

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

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

**Class V Site Plan, Internal Adjustment, Landscape Plan, and Architectural
Elevations for 215 NE 7th Avenue**

1. This appeal of a Class V Site Plan request which includes an Internal Adjustment, Landscape Plan, and Architectural Elevations for 215 NE 7th Avenue has come before the City Commission on May 7, 2019.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the Class V Site Plan, Internal Adjustment, Landscape Plan, and Architectural Elevations for 215 NE 7th Avenue. All the evidence is part of the record in this case. Required findings are made in accordance with Subsection I.

I. Internal Adjustment: Pursuant to LDR Section 2.4.7(C)(1), Internal adjustments. An adjustment involves the lessening, or a total waiver, of those development standards which affect the spatial relationship among improvements on the land. An adjustment shall only be considered during the site and development plan review process and shall be only for requirements which do not pertain to, or affect, standards that apply to the perimeter of an overall development proposal (plan). An adjustment may be granted by the body or board which is empowered to approve or deny the site and development plan.

a) **Pursuant to LDR Section 4.6.15(G)(1) Pool Setbacks;** Swimming pools, the tops of which are no higher than grade level, may extend into the rear, interior or street side setback areas but no closer than 10 feet to any property line.

The applicant has applied for an internal adjustment for the pool setback requirement within the confinements of internal side setbacks within Unit A and C, which have a zero setback and Unit B which has a 7'10" setback from Unit A and B. This current LDR section specifically speaks to setbacks in the rear, interior or side street setback areas regarding pools but does not refer to internal setbacks within the interior of a townhome development.

Should the Internal Adjustment be approved?

Yes____ No_____

II. COMPREHENSIVE PLAN:

- a) **Pursuant to the 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.

Is Future Land Use Element, Objective A-1 met?

Yes_____ No_____

- b) **Pursuant to the Housing Element Policy A-12.3:** In evaluating proposals for new development or redevelopment, 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.

Is the Housing Element, Objective A-12.3 met?

Yes_____ No_____

III. LAND DEVELOPMENT REGULATIONS, SITE PLAN

- a) **Pursuant to LDR Section 2.4.5(G)(5)**, Findings, a finding that the proposed changes do not significantly affect the originally approved plan must be made concurrent with approval of a Class V Site Plan.

Are the requirements of LDR Section 2.4.5(G)(5) met?

Yes _____ No _____

- b) **Pursuant to LDR Section 3.1.1(A), Required Findings:** Future Land Use Map: The resulting use of land or structures must be allowed in the

zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.

Are the requirements of LDR Section 3.1.1(A) met?

Yes _____ No _____

- c) **Pursuant to LDR Section 3.1.1(B), Required Findings: Concurrency:** Concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CI-GOP-1 of the adopted Comprehensive Plan of the City of Delray Beach.

Are the requirements of LDR Section 3.1.1(B) met?

Yes _____ No _____

- d) **Pursuant to LDR Section 3.1.1(C), Required Findings: Consistency:** A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

Are the requirements of LDR Section 3.1.1(C) met?

Yes _____ No _____

- e) **Pursuant to LDR Section 3.1.1(D), Required Findings: Compliance with LDRs:** Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.

Are the requirements for LDR Section 3.11(D) met?

Yes _____ No _____

IV. LAND DEVELOPMENT REGULATIONS, LANDSCAPE PLAN

a) **Pursuant to LDR Section 4.6.16. – Landscape regulations.** At the time of action on a landscape plan, the approving body shall make finding with respect to the proposed plan's relationship to the following:

- a. Objectives of landscaping regulations Section 4.6.16;
- b. Site and landscape design standards pursuant to Section 4.6.16;

An overall determination of consistency with respect to the above items is required in order for a landscaping plan to be approved.

Are the requirements of LDR Section 4.6.16 met?

Yes _____ No _____

V. LAND DEVELOPMENT REGULATIONS, ARCHITECTURAL ELEVATIONS:

a) **Pursuant to LDR Section 4.6.18. Architectural elevations and aesthetics. (E),** Criteria for Board Action, the following criteria shall be considered, by the Site Plan Review and Appearance Board (SPRAB), in the review of plans for building permits. If the following criteria are not met, the application shall be disapproved:

- 1. The plan or the proposed structure is in conformity with good taste, good design, and in general, contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas, and high quality.
- 2. The proposed structure, or project, is in its exterior design and appearance of quality such as not to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.
- 3. The proposed structure, or project, is in harmony with the proposed developments in the general area, with the Comprehensive Plan, and with the supplemental criteria which may be set forth for the Board from time to time.

Are the requirements of LDR Section 4.6.18(E) met?

Yes _____ No _____

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the application for the Class V Site Plan and associated applications.

4. 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.

5. Based on the entire record before it, the City Commission approves ____ denies ____ the Class V Site Plan, Internal Adjustment, Landscape Plan, and Architectural Elevations with the following notes:

1. Prior to issuance of a building permit a Sidewalk Easement needs to be executed and recorded
2. Prior to issuance of a building permit the tree mitigation fund must be paid.
3. Prior to certification a note on the plans that all utilities shall be placed underground.

located at 215 NE 7th Avenue, and hereby adopts this Order this 7th day of May 2019, by a vote of ____ in favor and ____ opposed.

ATTEST:

Shelly Petrolia, Mayor

Katerri Johnson, City Clerk

Approved as to legal form
And sufficiency:

Lynn Gelin, City Attorney