



## Cover Memorandum/Staff Report

**File #:** 19-131

**Agenda Date:** 3/12/2019

**Item #:** 7.D.

**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Chief Neal de Jesus, Interim City Manager  
**DATE:** March 12, 2019

A TEMPORARY USE PERMIT REQUEST 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 1314 N. FEDERAL HWY. (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Motion to approve the Temporary Use Permit for a temporary parking at 1314 N. 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 a building permit associated with the temporary use prior to improving the site to store vehicles.
2. When placing a perimeter fence, sight visibility triangles shall comply with LDR Section 4.6.14 (B).
3. Applicant must coordinate with FDOT and either secure all permit(s) required or provide documentation that permits are not required for any improvements at the site.
4. The unpaved areas to be used for storage of vehicles shall be graded with gravel if not sodded with Bahia grass or weed and/or the grass is not maintained in good condition.

5. The Applicant shall secure a portion of the site where the previous building was partially located and ensure that there shall be no access to that portion of the site. The subject location shall be depicted on the fence permit for review.
6. The Applicant shall at all times comply with the rules regarding monitoring the wells on the site and shall provide appropriate access to agencies when required.
7. The Applicant shall be required to provide a Stormwater Pollution Prevention Plan demonstrating how tracking of dirt/dust off-site from the storage area will be accomplished if it is not paved, maintained as sod in good condition, or graded with gravel.
8. To screen the site, a 6-feet high, chain-link fence system with windscreen installed on the outside of the fence (black or green) shall be placed around the interior perimeter of the property on all sides, including gates.
9. Nuisance tree species located on properties, to be identified by the Senior Landscape Planner per LDR Section 4.6.19(E)(6), shall be removed prior to storing cars on site. A building permit shall be submitted prior to removal.
10. The existing landscape barrier (hedge) along the east property line, adjacent to North Federal Highway, shall be maintained per LDR 4.6.16(H)(3)(a).
11. The gates shall be locked and well secured to avoid vandalism and theft from occurring on the properties.
12. There shall be no gates on the east side of the property facing Federal Hwy. Access to the site shall be taken from Old Dixie Hwy.
13. The property shall be maintained in clean and orderly manner. Debris and trash shall be removed regularly. The property shall be returned to its current conditions, in accordance with the Land Development Regulations, prior to expiration of the temporary use permit (fencing and other temporary improvements associated with the request shall be removed).
14. Adequate and functioning security lighting shall be installed/provided throughout the entire site prior to storing vehicles on the properties.
15. No parking, loading, or unloading of the vehicles shall be permitted within the adjacent right-of-way or in areas outside of the property.
16. No sales activity shall be permitted on the property. No customers are permitted on the property.
17. Signage is not permitted around the property's perimeter.
18. Advertising is not permitted on or around the property's perimeter.
19. The temporary use permit for the temporary parking lot is valid until March 12, 2021. Extension requests shall be approved by the City Commission and must be requested 90 days prior to the expiration.
20. 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. 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 temporary use 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:**

A temporary use permit with waivers from LDR Sections 2.4.6.(f)(3)(e)1,3,4,5, and 8. to allow a temporary parking lot for the storage of vehicles on five vacant properties located at 1314 N. Federal Hwy was submitted on behalf of Auto Company XXVII, Inc. The subject properties (12-43-46-09-12-

000-0052, 12-43-46-09-12-000-0059, 12-43-46-09-12-000-0061, 12-43-46-09-12-000-0062, 12-43-46-09-39-000-0045) are located between Old Dixie Blvd and N. Federal Hwy, east of NE 14<sup>th</sup> Street. The subject properties measure approximately 3 acres in total and are zoned General Commercial (GC) with a Future Land Use Designation of General Commercial (GC). A gasoline station (Chevron) was previously located at this site. Permits to remove four underground storage tanks were issued in 1993.

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 constructing a new dealership [at 1311 West Linton Blvd] and a collision center [at 1475 SW 4<sup>th</sup> Avenue] in Delray Beach. Until construction is complete, additional off-site storage is required. This need is temporary".*

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. The temporary use permit and associated waivers are now before the City Commission for consideration.

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 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.

#### 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 the 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 for the use of the properties as a temporary parking lot as presented.