

# EXHIBIT "B-1"

## CITY OF DELRAY BEACH



100 N.W. 1st AVENUE

DELRAY BEACH, FLORIDA 33444

561/243-7000

July 19, 2016

1993  
2001

Ms. Bonnie Miskel, Esq.  
Dunay, Miskel, Backman & Blattner, LLP  
14 SE 4<sup>th</sup> Street  
Boca Raton, FL 33432

**RE: Fourth and Fifth Delray Class V Site Plan Certification located south of Atlantic Avenue, between SE 5<sup>th</sup> Avenue and SE 4<sup>th</sup> Avenue**

Dear Ms. Miskel:

Enclosed is a copy of the approved site plan for the above referenced project, certified by the Director of Planning and Zoning. It is recommended that you verify that plans submitted with building permits match these certified plans.

As noted in my previous letter dated May 28, 2016, there are a number of conditions/issues that need to be addressed prior to issuance of a building permit. A "hold" order will be placed in the building permit system for these items when the permit application is submitted.

Also, a separate set of plans need to be submitted for the certification of the Martini Property site plan.

The status of any outstanding building permits can be verified with the Permit Clerks at (561) 243-7200.

If you have any questions, please contact me at 243-7321.

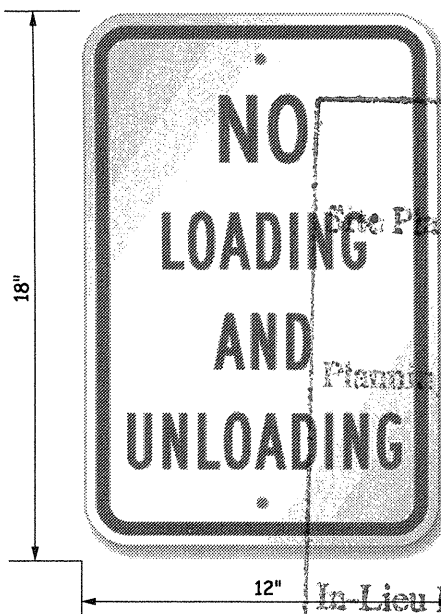
Sincerely,

A handwritten signature in black ink, appearing to read "Scott Pape".

Scott Pape, AICP  
Principal Planner

Enclosure

Cc: Laura Thome, Permit Clerk (Letter Only)  
Denise Barker, Permit Clerk (Letter w/Site Plan)  
Michael Vinci, Planner (Letter Only)  
Project file



Class #  
**SITE PLAN APPROVAL**

Site Plan Review & Appearance Board

**NORTH**

Date

Planning Dept.

*[Signature]*

Name & Date

SCALE: 1" = 20'  
(FOR 24" x 36" DRAWING)

All Applications For Permits Must Conform  
In Every Respect To These Approved Plans.

In-Lieu Parking  
No. of Spaces

☒ N/A

☐ Yes

Amount Due \$

## REGULATIONS(CBD ZONING DISTRICT)

TYPE	FRONT SETBACK	SECONDARY STREET SETBACK	SIDE INTERIOR SETBACK	REAR SETBACK	ALLEY SETBACK	MAXIMUM BUILDING HEIGHT(FT)
PROPERTY DEVELOPMENT REGULATIONS(CBD ZONING DISTRICT)						
PROPERTY DEVELOPMENT REGULATIONS(CBD ZONING DISTRICT)						

SETBACKS ARE MEASURED TO STRUCTURE, NOT THE DECORATIVE SHEETING

## SETBACK TABLE

EVENING	WEEKEND			
	DAY		EVENING	
PM TO MIDNIGHT	9 AM TO 4 PM		6 PM TO MIDNIGHT	
90% 0	80%	0	90%	0
10% 10.7	10%	10.7	5%	5.35
90% 22.45	100%	24.95	70%	17.47
100% 0	80%	0	100%	0
100% 0	50%	0	100%	0
100% 150	80%	120	100%	150
100% 50	100%	50	100%	50
100% 40	100%	40	100%	40
273	246		263	

PARKING - 315 SPACES(INCLUDES HANDICAP ASSESSIBLE SPACES)  
SPACES PROVIDED - 10 SPACES  
THE CITY COMMISSION.

## PROJECT DATA

GROUND FLOOR AREA	59,681 S.F.	87.8 % OF SITE
TOTAL FLOOR AREA:	225,973 S.F.	332.5 % OF SITE
PARKING/PAVED AREA:	5,952 S.F.	8.76 % OF SITE
OPEN(LANDSCAPE) SPACE:	3,700 S.F.	5.45 % OF SITE
WATER BODIES:	0 S.F.	0 % OF SITE
NUMBER OF RESIDENTIAL DWELLING UNITS:	0	
DWELLING UNITS PER ACRE:	N.A.	

THE REQUEST FOR A CLASS  
CONTAINED IN THE STAFF  
COMPREHENSIVE PLAN AND  
REGULATIONS, SUBJECT

THEATER - 44,979 @ 1SP PER 300 SQ FT = 149.9 SPACES(LDR SECTION 4.4.13(6)(1)(a))  
OFFICE LEASABLE AREA: 32,215 SF NET PROPOSED @ 1SP PER 300 SQ FT= 107.38 SPACES(LDR SECTION 4.4.13(6)(1)(i)(1))  
RETAIL - 7,487 SF PROPOSED, 1 SPACE PER 300 SF = 24.95 SPACES(LDR SECTION 4.4.13(6)(1)(a))

SITE NOTES:

# CITY OF DELRAY BEACH



100 N.W. 1st AVENUE \* DELRAY BEACH, FLORIDA 33444 \* 561/243-7000

April 25, 2016

Ms. Bonnie Miskel, Esq.  
Dunay, Miskel, Backman & Blattner, LLP  
14 SE 4<sup>th</sup> Street  
Boca Raton, FL 33432

**RE: Fourth and Fifth Delray Conditional Use and Class V Site Plan Approval Letter.**

Dear Ms. Miskel:

This letter is being provided to you as the designated agent for the above referenced project. As you are aware, on December 16, 2015, the Site Plan Review and Appearance Board took the following actions regarding the waivers, site plan, landscape plan, and building elevations for the Fourth and Fifth Delray project:

**Waivers:**

1. Recommended approval to the City Commission of a waiver to LDR Section 4.4.13(F)(7)(a), which requires minimum rear setback of 10 feet for all floors where 0.69 feet is proposed on the first floor and 1.19 feet is provided on the upper floors, based on positive findings with LDR Section 2.4.7(B)(5).
2. Recommended approval to the City Commission of a waiver to LDR Section 4.4.13(F)(4)(c)(1)&(2), which requires a building frontage for the lower and upper levels, respectively, along the east/west alley, based on positive finding with LDR Section 2.4.7(B)(5).
3. Recommended approval to the City Commission of a waiver to LDR Section 4.6.18(B)(14)(iv)(2), which requires a minimum transparency or glass surface area of 75% where 10% is proposed, based on positive findings with LDR Section 2.4.7(B)(5).

**Site Plan:**

Postponed

**Landscape Plan:**

Postponed

**Elevations:**

Postponed

At its meeting of January 20, 2016, the Site Plan Review and Appearance Board took the following actions regarding the site plan, landscape plan, and building elevations for the Fourth and Fifth Delray project:

**Site Plan:**

Approved the request for a Class V site plan for **Fourth and Fifth Delray**, 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 Comprehensive Plan and meets criteria set forth in Sections 2.4.5(F)(5), and Chapter 3 of the Land Development Regulations, subject to the following conditions:

1. Address all Site Plan and Engineering Technical Items, including the following, and submit four (4) copies of the revised plans for certification.
  - a. That the fire access radius within the ground floor of the garage be deleted since this access will be provided on the Martini property.
  - b. Address the CPTED comments with the Police Department regarding the provision of a CCTV system, securing the projector rooms, internal security personnel, and design of the stairwells.
2. Submit the parking management agreement with the Community Redevelopment Agency (CRA) prior to issuance of a building permit.
3. Prior to issuance of a building permit, the applicant shall coordinate with the City regarding the use/connectivity for the Martini property during construction. The applicant shall reconstruct/reconfigure the north/south alley to provide continuous connection to SE 4<sup>th</sup> Avenue via the Martini property. The construction shall be completed concurrently with the on-site construction to maintain access and circulation. The reconstruction of the alley shall be completed in accordance with the approved site plan for the Martini Property.
4. Provide a security guard at the entrance along SE 5<sup>th</sup> Avenue to prohibit pick-ups/drop-offs along the project frontage on SE 5<sup>th</sup> Avenue. This requirement shall be implemented upon commencement of theater operations. The security guard shall be posted from 4:00 p.m. until 10:00 p.m. seven days a week.
5. Prior to issuance of a building permit, the applicant shall use its best efforts to coordinate with the City, CRA, and Downtown Development Authority to develop a plan to address construction employee parking and parking for businesses in the 400 block of Atlantic Avenue during construction of the project. The plan shall address parking issues during construction to minimize impacts to businesses in the 400 block and provide sufficient parking for the construction employees.

6. Prior to the issuance of a building permit, the applicant will record a covenant approved as to form by the City Attorney related to the applicant's obligation to allow non-exclusive public use of the upper level third floor terrace garden area and corresponding access areas pursuant to a reasonable operational plan to be approved by the City Manager.
7. If a traffic signal is warranted at the intersection of SE 4<sup>th</sup> Avenue and SE 1<sup>st</sup> Street within two years of the date of the issuance of 90 percent of certificate of occupancies AND the City has programmed this signal in the Capital Improvement Plan within the same period, the applicant shall be responsible for their proportionate share of the cost of the signal based upon the traffic information provided in support of this site plan approval. A security bond in the amount of 110% of the proportionate share of the traffic light shall be required and provided to the City prior to issuance of the certificate of occupancy.
8. Within 6 months of the issuance of 90 percent of certificate of occupancies, the applicant will evaluate the valet and parking garage operations and provide the results to the City and if consistent problems exist that result from both or either operations, the applicant will provide the City with recommendations for commercially reasonable modifications of such operations the address the problem(s) identified in the analysis.
9. If requested by the City within two years of the issuance of 90 percent of certificate of occupancies, the applicant shall perform a comprehensive intersection analysis at SE 4<sup>th</sup> Avenue and Atlantic Avenue and SE 5<sup>th</sup> Avenue and Atlantic Avenue to assess existing signal timing and recommend modifications by the applicant for intersection timing modifications to be performed by the City and/or Palm Beach County. This analysis shall be performed during the peak season and designated peak time periods (i.e., Friday P.M. and Saturday P.M.) and coordinated with City staff.
10. The applicant shall prepare a report to be approved by staff in accordance with normal engineering standards after 12 months of certificate of occupancy if determined by staff that the applicant shall pay their pro-rata share to the Marina District street way system.

**Landscape Plan:**

Approved the landscape plan for **Fourth and Fifth Delray** based on positive findings with respect to Section 4.6.16 of the Land Development Regulations, subject to the condition that all that all Landscape Technical Items are addressed and three (3) copies of the revised plans are submitted.

1. That two Medjool Date Palms replace the six Foxtail Palms at the garage entrance.

**Elevations:**

Approved the proposed elevations for **Fourth and Fifth Delray** based on positive findings with respect to LDR Section 4.6.18(E).

**Conditional Use/Alley Abandonment:**

At its meeting of August 18, 2015, the City Commission approved the conditional use and alley abandonment for the subject property.

Letter to Bonnie Miskel  
April 25, 2016  
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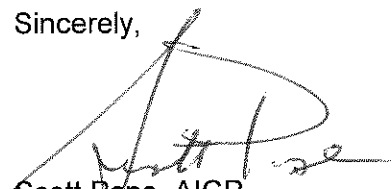
**Next Steps**

Five complete sets of all plans and documents (folded and collated) that address the conditions of approval need to be submitted to the Planning and Zoning Department together with a CD of these plans and documents. Once the site plans have been certified, you will need to submit the building permit application to the Community Improvement Department.

Please be advised that the site plan approval and conditional use approval are valid for 24 months. Thus, the conditional use will expire on August 18, 2017 and the site plan approval will expire on January 20, 2018. Prior to the expiration date of the approvals, 25 percent of the cost of all improvements associated with this development approval must be constructed in order for this proposal to be considered established.

If you have any questions, please contact me at (561) 243-7321.

Sincerely,



Scott Pape, AICP  
Principal Planner

Cc: Maria Bolivar  
Project file  
Correspondence file