

RESOLUTION NO. 110-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH APPROVING A TEMPORARY USE PERMIT REQUEST FOR A TEMPORARY PARKING LOT WITH WAIVERS TO LDR SECTIONS 2.4.6(F)(3)(e)1, 3, 4, 5, AND 8 TO PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AND THE COMPREHENSIVE PLAN, AT 101 NW 18<sup>TH</sup> AVENUE (PCN 12-43-46-18-00-000-1120 & 12-43-46-18-00-000-1141); PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, Leigh Gove (“Agent”), on behalf of Farm Supply Building LLC (“Applicant/Property Owner”), submitted a development application (2019-154-WAI-CCA) for the approval of a temporary parking lot with waivers located at 101 NW 18<sup>th</sup> Avenue, Delray Beach, on June 4, 2019; and

WHEREAS, the subject property is located on the east side of NW 18<sup>th</sup> Avenue and abuts the Florida East Coast (FEC) railway, consists of 2.54 acres, and is zoned Mixed Industrial Commercial (MIC); and

WHEREAS, the proposed temporary use consists of a temporary parking lot with requested waivers to Land Development Regulation (LDR) Sections 2.4.6(F)(3)(e)1, 3, 4, 5, and 8; and

WHEREAS, LDR section 2.4.6(F)(3)(e)1 states a temporary parking lot may be permitted within the following areas:

- a. the portion of the Central Business District (CBD) and Community Facilities (CF) District, which is bounded by Swinton Avenue on the west, the Intracoastal Waterway on the east, N.E. 2nd Street on the north, and S.E. 2nd Street on the south;
- b. the portion of the CBD District which is bounded by N.E. 2nd Avenue on the west, the FEC Railway on the east, N.E. 2nd Street on the south, and N.E. 4th Street on the north;
- c. the portion of the CBD located east of the Intracoastal Waterway;
- d. the non-residential zoning districts bounded by Swinton Avenue on the east, I-95 on the west, N.W. 1st Street on the north, and S.W. 1st Street on the south.

WHEREAS, LDR section 2.4.6(F)(3)(e)3 states 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; and

WHEREAS, LDR section 2.4.6(F)(3)(e)4 states the City Engineer shall approve the grading plan for the parking lot and the site plan shall be reviewed and recommended for approval by the Parking Management Advisory Board prior to submission to the City Commission for consideration; and

WHEREAS, LDR section 2.4.6(F)(3)(e)5 states permits for temporary parking lots shall be issued for a one-year period and may be renewed annually to a maximum of three years upon review and positive recommendation by the Parking Management Advisory Board; and

WHEREAS, LDR section 2.4.6(F)(3)(e)8 states a temporary parking lot shall be constructed to 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 American Association of State Highway and Transportation Officials (AASHTO) T-180:

1. four inches of crushed limerock or shellrock coated with a prime coat per Florida Department of Transportation (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.

b. If the lot is not operated on a 100 percent valet basis, wheel stops shall be provided as a means to indicate individual spaces. The size of the parking spaces, maneuvering areas and aisle widths shall be subject to the standards of Section 4.6.9(D)(4). In addition, the parking lot shall meet the requirements of the "Florida Accessibility Code for Building Construction".

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.

WHEREAS, LDR Section 2.4.7(B)(5) *Waiver*; prior to granting a waiver, the approving body shall make a finding 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 a similar circumstances on other property for another applicant or owner; and

WHEREAS, the Waivers for the temporary use permit request for a temporary parking lot at 101 NW 18<sup>th</sup> Avenue (2019-154-WAI-CCA) was presented to the City Commission at a quasi-judicial hearing conducted on June 4, 2019; and

WHEREAS, the City Commission has reviewed the temporary use permit request for a temporary parking lot with waivers to LDR Sections 2.4.6(F)(3)(e)1, 3, 4, 5, and 8 at 101 NW 18<sup>th</sup> Avenue and has considered the respective findings for each as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby incorporated by this reference.

Section 2. The City Commission makes positive findings that the requested waivers (1) do not adversely affect the neighboring area, (2) do not significantly diminish the provision of public facilities, (3) do not create an unsafe situation, and (4) do not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstances on other property for another applicant or owner for granting approval of the temporary use permit for a temporary parking lot with waivers at 101 NW 18<sup>th</sup> Avenue, Delray Beach, incorporated herein as Exhibit "A" and Exhibit "B", subject to the following conditions:

- a. Code violation 19-00000977 be rectified before the temporary use permit is issued.
- b. Applicant shall be required to obtain building permits prior to improving and storing vehicles on site.

- c. Adequate and functioning security lighting shall be installed prior to storing vehicles on site. Lighting levels shall be maintained, per LDR Section 4.6.8, until the proposed temporary use vacates the site. A building permit shall be submitted for the installation of lighting.
- d. Property shall be maintained in a clean and orderly manner. Debris and trash shall be removed regularly.
- e. The applicant shall remove all Prohibited Plant Species per LDR 4.6.16(G)(1) and LDR 4.6.19(E)(6)(b), if applicable.
- f. The unpaved area to be used for storage of vehicles shall be graded with gravel if not sodded with Bahia grass or weed and/or the grass must be maintained in good condition.
- g. No parking, loading or unloading of the vehicles outside of the property.
- h. The gates shall be locked and well secured to avoid vandalism and theft from occurring on the property. In addition, the existing security and wall system shall be maintained.
- i. No sales activity on the property. No customers are permitted on the property.
- j. No signage around the property perimeter.
- k. No advertising on or around the property's perimeter.
- l. The property shall be returned to its current conditions, in accordance with the Land Development Regulations, prior to expiration of the temporary use permit (temporary improvements associated with the request shall be removed.)
- m. The applicant at all times comply with the rules regarding the monitoring wells on the site and shall ensure the appropriate agencies have access to the wells when required.
- n. 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.
- o. The temporary use permit is valid for a period of two years with an expiration date of May 21, 2021. Extension requests shall be approved by the City Commission and must be requested 90 days prior to the expiration.
- p. The applicant shall place a cash deposit of \$19,500.00 in escrow prior to issuance of a building permit. The deposit is to be returned after the expiration of the permit if the site complies with all the conditions of approval and is 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 based upon the amount of time the temporary parking lot occupies the site beyond the expiration date.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Shelly Petrolia, M A Y O R

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

**Exhibit “A”**  
101 NW 18<sup>th</sup> Avenue  
Site Plan

## PLAN OF THE PROPERTY AND DEPICTION OF PREMISES



**Exhibit “B”**  
101 NW 18th Avenue  
Survey



SCALE 1"=20'

# SEABOARD AIRLINE RAILROAD

FIDER OPTIC RISER  
POSSIBLE EASEMENT  
PER ORB 26401, PG 1156, PBCR

420.0' (DEED & MEAS)

8' HIGH CONCRETE PANEL WALL  
1' WIDE, TIE TO C/L OF WALL

WESTERLY LINE OF  
SEABOARD AIRLINE RAILROAD

1 STORY OFFICE BLDG  
W/ TWO BAYS  
FF EL=15.41  
GARAGE EL=15.36

COVERED  
CONCRETE

AREA OVER GROWN  
WITH VEGETATION

CONCRETE  
(BROKEN UP & OVER GROWN  
W/ VEGETATION)

SOUTH LOT  
PCN:12-43-46-18-00-000-1120

NORTH LOT  
PCN:12-43-46-18-00-000-1141

71 NW 18 AVE  
PCN:12-43-46-18-00-000-0030  
LOT 3, OWEN'S COMMERCIAL  
(PB 74, PG 130, PBCR)

LOCATION SKETCH  
NOT TO SCALE  
SECTION 18, TOWNSHIP 46 S, RANGE 43 E

## LEGAL DESCRIPTION:

A parcel of real property situate, lying and being in Palm Beach County, Florida, and being more particularly described as follows:

A parcel of land in Section 18, Township 46 South, Range 43 East, more particularly described as follows:

Beginning at a point in the South Line of the North 1/2 of the Southeast 1/4 of said Section 18, where said line intersects the Westerly Right of Way line of the Seaboard Airline Railroad; thence Northerly along said Westerly Right of Way line a distance of 420 feet to a point; thence Westerly parallel to said South line a distance of 275 feet to a point; thence Southerly parallel to said Westerly Right of Way line a distance of 420 feet to a point in said South line; thence Easterly along said South line a distance of 275 feet to the Point of Beginning. Less therefrom that portion conveyed to the City of Delray Beach in Official records Book 24810, Page 913. Subject to an easement over the South 20 feet and the East 25 feet thereof.

PROPERTY ADDRESS:  
101 NW 18TH AVENUE  
DELRAY BEACH, FL 33445

PARCEL CONTROL NUMBER:  
12-43-46-18-00-000-1120 SOUTH LOT  
12-43-46-18-00-000-1141 NORTH LOT

CERTIFIED TO:  
LEIGH GOVE  
FIRST AMERICAN TITLE INSURANCE COMPANY  
MATTHEW B. WEALCATCH, P.A.  
PARADISE BANK

## SURVEYOR NOTES

This survey does not constitute a title search by Apogee Services, Inc. to determine ownership or easements of record. For all information regarding easements, rights-of-way and title of record, Apogee Services, Inc. relied upon a First American Title Commitment for Title Insurance Policy, File Number Four D's Realty s-t Grove, effective date July 09, 2014 @ 8:00 am. Refer to attached spread sheet for notes corresponding to Schedule B II Exceptions.

The legal description used for this survey is the legal description in the title report. Note Apogee Services, Inc. was not privied to the unfilled plat of Totterdale Industrial.

This sketch is not valid without the original signature and the raised seal of a Florida Licensed Surveyor and Mapper.

This is an above ground survey only and correctly represents the facts found at the time of the survey. This surveyor does not purport to identify encroachments, foundations, utilities, structures of other improvements below grade.

Elevations shown hereon are based on National Geodetic Vertical Datum 1929 (NGVD-29) unless otherwise noted. Benchmark use was a Palm Beach County brass disk, Stamped: GUELLIG, located at the Northeast corner of Congress Ave. and Lowson Blvd. 15.4' west of a witness post, which bears an elevation of 20.226 feet.

Area of site: Per Legal Description, 110,984 sq. ft., 2.55 acres, more or less.

Zoned: MIC - Mixed Industrial & Commercial ( 12-DELRAY BEACH ), Information per Palm Beach County Property Appraiser Web Site. <http://www.co.palm-beach.fl.us>.

By graphical plotting only, this site is in Zones "X" and "AE", with a base elevation of 12, of the Flood Insurance Rate Map, Community Panel No. 125102 0004 D, which bears a revised date of January 5, 1989.

## APOGEE SERVICES, INC.

703 SW 24<sup>TH</sup> AVENUE, BOYNTON BCH., FL 33435  
TEL: (561) 441-5354 FAX: 1-(866) 425-2032

L.B. #7644

SCALE: 1" = 20'	101 N.W. 18 <sup>TH</sup> AVENUE DELRAY BEACH, FLORIDA
DATE: 08/04/14	BOUNDARY SURVEY
DRAWN BY: RNB	SURVEY FOR LEIGH GOVE
CKD BY: HW	

114-016

Scale in Feet  
1 inch = 20 ft

**LEGEND**  
BLDG = BUILDING  
PBCR = PALM BEACH COUNTY RECORDS  
CBS = CONCRETE BLOCK STRUCTURE  
CONC = CONCRETE  
C/L = CENTERLINE  
CB = CATCH BASIN  
CLF = CHAIN LINK FENCE  
EL = ELEVATION  
FF = FINISHED FLOOR  
FND = FOUND  
GV = GATE VALVE  
I/R = IRON ROD  
MEAS = MEASURED  
N&D = NAIL AND DISK  
OHW = OVER HEAD WIRE  
PB = PLAT BOOK  
PCN = PARCEL CONTROL NUMBER  
P.O.B. = POINT OF BEGINNING  
ROW = RIGHT OF WAY  
SSMH = SANITARY SEWER MANHOLE  
DMH = STORM MANHOLE  
TYP = TYPICAL  
WM = WATER METER  
WI = WITH

**SYMBOL LEGEND:**  
WOOD UTILITY POLE  
WATER METER  
CONCRETE LIGHT POLE  
GATE VALVE  
CHECK VALVE  
SANITARY MANHOLE  
CHAIN LINK FENCE  
CATCH BASIN  
FIRE HYDRANT  
CENTERLINE  
STORM MANHOLE  
SINGLE POST SIGN  
SCHEDULE B II EXCEPTION NUMBER

## NOTE:

SITE WALL ENCROACHES (AS SHOWN ON SURVEY)  
1 INTO RAILROAD ROW ALONG EAST PROPERTY LINE.  
2 INTO SITE TO THE NORTH AT THE NE CORNER OF SITE  
3 INTO THE 25' EASEMENT ALONG EAST PROPERTY SITE  
4 INTO THE 65' EGRESS AND INGRESS EASEMENT SOUTH SIDE OF SITE

CONCRETE PAD ENCROACHES ONTO SITE NW CORNER OF SITE. (AS SHOWN ON SURVEY)

POSSIBLE EASEMENTS FOR FIBER OPTIC CABLE EAST AND WEST OF SITE

NO.	DATE	DESCRIPTION	BY
2	9/15/14	REVISED LEGAL DESCRIPTION	RNB
1	8/23/14	SHOW NW 18 AVE ROW EXCEPT	RNB

**SURVEYOR'S CERTIFICATION**  
I HEREBY CERTIFY THAT THIS MAP OF LAND SURVEY WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AND MAPPERS IN CHAPTER 53-17.050-17.052 FAC, CHAPTER 472 FLORIDA STATUTES, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

LAST FIELD DATE: 8/19/14  
ISSUED DATE: 8/25/14  
HANS WILKIE, P.L.S.  
REG. LAND SURVEYOR LS #6316