Parking Generation Manual* (5th Edition), a commercial establishment such as Delray Place South requires, 3.1 parking stalls per 1,000 square feet.

Recommended Adequate Parking Ratio for Special Action Parking Reduction Request

Based on the above analysis, Traf Tech Engineering, Inc. recommends an adequate parking ratio of 3.3 parking stalls per 1,000 square feet, for the interior of stores and for any outdoor seating areas, and for all different uses and irrespective of different uses, for purposes of determining the amount of parking spaces required.

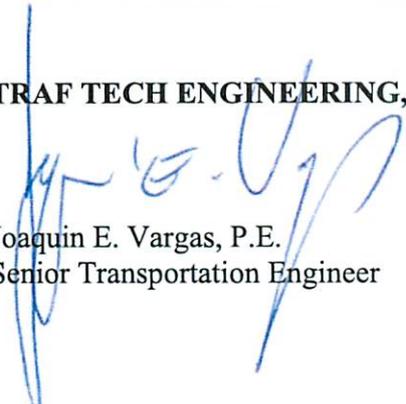
With the above-recommended parking ratio, the existing & planned redevelopment of Delray Place South is projected to have an adequately sized surface parking lot with the current and future mix of commercial establishments including retail, restaurants, personal service providers, medical & dental offices and business & professional offices.

This Parking Utilization Study outlines how the existing and proposed redevelopment of Delray Place South with the parking provided satisfies the determination of the amount of parking spaces required by providing adequate on-site and off-street parking to meet the needs of users of structures and usage of land, with parking areas designed to ensure their usefulness.

In Summary, based on the above Parking Utilization Study, the existing and proposed redevelopment of Delray Place South shopping center is projected to have sufficient parking to operate properly with a diverse mix of tenant uses, and therefore, it has been demonstrated that the parking spaces proposed will adequately accommodate the parking requirements for this shopping center, and the existing parking requirements per Code overestimate the required parking this shopping center

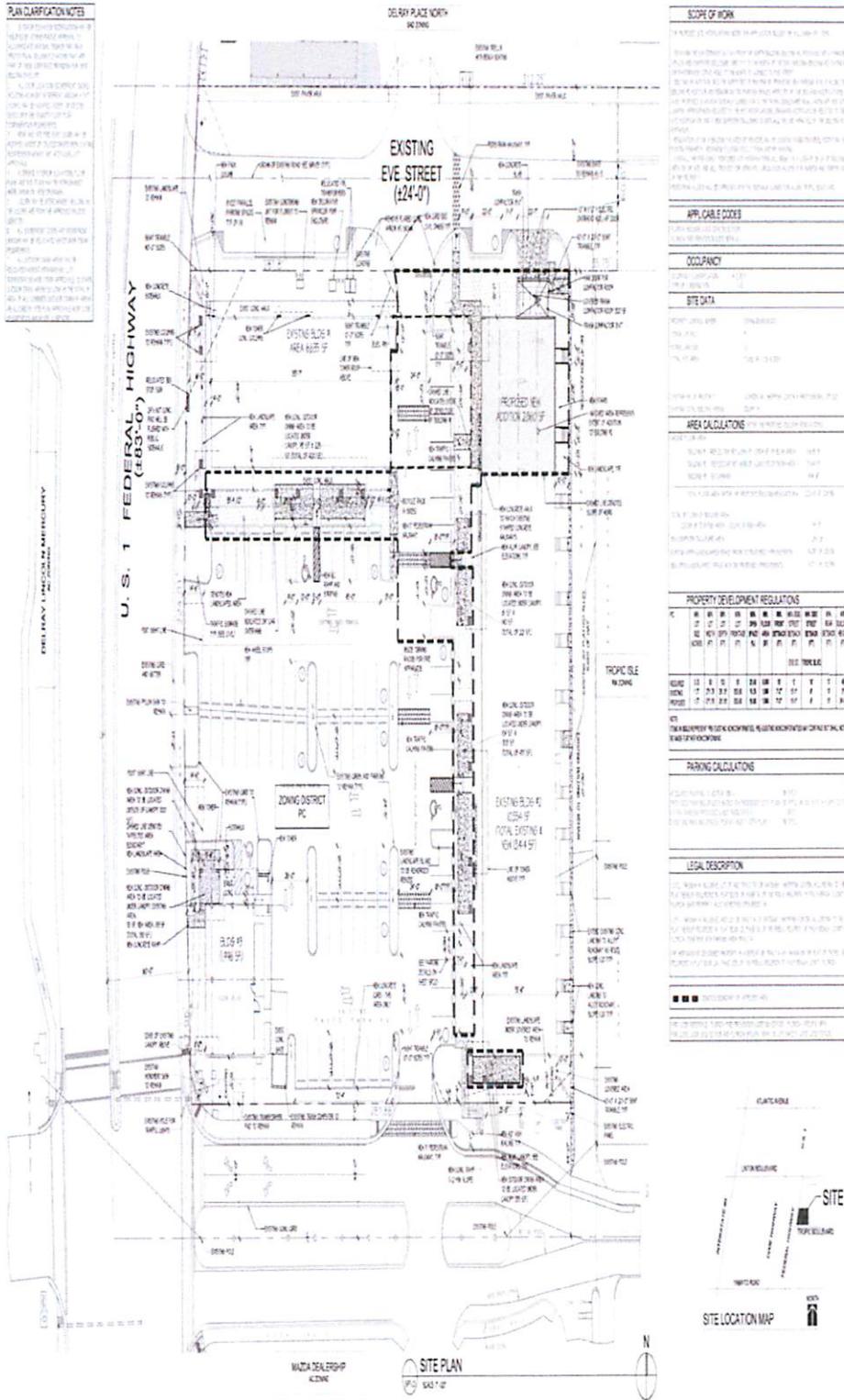
Please feel free to call and/or Email me, as we work through this project together.

TRAF TECH ENGINEERING, INC.



Joaquin E. Vargas, P.E.
Senior Transportation Engineer

Figure 1



PLAN CLARIFICATION NOTES

1. THIS PLAN IS A PRELIMINARY DESIGN AND SHOULD BE USED FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION OR AS A BASIS FOR ANY OTHER DESIGN OR CONTRACT.
2. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS ARE SHOWN TO THE CENTERLINE UNLESS OTHERWISE NOTED.
3. THE EXISTING BUILDING FOOTPRINT IS SHOWN WITH DASHED LINES. THE PROPOSED BUILDING FOOTPRINT IS SHOWN WITH SOLID LINES.
4. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.
5. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.
6. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.
7. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.
8. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.
9. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.
10. THE PROPOSED BUILDING FOOTPRINT IS SUBJECT TO APPROVAL BY THE LOCAL PLANNING AND ZONING DEPARTMENT AND THE LOCAL HEALTH DEPARTMENT.

SCOPE OF WORK

PREPARE ARCHITECTURAL DRAWINGS FOR THE FACADE RENOVATION OF THE EXISTING BUILDING AT THE INTERSECTION OF DELRAY PLACE NORTH AND U.S. 1 FEDERAL HIGHWAY. THE SCOPE OF WORK INCLUDES THE FACADE RENOVATION OF THE EXISTING BUILDING AND THE CONSTRUCTION OF A NEW BUILDING FOOTPRINT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE FACADE RENOVATION AND THE CONSTRUCTION OF THE NEW BUILDING FOOTPRINT. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE FOUNDATION, STRUCTURE, MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS OF THE NEW BUILDING FOOTPRINT.

APPLICABLE CODES

LOCAL ORDINANCES AND REGULATIONS

OCCUPANCY

RESIDENTIAL

SITE DATA

PROJECT NO. 2018-001
DATE: 10/1/2018
SCALE: 1/8" = 1'-0"

AREA CALCULATIONS

TOTAL AREA: 10,000 SQ. FT.
EXISTING AREA: 5,000 SQ. FT.
NEW AREA: 5,000 SQ. FT.

PROPERTY DEVELOPMENT REGULATIONS

MIN. SETBACK: 5 FT.
MAX. HEIGHT: 10 FT.
MIN. LOT AREA: 10,000 SQ. FT.

PROPERTY DEVELOPMENT REGULATIONS

MIN. SETBACK: 5 FT.
MAX. HEIGHT: 10 FT.
MIN. LOT AREA: 10,000 SQ. FT.

PROPERTY DEVELOPMENT REGULATIONS

MIN. SETBACK: 5 FT.
MAX. HEIGHT: 10 FT.
MIN. LOT AREA: 10,000 SQ. FT.

PROPERTY DEVELOPMENT REGULATIONS

MIN. SETBACK: 5 FT.
MAX. HEIGHT: 10 FT.
MIN. LOT AREA: 10,000 SQ. FT.

PARKING CALCULATIONS

EXISTING PARKING: 10 SPACES
NEW PARKING: 10 SPACES
TOTAL PARKING: 20 SPACES

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

LEGAL DESCRIPTION

LOT 10, BLOCK 10, TRACT 10, TOWN OF DELRAY BEACH, FLORIDA.

FACADE RENOVATION FOR DELRAY PLACE (SOUTH)
 (CORNERLY OF TROPIC ISLAND SQUARE)
 DELRAY BEACH, FLORIDA
SALTY WIRELESS ARCHITECTS
 285 GREENWOOD ROAD, SUITE 100, DELRAY BEACH, FL 33426
 PHONE: 561-271-1111
 WWW.SALTYWIRELESS.COM
 PROJECT NO. 2018-001
 DATE: 10/1/2018
 SCALE: 1/8" = 1'-0"
 SHEET NO. SP1.0

TABLE 1 Delray Plaza Parking Occupancy Counts on 5/8/2019	
Time of Day	Parked Vehicles
08:00 AM	24
08:30 AM	30
09:00 AM	46
09:30 AM	59
10:00 AM	60
10:30 AM	74
11:00 AM	77
11:30 AM	81
12:00 PM	76
12:30 PM	68
01:00 PM	65
01:30 PM	64
02:00 PM	60
02:30 PM	55
03:00 PM	64
03:30 PM	67
04:00 PM	69
04:30 PM	68
05:00 PM	65
05:30 PM	64

SOURCE: Video Data Solutions (Wednesday 5/8/19)

TABLE 2 Delray Plaza Parking Occupancy Counts on 5/11/2019	
Time of Day	Parked Vehicles
08:00 AM	14
08:30 AM	14
09:00 AM	50
09:30 AM	58
10:00 AM	69
10:30 AM	73
11:00 AM	84
11:30 AM	84
12:00 PM	79
12:30 PM	67
01:00 PM	69
01:30 PM	66
02:00 PM	72
02:30 PM	78
03:00 PM	82
03:30 PM	79
04:00 PM	76
04:30 PM	54
05:00 PM	51
05:30 PM	44

SOURCE: Video Data Solutions (Saturday 5/11/19)