



# SITE PLAN REVIEW AND APPEARANCE BOARD STAFF REPORT

DEVELOPMENT SERVICES DEPARTMENT

100 NW 1<sup>ST</sup> AVENUE, DELRAY BEACH, FLORIDA 33444

PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200

## SITE PLAN REVIEW AND APPEARANCE BOARD

**\*REVISED\***

**Meeting:** July 24, 2019

**File No.:** 2018-223-  
SPM-SPR-CL3

**Application Type:** Class III Site Plan Modification

### General Data:

**Applicant:** iPic-Gold Class Entertainment, LLC

**Owner:** Delray Beach 4<sup>th</sup> & 5<sup>th</sup> Avenue, LLC

**Agent:** Dunay, Miskel, Backman, & Blattner, LLP

**Location:** 60 SE 5<sup>th</sup> Avenue

**PCN:** 12-43-46-16-N9-001-0000

**Property Size:** 1.5594 Acres

**FLUM:** CC (Commercial Core)

**Zoning:** CBD (Central Business District)

### Adjacent Zoning:

- CBD (North)
- CBD (South)
- CBD (East)
- CBD (West)

**Existing Land Use:** Movie theater, offices, and retail

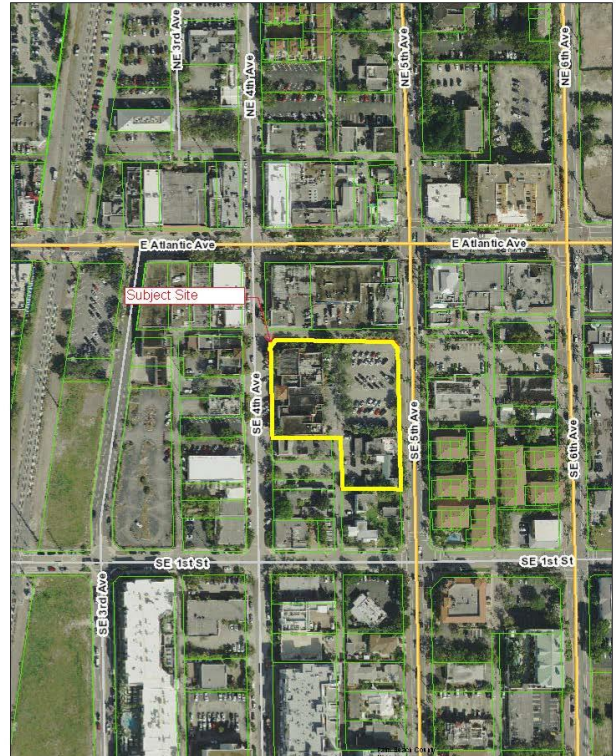
**Proposed Land Use:** Movie theater, offices, retail, and restaurant

### Item before the Board:

Consideration of a Class III Site Plan Modification associated with the conversion of a rooftop terrace to restaurant for Fourth and Fifth Delray, pursuant to Land Development Regulations (LDR) Section 2.4.5(G). This application includes:

- ☐ Site Plan Modification

Location Map



July 10, 2019

1:2,257  
0 0.0175 0.035 0.07 mi  
0 0.03 0.06 0.12 km

### Alternative Actions:

- A. Move **postponement** of the Class III Site Plan Modification for Fourth and Fifth Delray, by electing to continue with direction.
- B. Move **approval** of the Class III Site Plan Modification for Fourth and Fifth Delray, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(G) and Chapter 3 of the Land Development Regulations.
- C. Move **denial** of the Class III Site Plan Modification for Fourth and Fifth Delray, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in Sections 2.4.5(G) and Chapter 3 of the Land Development Regulations.

### Project Planner:

Scott Pape, Principal Planner;  
[pape@mydelraybeach.com](mailto:pape@mydelraybeach.com),  
561-243-7321

### Review Dates:

SPRAB Board:  
July 24, 2019

### Attachments:

1. Site Plans



### **Assessment:**

The site plan modification is associated with the conversion of the rooftop terrace to restaurant. The proposed conversion will activate the rooftop terrace space. The proposed restaurant is allowed as a principal use in the Central Business District. The project is consistent with the policies of the Comprehensive Plan and Land Development Regulations and positive findings can be made.

### **Background:**

The project area consists of portions of Lots 7 and 10, and all of Lots 8 & 9, and 14 through 18, Block 101 Town of Linton, together with a portion of the north/south alley that has been approved and is subject to conditions. The properties contained the former municipal library that was built in 1969 and the former Chamber of Commerce office that was built in 1948, which have been demolished.

At its meeting of August 18, 2015, the City Commission approved the abandonment of a portion of the north/south alley and the conditional use for an increase in building height to 59.5 feet and for the movie theater use.

At its meeting of December 16, 2016, the Site Plan Review and Appearance Board approved the Class V Site Plan application associated with the project.

At its meeting of May 21, 2019, the City Commission approved the modification of the non-exclusive public access easement to allow for the ability for Fourth and Fifth Delray to submit an application for the conversion of the rooftop terrace.

### **Project Description:**

The site plan modification includes the conversion of the rooftop terrace to a 10,496 square foot restaurant. The kitchen is located interior to the building and on the same floor.

### **Site Plan Analysis:**

#### **Compliance with The Land Development Regulations (LDR):**

**Items identified in the Land Development Regulations shall specifically be addressed by the body taking final action on the site and development application/request**

#### **Supplemental District Regulations:**

Per LDR Section 4.4.13(L)(3), the theater and retail uses require 1 parking space per 500 square feet of total floor area for all nonresidential uses except restaurants and offices. The required parking for the office is 1 parking space per 300 square feet of net floor area. The required parking for the restaurant is 6 spaces per 1,000 square feet of gross floor area. The proposed development contains 7,487 sq. ft. of retail, 35,215 net sq. ft. of office, 44,874 sq. ft. of movie theater and 10,496 sq. ft. of restaurant. Based on this development mix, the minimum required parking for the proposed development is 375 parking spaces, if each use provided the minimum required parking.

LDR Section 4.6.9(C)(8)(a) – Shared Parking allows for buildings or a combination of buildings on a unified site to utilize the shared parking calculations which affords reduced parking requirements by accommodating varied peak utilization periods for different uses (see below). The minimum required parking is reduced to a 285 parking spaces when the shared parking table is utilized, as indicated on the table below.

The development proposal provides a total of 326 parking spaces within the garage. Thus, the development proposal complies with the parking requirements with a 41-space parking surplus. It is noted that the use category of "Other" lists 90 "required" spaces, which are intended to replace the public spaces assigned previously to the Chamber of Commerce and the former municipal library and



adjusted per the City Commission condition of approval that the spaces within the existing public parking lot be replaced within the garage as public spaces.

Use	Required	Weekday						Weekend			
		Night		Day		Evening		Day		Evening	
		Midnight to 6 AM		9 AM to 4 PM		6 PM to Midnight		9 AM to 4 PM		6 PM to Midnight	
Residential		100%	0	60%	0	90%	0	80%	0	90%	0
Office	117	5%	5.85	100%	117	10%	11.7	10%	11.7	5%	5.85
Commercial/Retail	15	5%	0.75	70%	10.5	90%	13.5	100%	15	70%	10.5
Hotel		80%	0	80%	0	100%	0	80%	0	100%	0
Restaurant	63	10%	6.3	50%	31.5	100%	63	50%	31.5	100%	63
Entertainment/Recreational (theatres, bowling alleys, etc)	90	10%	9	40%	36	100%	90	80%	72	100%	90
Reserved Parking	90	100%	90	100%	90	100%	90	100%	90	100%	90
Other		100%	0	100%	0	100%	0	100%	0	100%	0
<b>TOTALS</b>	<b>375</b>		<b>112</b>		<b>285</b>		<b>268</b>		<b>220</b>		<b>259</b>

#### **Required Findings:**

A finding can be made that the proposed restaurant does not significantly affect the original site plan per LDR Section 2.4.5(G)(5). Pursuant to section 3.1.1 **Required Findings**, prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the following areas:

#### **Section 3.1.1 (A) - 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.

- As mentioned, the subject property has a FLUM designation of Commercial Core (CC) and a Zoning map designation of Central Business District (CBD). The CBD zoning district is consistent with the CC FLUM designation. In accordance with LDR Table 4.4.13(A), restaurant uses are permitted principle uses in the CBD zoning district. Therefore, based on the information above, a positive finding can be made with respect to consistency with the FLUM designation.

#### **Section 3.1.1 (B) – Concurrency:**

As described in Appendix “A”, a positive finding can be made as it relates to concurrency.

#### **Section 3.1.1 (C) – Consistency:**

Compliance with performance standards set forth in Chapter 3 and required findings in section 2.4.5(F)(5) for the request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency.

- As described in Appendix “B”, a positive finding of Consistency can be made as it relates to Standards for Site Plan Actions.

#### **Section 3.1.1 (D) – Compliance with the LDRs:**

Items identified in the Land Development Regulations shall specifically be addressed by the body taking final action on the site and development application/request.

- As described under the Site Plan Analysis section of this report, a positive finding of compliance with the LDRs can be made.



### **Comprehensive Plan Policies:**

A review of the objectives and policies of the adopted Comprehensive Plan was conducted, and the following applicable objectives or policies were noted.

### **Future Land Use Element (FLUE)**

*Objective A-1: Property shall be developed or redeveloped, in a manner so that the future use, intensity, and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses and fulfill remaining land use needs.*

- There are no soil, topographic or other physical considerations that would make the proposed conversion incompatible with this objective. The surrounding uses are a mixture of retail, restaurant and offices. The proposed restaurant is compatible with adjacent land uses within the CBD zoning district. Based on the above, a positive finding can be made with regard to Future Land Use Element Objective A-1.

### **Courtesy Notice:**

Courtesy notices have been provided to the following homeowner's associations and interested parties, which have requested notice of developments in their areas:

- Chamber of Commerce
- Courtyards of Delray
- Mallory Square
- Town Square
- Village Grand of Delray Beach
- Osceola Park

### **Public Notices:**

No public notice is required for Class III Site Plan Modification applications. Letters of objection, if any, will be presented at the SPRAB meeting.



### Appendix "A" – Concurrency Findings

Pursuant to LDR Section 3.1.1(B), Concurrency, as defined pursuant to Objective B-2 of the Land Use Element of the Comprehensive Plan, must be met and a determination made that the public facility needs of the requested land use and/or development application will not exceed the ability of the City to fund and provide, or to require the provision of, needed capital improvements for the following areas:

Water and Sewer: Water and sewer services are adequately provided to the site and will remain as the site is not proposed to be redeveloped with the subject request.

Streets and Traffic: The traffic analysis report for the proposed use indicates a net increase of 295 trips per day. The proposal has been reviewed by Palm Beach County Traffic Engineering and determined that it meets the Traffic Performance Standards of Palm Beach County. Therefore, a positive finding can be made.

Parks and Recreation Facilities: It is noted that the park impact fee is not applicable to the subject request as it does not include a residential component.

Solid Waste: The 10,495 square feet in restaurant will produce an increase of 130.67 tons of solid waste per year. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals till the year 2047.

Drainage: Drainage will not be affected by the proposed modification.

### APPENDIX "B" - STANDARDS FOR SITE PLAN ACTIONS Sec. 3.2.3 (A) through (J)

- A. Building design, landscaping and lighting (glare) shall be such that they do not create unwarranted distractions or blockage of visibility as it pertains to traffic circulation.
  - ☐ Not applicable
  - ☒ Meets intent of standard
  - ☐ Does not meet intent
- B. Separation of different forms of transportation shall be encouraged. This includes pedestrians, bicyclists and vehicles in a manner consistent with policies found under Objectives D-1 and D-2 of the Transportation Element.
  - ☐ Not applicable
  - ☒ Meets intent of standard
  - ☐ Does not meet intent
- C. Open space enhancements as described in Policies found under Objective B-1 of the Open Space and Recreation Element are appropriately addressed.
  - ☒ Not applicable
  - ☐ Meets intent of standard
  - ☐ Does not meet intent
- D. The City shall evaluate the effect that any street widening or traffic circulation modification may have upon an existing neighborhood. If it is determined that the widening or modification will be detrimental and result in a degradation of the neighborhood, the project shall not be permitted.
  - ☒ Not applicable
  - ☐ Meets intent of standard
  - ☐ Does not meet intent
- E. Development of vacant land which is zoned for residential purposes shall be planned in a manner which is consistent with adjacent development regardless of zoning designations.
  - ☒ Not applicable
  - ☐ Meets intent of standard





☐ Does not meet intent

- F. Property shall be developed or redeveloped in a manner so that the future use and intensity are appropriate in terms of soil, topographic, and other applicable physical considerations; complementary to adjacent land uses; and fulfills remaining land use needs.

☐ Not applicable  
☒ Meets intent of standard  
☐ Does not meet intent

- G. Redevelopment and the development of new land shall result in the provision of a variety of housing types which shall continue to accommodate the diverse makeup of the City's demographic profile and meet the housing needs identified in the Housing Element. This shall be accomplished through the implementation of policies under Objective B-2 of the Housing Element.

☒ Not applicable  
☐ Meets intent of standard  
☐ Does not meet intent

- H. 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.

☐ Not applicable  
☒ Meets intent of standard  
☐ Does not meet intent

- I. Development shall not be approved if traffic associated with such development would create a new high accident location, or exacerbate an existing situation causing it to become a high accident location, without such development taking actions to remedy the accident situation.

☐ Not applicable  
☒ Meets intent of standard  
☐ Does not meet intent

- J. Tot lots and recreational areas, serving children from toddler to teens, shall be a feature of all new housing developments as part of the design to accommodate households having a range of ages. This requirement may be waived or modified for residential developments located in the downtown area, and for infill projects having fewer than 25 units.

☒ Not applicable  
☐ Meets intent of standard  
☐ Does not meet intent