

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

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

DELRAY PLACE SOUTH CLASS III SITE PLAN MODIFICATION APPEAL

1. This appeal of a Class III Site Plan Modification request which includes a Site Plan, Landscape Plan, Architectural Elevations, Special Landscape Area Waiver, Landscape Island Shade Tree Waiver, and a Special Action Parking Reduction Request for Delray Place South located at 1911 South Federal Highway has come before the City Commission on January 24, 2017.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the appeal of the Class III Site Plan Modification application. All of the evidence is part of the record in this case. Required findings are made in accordance with Subsections I through VI.

I. WAIVERS: 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.

SPECIAL LANDSCAPE AREA WAIVER

A. Pursuant to **LDR Section 4.3.4(H)(6)(b)**, **Special Landscape Setbacks**, within the following special landscape setbacks, no structures shall be erected, altered, or reconstructed; nor shall any paving be allowed except for driveways and sidewalks leading to structures on the premises. Such driveways and walkways shall be generally perpendicular to the frontage. However, waivers may be granted to these restrictions at the time of site plan review in order to accommodate landscape features, decorative walls, meandering sidewalks, and other decorative pedestrian ways. Pursuant to **LDR**

Section 4.3.4(H)(6)(b)(1), along Federal Highway from the south City limits to SE 10th Street, a minimum 15' landscape buffer is required for properties with a depth of 251' to 300'.

The Delray Place South property measures 281' deep. The applicant has requested a waiver to this requirement to accommodate an outdoor dining area for the existing Dunkin Donuts.

Should the waiver to permit an outdoor dining area within the required 15' landscape buffer be granted?

Yes _____ No _____

LANDSCAPE ISLAND SHADE TREE WAIVER:

B. Pursuant to **LDR Section 4.6.16(h)(3)(i)**, one shade tree shall be planted in every island with a minimum of 75 sq. ft. of shrubs and groundcovers. These specifications shall adhere to those listed in LDR Sections 4.6.16(E)(5) and 4.6.16(E)(6).

A waiver has been requested to permit Royal Palms instead of shade trees within the landscape islands.

Should the waiver to permit Royal Palms instead of shade trees within the landscape islands be granted?

Yes _____ No _____

II. SPECIAL ACTION PARKING REDUCTION REQUEST:

A. Pursuant to **LDR Section 4.6.9(F)(1), Off-Street Parking Regulations, Special Provisions, Reduction Allowed**, when, upon receipt and acceptance of special documentation, it is conclusively demonstrated that a reduced number of parking spaces will accommodate a specific use, the body which acts on the attendant site plan may reduce the parking requirements accordingly.

A special parking reduction has been requested to reduce the required number of parking spaces from 209 to 90 by applying the shopping center parking rate at 4 spaces per 1,000 square feet of gross floor area, as opposed to allocating the parking rates for each individual use.

Has it been conclusively demonstrated that a reduced number of parking spaces will accommodate the proposed development?

Yes_____ **No**_____

III. COMPREHENSIVE PLAN:

A. Pursuant to the **Future Land Use Element, Objective A-1**, property shall 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_____ **No**_____

B. Pursuant to the **Transportation Element, Policy A-1.3**, the City endorses the continued operations of the Palm Tran Transit System and its operations in Delray Beach, and through policies of this Element related to the TCEA, will coordinate with Palm Tran to improve the system..

Is Transportation Element, Policy A-1.3 met?

Yes_____ **No**_____

C. Pursuant to the **Transportation Element, Objective A-6**, the City's Land Development Regulations shall continue to provide standards which insure that new development and redevelopment mitigate adverse situations and/or provide for functionally safe traffic movements.

Is Transportation Element, Objective A-6 met?

Yes_____ **No**_____

D. Pursuant to the **Transportation Element, Policy A-6.1**, The Land Development Regulations shall maintain consistent standards for, but not limited to, the following:

- Location and design of driveway access and on-site circulation;
- Width and location of curb cuts;
- Width and location of median openings;

- Radii of curves and criteria for locations where driveways or private streets may intersect on curves;
- Width and conditions of shoulders;
- Street lighting standards, particularly at intersections;

Is Transportation Element, Policy A-6.1 met?

Yes _____ No _____

IV. LAND DEVELOPMENT REGULATIONS, SITE PLAN:

A. Pursuant to **LDR Section 2.4.5(G)(5), Findings**, a finding that the proposed changes do not significantly affect the originally approved plan must be made concurrent with approval of a Class III modification.

Are the requirements of LDR Section 2.4.5(G)(5) met?

Yes _____ No _____

B. Pursuant to **LDR Section 3.1.1(A), Required Findings: 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.

Are the requirements of LDR Section 3.1.1(A) met?

Yes _____ No _____

C. Pursuant to **LDR Section 3.1.1(B), Required Findings: Concurrency**, concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CI-GOP-1 of the adopted Comprehensive Plan of the City of Delray Beach.

Are the requirements of LDR Section 3.1.1(B) met?

Yes _____ No _____

D. Pursuant to **LDR Section 3.1.1(C), Required Findings: Consistency**, a finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

Are the requirements of LDR Section 3.1.1(C) met?

Yes _____ No _____

E. Pursuant to **LDR Section 3.1.1(D), Required Findings: Compliance with LDRs**, whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations..

Are the requirements of LDR Section 3.1.1(D) met?

Yes _____ No _____

V. LAND DEVELOPMENT REGULATIONS, LANDSCAPE PLAN:

A. Pursuant to **LDR Section 4.6.16(C)(1)(a), Landscape Regulations, Compliance**, prior to the issuance of a building permit for a structure or a paving permit, compliance with the requirements of Section 4.6.16 shall be assured through the review and approval of a landscape plan submitted pursuant to Section 2.4.3(C).

Are the requirements of LDR Section 4.6.16 met?

Yes _____ No _____

VI. LAND DEVELOPMENT REGULATIONS, ARCHITECTURAL ELEVATIONS:

A. Pursuant to **LDR Section 4.6.18(E), Criteria for Board Action**, the following criteria shall be considered, by the Site Plan Review and Appearance Board (SPRAB), in the review of plans for building permits. If the following criteria are not met, the application shall be disapproved:

1. The plan or the proposed structure is in conformity with good taste, good design, and in general contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas, and high quality.

2. The proposed structure, or project, is in its exterior design and appearance of quality such as not to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

3. The proposed structure, or project, is in harmony with the proposed developments in the general area, with the Comprehensive Plan, and with the supplemental criteria which may be set forth for the Board from time to time.

Are the requirements of LDR Section 4.6.18(E) met?

Yes _____ No _____

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original site plan was submitted, and finds that its determinations set forth in this order are consistent with the Comprehensive Plan.

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.

5. Based on the entire record before it, the City Commission approves _____ denies ___ the Class III Site Plan Modification and hereby adopts this Order this 24th day of January, 2017, by a vote of ___ in favor and _____ opposed.

ATTEST:

Cary D. Glickstein, Mayor

Chevelle Nubin, City Clerk

Approved as to legal form
And sufficiency:

City Attorney

Department Head:

Timothy Stillings, Director of Planning & Zoning