



## Cover Memorandum/Staff Report

File #: 18-839

Agenda Date: 2/5/2019

Item #: 7.A.

**TO:** Mayor and Commissioners  
**FROM:** Timothy R. Stillings, Development Services Director  
**THROUGH:** Mark R. Lauzier, City Manager  
**DATE:** February 5, 2019

A WAIVER REQUEST TO LDR SECTION 4.3.4(H)(6)(b)(4), SPECIAL LANDSCAPE SETBACKS: ALONG LINTON BOULEVARD; FROM A-1-A TO THE WESTERN CITY LIMITS, A SPECIAL LANDSCAPE AREA SHALL BE PROVIDED. THIS LANDSCAPE AREA SHALL BE THE SMALLER DISTANCE OF EITHER 30 FEET OR 10 PERCENT OF THE AVERAGE DEPTH OF THE PROPERTY; HOWEVER, IN NO CASE SHALL THE LANDSCAPE AREA BE LESS THAN 10 FEET, FOR THE PROPERTY LOCATED AT 1000, 1220, AND 1350 LINTON BLVD DUE TO AN EMINENT DOMAIN RIGHT-OF-WAY TAKING BY THE FLORIDA DEPT OF TRANSPORTATION. (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Motion to approve the waiver request to LDR Section 4.3.4(H)(6)(b)(4) special landscape setbacks, to reduce the landscape setback to 12'4" along the northern frontage of the existing McDonalds located at the eastside of Waterford Place, 8'9" and 5'7" along the northeast portion of the property on (parcel 112 of Waterford Place), and to reduce the landscape setback along the northern frontage of Outback and Homegoods located at the westside of Waterford Place, to 8'6" starting at its most western portion of the northern frontage and extending to 14' at its most eastern portion of the northern frontage.

### **Background:**

The request is for a waiver to reduce the required landscape setbacks along the northern frontage of the existing McDonald's, the eastern most portion of the property of Waterford Place, Outback, and HomeGoods and to relocate the existing landscaping that will be part of the Linton Blvd right-of-way. The reduction in the special landscape setback is a result of an action of the Florida Dept of Transportation (FDOT) to claim eminent domain to acquire private property to expand the width of the Linton Blvd right-of-way in conjunction with pending construction of a modified I-95 interchange. The applicant has elected to request a waiver to the landscape setback impacted by the FDOT taking in lieu of the site and respective condition being considered a legal, nonconformity. The waiver, if approved, would apply to the property for any future modifications which are not considered a redevelopment impacting more than 25% of the properties.

The applicant has provided a justification letter which is included with this agenda item.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the granting body shall make findings 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.

The granting of this waiver will not adversely affect the neighboring area, diminish the provision of public facilities and is not creating an unsafe situation. The waiver does not result in a special privilege as this is the result of the FDOT taking and would be granted under similar circumstances. Therefore, positive findings are made with respect to LDR Section 2.4.7(B)(5).

**City Attorney Review:**

Approved as to form and legal sufficiency.