

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

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

**WAIVER REQUESTS FOR WEST ATLANTIC AVENUE PUBLIX**

**LOCATED BETWEEN SW 6<sup>TH</sup> AVENUE AND SW 7<sup>TH</sup> AVENUE AND SOUTH OF WEST ATLANTIC AVENUE, INCLUDING 606 AND 640 WEST ATLANTIC AVENUE; 26 AND 36 SW 6TH AVENUE, AND; 11, 13, 21, 25, 29, 31 AND 37 SW 7TH AVENUE.**

1. These waiver requests came before the City Commission on October 17, 2017

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the waiver requests for West Atlantic Avenue Publix located between SW 6<sup>th</sup> Avenue between SW 6<sup>th</sup> Avenue and SW 7<sup>th</sup> Avenue and south of West Atlantic Avenue, including 606 and 640 West Atlantic Avenue; 26 and 36 SW 6th Avenue, and; 11, 13, 21, 25, 29, 31 and 37 SW 7th Avenue. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsection I.

**I. 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.

Pursuant to LDR Section 4.4.13(K)(8)(b)(2), waivers, in addition to the findings in LDR Section 2.4.7(B)(5), within the CBD, the following standards shall be considered when reviewing waiver requests:

- (a) The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.

- (b) The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.
- (c) The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan.
- (d) The waiver shall not reduce the quality of civic open spaces provided.

1. A waiver to LDR Section 4.4.13(D)(1)(c), Table 4.4.13(C), which requires a minimum building frontage of 75% along West Atlantic Avenue, whereas 53% is proposed.

**Should the waiver to reduce the minimum building frontage from 75% to 53% be granted with the condition that at least two tenant spaces, each no more than 75 feet wide, are located within the building along the sidewalk on West Atlantic Avenue?**

Yes \_\_\_\_\_ No \_\_\_\_\_

2. A waiver to LDR Section 4.4.13(D)(2)(a)(6), which requires a pedestrian/bike passageway for buildings with more than 250 feet of street frontage, whereas 267'-10" of street frontage is proposed on SW 6th Avenue without a pedestrian/bike passageway.

**Should the waiver to not require a pedestrian/bike passageway be granted?**

Yes \_\_\_\_\_ No \_\_\_\_\_

3. A waiver to LDR Section 4.4.13(E)(3), which requires doors providing public access every 75 feet, whereas no doors are proposed along SW 6th Avenue.

**Should the waiver to not require a pedestrian/bike passageway be granted?**

Yes \_\_\_\_\_ No \_\_\_\_\_

4. A waiver to LDR Section 4.4.13(F)(4)(e), which requires blank walls not exceed 50 feet or 20% of the length of the façade, whichever is less, whereas approximately 237 feet of blank wall or 89% is proposed on SW 6th Avenue.

**Should the waiver to maximum length of blank wall be granted with the condition that public art in the form of a mural or mosaic reflective of the West Atlantic Neighborhood history is provided on the blank wall facing SW 6th Avenue?**

Yes \_\_\_\_\_ No \_\_\_\_\_

5. A waiver to LDR Section 4.4.13(F)(5)(a), which requires building walls facing streets or civic open spaces must have transparent windows covering between 20% and 75% of the wall area of each story, whereas approximately 3% is proposed on SW 6th Avenue.

**Should the waiver to reduce minimum facade transparency from 20% to 3% be granted with the condition that public art in the form of a mural or mosaic reflective of the West Atlantic Neighborhood history is provided on the blank wall facing SW 6th Avenue?**

Yes \_\_\_\_\_ No \_\_\_\_\_

6. A waiver to LDR Section 4.4.13(G), which requires a minimum of 6,870 square feet of civic open space (open to the sky), whereas 3,250 square feet is proposed, of which 1,375 square feet is proposed under an open-air feature.

**Should the waiver to reduce amount of civic open space be granted?**

Yes \_\_\_\_\_ No \_\_\_\_\_

7. A waiver to LDR Section 4.4.13(E)(2), which has minimum streetscape standards, including a minimum width of 15 feet and street trees planted in the right-of-way not exceeding 30 feet, whereas a streetscape with a sidewalk five feet wide with no curb zone or street trees within the public right of way on SW 7th Avenue is proposed.

**Should the waiver to reduce minimum amount of streetscape be granted with the following conditions:**

**a. Street trees are provided in the right-of-way at the mid-block crossing; and**

**b. Shade trees are planted uniformly spaced no more than 30 feet on center along SW 7th Avenue within the landscape buffer of parking lot adjacent to the right-of-way.**

8. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original development application was submitted and finds that its determinations set forth in this Order are consistent with the Comprehensive Plan.

9. 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.

10. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to LDR Section 4.4.13(D)(1)(c).

11. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to Section 4.4.13(D)(2)(a)(6).

12. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to Section 4.4.13(E)(3).

13. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to LDR Section 4.4.13(F)(4)(e).

14. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to LDR Section 4.4.13(F)(5)(a).

15. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to LDR Section 4.4.13(G).

16. Based on the entire record before it, the City Commission approves \_\_\_\_\_ denies \_\_\_\_\_ this waiver request to LDR Section 4.4.13(E)(2).

17. Based on the entire record before it, the City Commission hereby adopts this Order this October 17, 2017, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

18. This order shall become effective upon approval of the site plan associated with these waiver requests.

ATTEST:

\_\_\_\_\_  
Cary D. Glickstein, Mayor

\_\_\_\_\_  
Katerri Johnson, City Clerk

Approved as to legal form  
And sufficiency:

\_\_\_\_\_  
City Attorney

Department Head:

\_\_\_\_\_  
Timothy Stillings, Director of Planning, Zoning and Building