



Cover Memorandum/Staff Report

File #: 19-122

Agenda Date: 2/12/2019

Item #: 7.A.

TO: Mayor and Commissioners
FROM: Timothy Stillings, Development Services Director
THROUGH: Mark R. Lauzier, City Manager
DATE: February 12, 2019

APPROVAL OF A TEMPORARY USE PERMIT FOR A TEMPORARY PARKING LOT WITH WAIVERS FROM LDR SECTIONS 2.4.6.(F)(3)(e)1,3,4,5, and 8. TO PERMIT A TEMPORARY PARKING LOT LOCATED ON VACANT LAND SITUATED AT 2501 S. FEDERAL HWY. (QUASI-JUDICIAL HEARING)

Recommended Action:

Motion to approve the Temporary Use Permit for a temporary parking at 2501 S. Federal Hwy. with waivers from the following sections of the Land Development Regulations (LDRs) 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 criteria set forth in Section 2.4.7(B)(5) of the Land Development Regulations, subject to the conditions of approval:

Waivers from the following sections:

- Section 2.4.6.(F)(3)(e)1. to allow a temporary parking lot outside of the designated areas.
- Section 2.4.6.(F)(3)(e)3., a requirement to submit a site plan.
- Section 2.4.6.(F)(3)(e)4., a requirement that the City Engineer shall approve the grading plan for the parking lot.
- Section 2.4.6.(F)(3)(e)5. to allow a temporary parking lot for the period exceeding one year.
- Section 2.4.6.(F)(3)(e)8. to allow a temporary parking lot that does not meet some of the LDR construction specifications.

Conditions of approval:

1. Applicant shall be required to obtain building permits prior to improving the site and storing vehicles or within 90 calendar days of the approval date.
2. The existing landscaping shall be maintained and irrigated until the temporary use vacates the property. A confirmation that the existing irrigation system is functioning properly shall be provided prior to storing vehicles on site or within 90 calendar days of the approval date.

3. Adequate and functioning security lighting shall be provided until the temporary use vacates the property. A certified statement from an Electrical Engineer shall be provided indicating that the existing site lighting functions properly prior to storing vehicles on site or within 90 calendar days of the approval date.
4. The property shall be maintained in clean and orderly manner. Debris and trash shall be removed regularly.
5. No parking, loading, or unloading of the vehicles outside the property.
6. No sales activity on the property.
7. No signage around the property's perimeter.
8. No advertising on or around the property's perimeter.
9. The temporary use permit is valid for a period of two (2) years with an expiration date of February 12, 2021. Extension requests shall be approved by the City Commission and must be requested 90 days prior to the expiration.
10. The applicant shall place a cash deposit of \$19,500.00 in escrow prior to issuance of a building permit associated with the temporary parking lot or within 90 calendar days of the approval date. The deposit is to be returned after the temporary use vacates the site if vacated prior to or on the expiration date and upon confirmation by the Development Services Director that all conditions of approval were met. If the permit is not extended by the City Commission and the use is not vacated on time and/or does not comply with all the conditions of approval, the City Commission may authorize a portion or the full amount of the funds to be retained by the City.

Background:

The 2501 S. Federal Hwy. property consists of Lots 12 through 33, Block 22; all of Block 23; Lots 1 through 10 and Lots 57 through 66, Block 35; Lots 12 through 33, Block 36; together with abandoned portions of Avenue "E" and Frederick Boulevard. The area of the property measures 6.28 acres and is zoned Automotive Commercial (AC) with a Future Land Use Designation of General Commercial (GC). The vacant property was previously used as a vehicle sales and repair shop known as Ralph Buick of Delray Beach. In 2014, the City Commission granted a two-year temporary use permit to allow temporary storage of vehicles at this location. The temporary use permit expired on January 29, 2016; however, the use was not ceased after the expiration day and vehicles continue to be stored at the site.

At its meeting of March 22, 2017, the Site Plan Review and Appearance Board (SPRAB) approved a development proposal for a full-service automobile dealership which includes one three-story building, with an 83,872 square foot footprint measures 239,994 gross square feet at the subject property.

The subject waiver requests from LDR Sections 2.4.6.(f)(3)(e)1, 3, 4, 5, and 8. is to reinstate the

previous approval for a temporary parking lot at 2501 S. Federal Hwy.

The following is a verbatim excerpt from the applicant's narrative in support of the waivers:

"Applicant will use the property for the temporary storage of automobiles. Applicant is in the process of obtaining the necessary approvals to construct two new automobile dealerships along Federal Highway in Delray Beach, Florida. The simultaneous construction of these two automobile dealerships requires additional off-site storage for inventory. Applicant is seeking a temporary solution due to the fact that upon completion of construction of the two new automobile dealerships, the need for off-site storage will be eliminated."

As a part of the request for a temporary use permit for a temporary parking lot, the applicant is requesting relief from certain Land Development Regulation requirements of Sections 2.4.6(F)(3)(e)1, 3, 4, 5, and 8.

Pursuant to LDR Sec. 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.

WAIVER REQUEST FROM SECTION 2.4.6(F)(3)(e)1.

ANALYSIS: Positive findings are made for granting this waiver.

The property is outside of the geographic areas set forth in this section where temporary use permits for temporary parking lots are permitted. The approval of this waiver will not adversely affect the neighboring area; The proposed temporary use is compatible with the existing uses in the corridor and is allowed in the Automotive Commercial (AC) zoning district as an accessory use; will not significantly diminish the provisions of public facilities; will not create an unsafe situation, and will 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.

WAIVER REQUEST FROM SECTION 2.4.6(F)(3)(e)3.

ANALYSIS: Positive findings are made for granting this waiver.

The applicant is requesting a waiver from the Section 2.4.6(F)(3)(e)3. requiring that prior to issuance of the temporary use permit, the applicant shall submit a site plan which includes proposed grade elevations, landscaping and other information which addresses the regular maintenance of the parking surface and irrigation of the landscaped areas. The following is a verbatim excerpt from the applicant's narrative in support of the waiver: *"Applicant requests a waiver of the requirement that it submit a site plan which includes proposed grade elevations, landscaping and other information. The property is currently paved, and applicant will be using the property in its current state."*

The approval of this waiver will not adversely affect the neighboring area; will not significantly diminish the provisions of public facilities; will not create an unsafe situation if the recommendations of approval are adhered to; and will 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.

WAIVER REQUEST FROM SECTION 2.4.6(F)(3)(e)4.

ANALYSIS: Positive findings are made for granting this waiver.

The applicant is requesting a waiver from Section 2.4.6(F)(3)(e)4. requiring that the City Engineer shall approve the grading plan for the parking lot and that the Parking Management Advisory Board shall review the site plan and approve it prior to submission to the City Commission. The applicant does not intend to repave the parking lot; therefore, the applicant contends that a grading plan is not needed. The approval of this waiver will not adversely affect the neighboring area; will not significantly diminish the provisions of public facilities; will not create an unsafe situation if the recommendations of approval as presented are approved; and will 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.

WAIVER REQUEST FROM SECTION 2.4.6(F)(3)(e)5.

ANALYSIS: Positive findings are made for granting this waiver.

The applicant is requesting a waiver from Section 2.4.6(F)(3)(e)5. to allow temporary parking lot for a period exceeding one year. The applicant is requesting a two-year approval of the request. The approval of this waiver will not adversely affect the neighboring area; will not significantly diminish the provisions of public facilities; will not create an unsafe situation; and will 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.

WAIVER REQUEST FROM SECTION 2.4.6(F)(3)(e)8.

ANALYSIS: Positive findings are made for granting this waiver.

The applicant is requesting a waiver from the Section 2.4.6(F)(3)(e)8. to allow a temporary parking lot which does not comply with the following specifications:

a. The parking lot surface shall be brought to grade with a dust-free surface of one of the following materials over soil which has been compacted to 95 percent maximum density per AASHTO T-180:

1. four inches of crushed limerock or shellrock coated with a prime coat per FDOT "Standard Specifications for Road and Bridge Construction", latest edition;

2. four inches of pearock, gravel or river rock; or

3. six inches of mulch.

c. If the lot is operated on a 100 percent valet basis, then wheel stops shall be provided at the edge of the parking surface.

d. The lot shall meet the requirements of Section 4.6.9(D)(3) for access to the street system. Driveway aprons between the edge of pavement and the right-of-way line shall be constructed of asphalt or concrete.

e. The parking lot perimeter shall be buffered with a minimum three feet wide landscape strip, screened with a minimum two feet high hedge or four feet high opaque fence. Water for irrigation shall be available within 50 feet of all landscaped areas.

The approval of waiver requests for requirements a, c, d, and e of Section 2.4.6(F)(3)(e)8 will not adversely affect the neighboring area if the recommendations of approval are adhered to; will not

significantly diminish the provisions of public facilities; will not create an unsafe situation; and will 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.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A.

Timing of Request:

The waiver approvals are required to continue the use of the property as a temporary parking lot as presented.