

RESOLUTION NO. 32-20

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 LAND DEVELOPMENT REGULATION SECTIONS 2.4.6(F)(3)(e)1, 3, 4, 7 AND 8 AT 541 – 571 W. LINTON BLVD (PCN 12-43-46-20-80-001-0000); PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, Sachs Sax Caplan (“Agent”), on behalf of Delray Village Shoppes, Inc. (“Applicant/Property Owner”), submitted a development application (2020-072-WAI-CCA) for the approval of a temporary parking lot with waivers located at 541-571 W. Linton Blvd, Delray Beach; and

WHEREAS, the subject property is located on the corner of SW 4<sup>th</sup> Avenue and W. Linton Blvd at 541-571 W. Linton Blvd., consists of 2.48 acres, and is zoned General Commercial (GC); 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, 7 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)7 states within 30 days of expiration of the permit, all rock or gravel surfaces shall either be removed or covered with topsoil. The site shall then be sodded or landscaped as determined acceptable by the Development Services Department; 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 pearrock, 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 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.

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.

f. If the parking lot is to be utilized at night, the applicant shall contract with FPL to install supplementary lighting on adjacent power poles where possible. The applicant may, as an option, provide alternative on-site lighting for the parking lot.

g. Trees of four inches or greater diameter at four and one-half feet above the ground shall not be removed.

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 541 – 571 W. Linton Blvd. (2020-072-WAI-CCA) was presented to the City Commission at a quasi-judicial hearing conducted on March 3, 2020; 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, 7 and 8 at 541 – 571 W. Linton Blvd 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 circumstance on other property for another applicant or owner for granting approval of the temporary use permit for a temporary parking lot with waivers at 541 – 571 W. Linton Blvd., Delray Beach, incorporated herein as Exhibit “A”, subject to the following conditions:

- a. Code violation 19-14055 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. 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. If non-vinyl-coated fence is utilized, a hedge shall be installed per LDR Section 4.6.5(D).
- d. 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 if necessary.
- e. Property shall be maintained in a clean and orderly manner. Debris and trash shall be removed regularly.
- 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 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.
- n. The temporary use permit is valid for a period of one year with an expiration date of March 3, 2021. Extension requests shall be approved by the City Commission and must be requested 90 days prior to the expiration.
- o. 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 \_\_\_\_\_, 2020.

\_\_\_\_\_  
Shelly Petrolia, Mayor

ATTEST:

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

Approved as to form and legal sufficiency:

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

**Exhibit “A”**

541-571 Linton Blvd

Site Plan