

Planning, Zoning, and Building Department

BOARD ACTION REPORT – APPEALABLE ITEM

Project Name:	Delray Square
Project Location:	14530 South Military Trail and 4771 West Atlantic Avenue
Request:	Master Development Plan Modification
Board:	Planning and Zoning Board
Meeting Date:	August 21, 2017

Board Action:

Approve the Master Development Plan Modification, Perimeter Landscape Buffer Waiver, and Front Setback Waiver on a 6-0 vote (Joe Pike stepped down).

Project Description:

The site, located at the northeast corner of West Atlantic Avenue and South Military Trail, consists of a total of 33.31 acres containing an existing shopping center developed in Palm Beach County; the site was annexed into the City in 1989. The site has a Future Land Use Map (FLUM) designation of General Commercial (GC) and a zoning designation of Planned Commercial (PC), within the Four Corners Overlay District.

In 2015, a Master Development Plan (MDP) was approved for the demolition of the existing Publix and its relocation elsewhere within the property in a new retail building, and the creation of two commercial outbuildings along West Atlantic Avenue, reconfiguration of the interior parking lot area with landscaping upgrades for the improved areas, and a right turn-lane from West Atlantic Avenue as requested by Florida Department of Transportation (FDOT).

The Master Development Plan Modification is for the new construction of a 4,950 square foot outbuilding for restaurant use (adjacent to South Military Trial), a reduction in the approved square footage for a two-tenant commercial outbuilding, and the reconfiguration of the approved tenant spaces for Retail "C", adjacent to the new Publix, and associated site improvements. The two waivers requested are to reduce both the required landscape buffer and front setback from 30' to 2' adjacent to South Military Trail.

Board Comments:

Board comments supportive of the request given the concurrent request with Palm Beach County to abandon 40' or right-of-way along South Military Trail.

Public Comments:

No members of the public spoke for or against the project.

Associated Actions:

All required actions were taken.

Next Action:

Planning and Zoning Board actions are final unless appealed by the City Commission.

PLANNING & ZONING BOARD CITY OF DELRAY BEACH ----STAFF REPORT---

MEETING DATE: August 21, 2017

ITEM: Delray Square (2017 – 124): Consideration of a Master Development Plan Modification for Delray Square associated with the new construction of a 4,950 square foot outbuilding for restaurant use, a reduction in the approved square footage for a two-tenant commercial outbuilding, the reconfiguration of approved tenant spaces, site improvements including parking, landscaping, and lighting, and two waivers to reduce the required landscape buffer and front setback requirements.

RECOMMENDATION: Approve the Master Development Plan Modification and two waiver requests.

GENERAL DATA:

Owners	TKC CLXXVIII LLC & HD&L LLC & TSLF DELRAY LLC	
Applicant	Scott A. Frank, Registered Agent for TSLF Delray LLC.	
Agent	Mark Rickards, AICP, Kimley-Horn	
Location	14530 South Military Trail and 4771 West Atlantic Avenue, Northeast corner of Military Trail and West Atlantic Avenue	
Property Size	33.31 acres	
Future Land Use Map	General Commercial (GC)	
Current Zoning	Planned Commercial (PC)	
	General Commercial (GC), Agricultural (A) & Single Family Residential (R-1-A) Planned Office Center (POC)	
South:	General Commercial (GC) & Planned Commercial (PC)	
vvest:	Planned Commercial (PC)	
Existing Land Use	Shopping Center	
Proposed Land Use	No Change	
Water Service	Existing 8" water main which connects within West Atlantic Avenue ROW	
Sewer Service	Existing 8" sewer main which connects within West Atlantic Avenue ROW	

ITEM BEFORE THE BOARD

The item before the Board is the consideration of a Master Development Plan Modification for **Delray Square** located at **14530 South Military Trail** and **4771 West Atlantic Avenue**, pursuant to LDR Section 2.4.5(F)(7), Master Development Plan of Record. Pursuant to LDR Section 2.4.5(F)(6), Master Development Plans shall be approved by the Planning & Zoning Board.

BACKGROUND

The site, which consists of two large parcels, consists of a total of 33.31 acres containing an existing shopping center and associated parking improvements which were developed in Palm Beach County; the site was annexed into the City in 1989. The site has a Future Land Use Map (FLUM) designation of General Commercial (GC) and a zoning designation of Planned Commercial (PC). In 2007, the Four Corners Overlay District was created for the intersection of South Military Trail and West Atlantic Avenue which included the subject property.

In 2015, a Master Development Plan (MDP) was approved which included both Delray Square (consisting of the parcels to the south and east) and Delray Square II; the approved MDP remains valid. The approval provided for the demolition of the existing Publix and its relocation elsewhere within the property in a new retail building, and the creation of two commercial outbuildings along West Atlantic Avenue, reconfiguration of the interior parking lot area with landscaping upgrades for the improved areas, and a right turn-lane from West Atlantic Avenue as requested by Florida Department of Transportation (FDOT). The associated Class IV Site Plan Modification for those site improvements was subsequently approved, and remains valid (2015-091).

The aforenoted MDP approval included the following relief:

- Waiver to LDR Section 4.4.9(F)(3)(f)(2), which requires a twenty-five foot (25') building setback for parcels within the master development plan; the complete requirement was waived.
- Waiver to LDR Section 4.4.9(F)(3)(d)(1)(d), which requires a twenty-five foot (25') landscape buffer between internal parcels within the Master Plan; the complete requirement was waived.
- Waiver to LDR Section 4.4.9(G)(3)(e)(1)(a), which requires that land area equivalent to at least twenty-five percent (25%) open space be included with the master development plan area; the open space was reduced to 17% which was an existing non-conformity.
- Waiver to LDR Section 4.6.16(B)(4), which requires any modification to an existing development which results in an increase of twenty-five percent (25%) in the gross floor area of the structures situated on site to be upgraded to current landscape standards; the complete requirement was waived as a 32.03% increase was proposed, and the required landscape standards were met within the proposed redevelopment areas.

PROJECT DESCRIPTION

The development proposal is associated with a Master Development Plan Modification for the new construction of a 4,950 square foot outbuilding for restaurant use, a reduction in the approved square footage for a two-tenant commercial outbuilding (Building "1A") from 8,970 to 5,700 square feet, and the reconfiguration of the approved tenant spaces for Retail "C", adjacent to the new Publix, resulting in a square footage reduction from 18,100 to 16,400 for the proposed amount of square footage. Site improvements include the provision of 25 parking spaces adjacent to the new restaurant, associated landscaping around the restaurant, Building "1A", and Retail "C", modification to the circulation for Building "1A", and refuse area modifications at Retail "C".

The location of the new restaurant will be adjacent to South Military Trail and within an existing parking area.

Two waivers are requested with the subject proposal, as follows:

- LDR Section 4.4.9(F)(3)(d), Perimeter Buffers: A 30' landscape buffer is required around the perimeter of each parcel within the development when adjacent to a collector or arterial street. The proposed landscape buffer between the new restaurant and property line measures 2'.
- LDR Section 4.4.9(F)(3)(f), Setbacks: Atlantic Avenue / Military Trail Frontage: A minimum 30' building setback is required. The proposed setback is 2'.

MASTER DEVELOPMENT PLAN ANALYSIS

The subject property is located within the PC Zoning District, within the Four Corners Overlay District, which is subject to the standards of the GC Zoning District. The following chart provides the applicable Development Standards as provided in LDR Sections 4.4.9, GC Zoning District applicable to the Four Corners Overlay District, 4.4.12, PC Zoning District, and 4.3.4(K), Development Standards. Pursuant to LDR Section 4.4.9(G)(3)(e)(1)(a), where standards unique to the Four Corners Overlay District conflict with standards contained elsewhere in the zoning code, the standards of this subsection shall apply.

	Required	Existing	Provided			
PC Zoning District, Development Standards						
Open Space (Minimum)*	25%	16.64%	16.67%			
Front Setback (Minimum): West	30'	N/A	2'			
GC Zoning District, Development Standards for the Four Corners Overlay District						
Site Area (Minimum)	4 acres	33.31 acres	33.31 acres			
Lot Coverage (Maximum)	75%	83.36%	83.33%			
Front Perimeter Landscape Buffer (Minimum):	30'	0'	2'			
South Military Trail						
Floor Area (Minimum square feet): Restaurant			4,950			
Building "1A"	4,000	N/A	5,700			
Retail "C"			16,200			
Building Height (Maximum): Restaurant	60'	N/A	17'			

*Existing open space is 16.64%; previously approved MDP was incorrectly submitted with an existing open space amount of 17.66% which included 40' of ROW adjacent to South Military Trail.

As indicated above, there are existing non-conformities with respect to open space, lot coverage, and the front perimeter landscape buffer adjacent to South Military Trail. However, the proposal reduces those non-conformities and the reduction in open space was approved during the 2015 MDP review. It is to be noted that when the 2015 review occurred, the amount of open space was erroneously represented as 17.66% as it was not realized at that time by the applicant that the west 40' of land adjacent to South Military Trail was right-of-way, as opposed to part of the property. The corrected percentages are provided in the chart above.

A waiver to both the proposed front setback and front perimeter landscape buffer is proposed, and analyzed further in this report.

Minimum Parking Requirements

Pursuant to LDR Section 4.6.9(C)(3)(e), shopping centers shall require 4 spaces per 1,000 sq. ft. of gross leaseable floor area, irrespective of uses, for up to 400,000 sq. ft. The Delray Square shopping center proposes a total of 321,751 square feet of <u>leaseable</u> floor area, which requires 1,287 parking spaces, plus the 4,335 square foot IHOP which requires 17 parking spaces. A total of 1,433 parking spaces have been provided, which includes 74 handicap accessible spaces. Therefore, the requirement has been met as there is a 129 parking spaces surplus.

It is noted that all elevations and specific site details will be reviewed to meet the applicable LDRs with the submittal of a Class IV Site Plan Modification for the proposed restaurant and/or a Class II Site Plan Modification for the elevation and site changes associated with Retail "C" and Building "1A".

WAIVER ANALYSIS #1

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.

Perimeter Landscape Buffer

A waiver to LDR Section 4.4.9(F)(3)(d), Perimeter Buffers, has been requested which requires a 30' landscape buffer around the perimeter of each parcel within the development when adjacent to a collector or arterial street. The proposed landscape buffer between the new restaurant and property line measures 2'.

The applicant has submitted the following narrative (see attachments for complete statement) in support of the waiver:

"The Landscape Buffer along Atlantic and Military should be uniform, a 30' buffer that mirrors the build to line between 30 and 42 feet which should be uniform along the four corners property lines. The abandonment process is underway to release the additional 40' of right of way which is not included in the Palm Beach County ultimate right of way section or the City of Delray Beach Comprehensive Plan Transportation Element as a 120' ultimate right of way (Table T-1). Concurrently a right of way planting plan has been submitted to Palm Beach County which plants the right of way area in accordance with the future buffer criteria. Adherence to this article under the current conditions would result in a landscape buffer which is effectively 70' in depth (after the abandonment is complete) if constructed on site in accordance with code criteria."

The proposed reduction in the required landscape buffer from 30' to 2' can be supported in accordance with the criteria noted above. The provided landscape buffer maintains the existing condition which provides 42' of landscaping, therefore, the neighboring area would not be affected. The provision of public facilities and the creation of an unsafe situation would not result in the granting of the subject waiver. The request would also be considered and supported under similar circumstances, particularly given that the applicant is requesting the abandonment of the 40' of adjacent ROW, which would then result in a compliant landscape buffer.

Front Setback Waiver

A waiver to LDR Section 4.4.9(F)(3)(f), Setbacks: Atlantic Avenue / Military Trail Frontage, has been requested which requires a minimum 30' setback. The proposed setback is 2'.

The applicant has submitted the following narrative (see attachments for complete statement) in support of the waiver:

"Building placement along Atlantic and Military should be uniform, a build to line between 30 and 42 feet which should be uniform along the four corners property lines. The abandonment process is underway to release the additional 40' of right of way, which is not included in the Palm Beach County ultimate right of way section or the City of Delray Beach Comprehensive Plan Transportation Element as a 120' ultimate right of way (Table T-1). Adherence to this article under the current conditions would result in a building setback that is ultimately nonconforming (82') after the right of way abandonment occurs."

Similar to the analysis provided for the landscape buffer, the subject request to reduce the required setback from 30' to 2' can be supported.

REQUIRED FINDINGS

Pursuant to LDR Section 3.1.1, Required Findings, prior to approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the Future Land Use Map, Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

The subject property has a Future Land Use Map designation of General Commercial (GC) and is zoned Planned Commercial (PC). The PC zoning district is consistent with the GC Future Land Use Map (FLUM) designation. Based upon the above, a positive finding can be made with respect to consistency with the Future Land Use Map.

Section 3.1.1 (B) - Concurrency: As described in Appendix A, a positive finding of concurrency can be made as it relates to water, sewer, drainage, parks and recreation, and solid waste.

Section 3.1.1 (C) - Consistency (Standards for Site Plan Actions and Specific Areas): As described in Appendix B, a positive finding of consistency can be made as it relates to Development Standards for Site Plan Actions, upon Board approval of the requested waivers.

Section 3.1.1 (D) - Compliance With the Land Development Regulations: As described under the Master Development Plan Analysis of this report, a positive finding of compliance with the LDRs can be made, subject to approval of the requested waivers.

Pursuant to LDR Section 2.4.5(F)(5), the approving body must make a finding that development of the property pursuant to the site plan will be compatible and harmonious with adjacent and nearby properties and the City as a whole, so as not to cause substantial depreciation of property values.

The following table indicates the zoning and land use of the properties surrounding the subject property:

North	Adjacent Zoning GC, Agricultural (A) & Single Family Residential (R-1-A)	Adjacent Land Use KFC Restaurant, Boy's Farmer's Market & Lee's Crossing Subdivision
East	Planned Office Center (POC)	Multi-Building Professional Office Complex
South	GC & PC	Gasoline Station, Delray West Shopping Plaza, Bank, Vacant Land and Dunkin Donuts
West	PC	Marketplace at Delray Shopping Center

The proposed improvements at the Delray Square shopping center is consistent with the PC Zoning district uses which allows all retail uses permitted with the GC zoning district. The adjacent developments consist of both commercial and residential uses, which have previously been considered as consistent with the center, and no adverse affects are anticipated with the continuation of the current use of the site. Therefore, a positive finding can be made with regard to LDR Section 2.4.5(F)(5) that the site plan will be compatible and harmonious with adjacent and nearby properties.

<u>Comprehensive Plan Policies:</u> A review of the goals, objectives and policies of the adopted Comprehensive Plan was conducted and the following applicable objectives or policies were noted.

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.

The property will remain consistent with the GC zoning designation and the Four Corners Overlay District. While the Four Corners Overlay District encourages more intense development incorporating mixed-use development, it not inconsistent with it by further developing the site and providing additional commercial opportunities for the city's residents and visitors.

REVIEW BY OTHERS

Courtesy notices have been provided to the following homeowner's associations and/or civic groups:

- Woodlake
- Windy Creek
- Lee's Crossing
- □ Sherwood Forest
- Highland Park
- □ Sunset Pines
- Greensward Village I & II
- Hamlet Country Club

Letters of objection and/or support, if any, will be presented at the Planning and Zoning Board meeting.

ASSESSMENT AND CONCLUSION

The proposed development is consistent with the policies of the Comprehensive Plan and can be found consistent the Land Development Regulations upon approval off the associated waivers. Also, a positive finding can be made with respect to LDR Section 2.4.5(F)(5), Findings, as the proposed development does not significantly affect surrounding properties in terms of their property values. The proposed redevelopment of the Delray Square Shopping Center expands on its current uses and all improvements are appropriate and will not impact the centers previously found compatibility with the surrounding area. While the development proposal is not a truly mixed use development as envisioned in the Four Corners Overlay District, this mix is not explicitly a requirement, therefore the current proposal meets the minimum development standards for the Four Corners Overlay District.

ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Approve the waivers and Master Development Plan Modification for **Delray Square**, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(F)(5), Section 2.4.7(B)(5), and Chapter 3, Performance Standards, of the Land Development regulations.
- C. Deny the waivers and Master Development Plan Modification for **Delray Square**, by adopting the findings of fact and law contained in the staff report, and finding that the request is <u>inconsistent</u> with the Comprehensive Plan and <u>does not meet</u> criteria set forth in Section 2.4.5(F)(5), Section 2.4.7(B)(5), and Chapter 3, Performance Standards, of the Land Development regulations.

STAFF RECOMMENDATION

By separate motions:

Perimeter Landscape Buffer Waiver

Approve the waiver to LDR Section 4.4.9(F)(3)(d), Perimeter Buffers, to reduce the required landscape buffer from 30' to 2', based upon positive findings with LDR Section 2.4.7(B)(5).

Front Setback Waiver

Approve the waiver to LDR Section 4.4.9(F)(3)(f), Setbacks: Atlantic Avenue / Military Trail Frontage, to reduce the required landscape buffer from 30' to 2', based upon positive findings with LDR Section 2.4.7(B)(5).

Master Development Plan Modification

Approve the Master Development Plan Modification for **Delray Square** at **14530 South Military Trail**, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.5(F)(5) and Chapter 3, Performance Standards, of the Land Development regulations.

Staff Report Prepared By: Amy E. Alvarez, AICP, Senior Planner

A P P E N D I X A CONCURRENCY FINDINGS

Pursuant to **LDR Section 3.1.1(B)** 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:

<u>Water and Sewer:</u> The site will connect to an existing 8" water main which transverses through the property and connects within the West Atlantic Avenue right-of-way. The site will connect with an existing 8" sanitary sewer main which transverses through the property and connects within West Atlantic Avenue right-of-way.

Coordination between the developers, owners and the City will be necessary in maintaining service to the adjacent commercial developments while reconnecting services to the redeveloped Delray Square shopping center. Pursuant to the Comprehensive Plan, treatment capacity is available at the City's Water Treatment Plant and the South Central County Waste Water Treatment Plant for the City at build-out. Based upon the above, positive findings can be made with respect to this level of service standard.

<u>Streets and Traffic:</u> A traffic study has been submitted that indicates that the proposed development will generate 1,592 net new external daily trips (inclusive of the ultimate development square footage and uses), whereas the original MDP approval provided for 1,702 net new daily trips. A finding of concurrency has not yet been received from the Palm Beach County Traffic Division; however, approval is anticipated given the prior approval of a larger impact.

<u>Parks and Recreation Facilities:</u> Park dedication requirements do not apply to non-residential uses. Thus, the proposed development will not have any impact with respect to this standard.

<u>Solid Waste:</u> The existing shopping center use (321,521 sq. ft.), which includes all development on the two parcels, generated 1,173.55 tons of solid waste per year, The proposed improvements increase the square footage to 326,136 (325,717 sq. ft was previously approved). shopping center will generate 1,190 tons of solid waste per year. The development proposal will result in a 17 ton increase in solid waste generated annually. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2048.

Drainage: Drainage will be accommodated on site via an exfiltration trench system. There are no problems anticipated to bring the site into compliance with South Florida Water Management District (SFWMD) requirements in efforts to obtain a surface water permit.

A P P E N D I X B STANDARDS FOR SITE PLAN ACTIONS

A. Building design, landscaping and lighting (glare) shall be such that they do not create unwarranted distractions or blockage of visibility as it pertains to traffic circulation. Not applicable

Meets intent of standard X Does not meet intent

B. Separation of different forms of transportation shall be encouraged. This includes pedestrians, bicyclists and vehicles in a manner consistent with policies found under Objectives D-1 and D-2 of the Transportation Element.

Not applicable	
Meets intent of standard	Х
Does not meet intent	

C. Open space enhancements as described in Policies found under Objective B-1 of the Open Space and Recreation Element are appropriately addressed.

Not applicable Meets intent of standard X Does not meet intent

D. The City shall evaluate the effect that any street widening or traffic circulation modification may have upon an existing neighborhood. If it is determined that the widening or modification will be detrimental and result in a degradation of the neighborhood, the project shall not be permitted.

Not applicable Meets intent of standard X Does not meet intent

- E. Development of vacant land which is zoned for residential purposes shall be planned in a manner which is consistent with adjacent development regardless of zoning designations. Not applicable X Meets intent of standard Does not meet intent
- F. Property shall be developed or redeveloped in a manner so that the future use and intensity are appropriate in terms of soil, topographic, and other applicable physical considerations; complementary to adjacent land uses; and fulfills remaining land use needs.

Not applicable Meets intent of standard X Does not meet intent

G. Redevelopment and the development of new land shall result in the provision of a variety of housing types which shall continue to accommodate the diverse makeup of the City's demographic profile, and meet the housing needs identified in the Housing Element. This shall be accomplished through the implementation of policies under Objective B-2 of the Housing Element.

Not applicable Meets intent of standard X Does not meet intent

H. The City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If it is determined that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.

Not applicable Meets intent of standard X Does not meet intent

I. Development shall not be approved if traffic associated with such development would create a new high accident location, or exacerbate an existing situation causing it to become a high accident location, without such development taking actions to remedy the accident situation.

Not applicable Meets intent of standard Does not meet intent X – pending concurrency determination by Palm Beach County

J. Tot lots and recreational areas, serving children from toddler to teens, shall be a feature of all new housing developments as part of the design to accommodate households having a range of ages. This requirement may be waived or modified for residential developments located in the downtown area, and for infill projects having fewer than 25 units.

Not applicable X Meets intent of standard Does not meet intent





