



October 9th, 2020

City of Delray Beach Development Services
Planning and Zoning Division
100 NW First Avenue
Delray Beach, Florida 33444

RE: 1200 Linton Blvd
Delray Beach, FL 33444
Waiver and Class II Site Plan Justification Statement

Proposed is an application to an existing Target Shopping Center, to incorporate the changes from a right of way taking which resulted from a Florida Department of Transportation District IV project which impacted Target's available landscape buffer and sign setback. The additional land area shown on the attached survey and site plan (known as Parcel 111 in the FDOT documentation). The project site is zoned PC (Planned Commercial).

The land area required by FDOT results in several nonconforming site development aspects which are represented in the attached site plan, which can be summarized as follows:

| | City of Delray Beach Land Development Code Reference | Required | Provided |
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| 1 | 4.6.7 (E) (3) (a) Basic Setback Determinants (Signs) | 10' | 0.56' (Linton) |
| 2 | 4.3.4 (H) (6) (b) (4) and (5) Along Linton Boulevard, from A-1-A to western City Limits and Congress Avenue from the L-38 Canal to the L-30 Canal a special landscape area shall be provided. This landscape area shall be the smaller distance of either 30' or ten percent of the average depth of the property; however, in no case shall the landscape area be less than ten feet. | 30' | 10.78' (Linton) |

Article 3.1 (Required Findings for Land Use and Land Development Application) provides for the following findings for all development applications:

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| <p><i>(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</i></p> | <p>The Future Land Use Designation of the subject property is GC (General Commercial) and as such, the existing use (commercial shopping center) is appropriate and consistent with the land use designation, and with the zoning designation of PC (Planned Commercial).</p> |
| <p><i>(B) 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</i></p> | <p>The subject property has been previously approved and developed and has not had any cessation of operations. The proposed application does not represent any increase to the existing use or intensity of the property, nor does it represent any change to the existing parking spaces or functionality of the parcel. The impetus for the application is a right of way taking by FDOT District IV which creates a nonconforming condition for signage and landscape buffers which the applicant is seeking a formal waiver to recognize. This recognition will protect the project from any perceived inconsistency with the land development code, or future impediment to repair or replacement of the freestanding signage.</p> |
| <p><i>(C) Consistency: 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</i></p> | <p>The application does not represent any change to the existing and approved development in terms of use and intensity and does not create any conflict with performance standards other than the recognition of a reduce right of way buffer, and reduced sign setback caused by the taking of right of way action by FDOT District IV.</p> |

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| <p>(D) <i>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</i></p> | <p>The proposed application does not represent any increase to the existing use or intensity of the property, nor does it represent any change to the existing parking spaces or functionality of the parcel. The impetus for the application is a right of way taking by FDOT District IV which creates a nonconforming condition for signage and landscape buffers which the applicant is seeking a formal waiver to recognize.</p> |
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WAIVER CRITERIA

The applicant provides the following responses to the criteria provided to the granting body, relative to the granting of a waiver:

- (a) *Shall not adversely affect the neighboring area;* This application has been filed following action by an FDOT design which warranted additional right of way for the intersection of Linton and Congress; to assist in improvements that have a public safety factor associated with the efficiency of turning movements, signal light timing, and the geometry of southbound Congress Avenue and westbound Linton Blvd and the overall alignment of the intersection. An orderly traffic pattern is in the best interest of the neighbors, but this application which simply recognizes the end condition of the developed property does not result in any reduction to the interior buffers, nor does it adversely affect the neighborhood.
- (b) *Shall not significantly diminish the provision of public facilities;* The right of way taking was completed to improve the provision of public roadway facilities, and the recognition of this taking relative to existing sign setbacks and landscape buffers does not negatively impact the provision of other public facilities.
- (c) *Shall not create an unsafe situation;* Similar to our response to (b) above, the recognition of the developed site conditions following the right of way taking does not create an unsafe condition, and the right of way dedication was taken to provide improvements to the adjacent intersection.
- (d) *Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.* A right of way taking is not a special privilege or common circumstance and did not result from the actions of the property owner.

CLASS II SITE PLAN CRITERIA

The applicant provides the following responses to the criteria provided to the granting body, relative to the Class II Site Plan request:

- (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.* The taking was part of a FDOT District IV action. At signalized intersections, the determination on sight distance needs is based upon guidance published by the American Association of State Highway and Transportation Officials (AASHTO). In its *Policy on Geometric Design of Highways and Streets* ("The Green Book"), AASHTO publishes the following standard:
Case D-Intersections with Traffic Signal Control
 - a. *At signalized intersections, the first vehicle stopped on one approach should be visible to the driver of the first vehicle stopped on each of the other approaches. Left-turning vehicles should have sufficient sight distance to select gaps in oncoming traffic and complete left turns. Apart from these sight conditions, there are generally no other approach or departure sight triangles needed for signalized intersections. Signalization may be an appropriate crash countermeasure for higher-volume intersections with restricted sight distance that have experienced a pattern of sight-distance-related crashes.*
- (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.* The requested site plan certification does not alter or reduce the accessibility to the building for pedestrians or bicyclists nor does it negatively impact the existing driveway access points for vehicular traffic.
- (C) *Open space enhancements as described in policies found under Objective B-1, of the Open Space and Recreation Element are appropriately addressed.* N/A, this project is not requesting new development or added demand on the open space or park services in Delray Beach.
- (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.* FDOT District IV has already prepared design plans and taken the right of way for the intersection improvement directly affecting the subject property. As discussed above, the roadway improvements will not have a negative impact on the surrounding property owners.

- (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.* N/A the site is not zoned for residential purposes.
- (F) *Vacant property shall be developed 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.* N/A this is not vacant property, it was previously cleared, previously developed, and is not proposing any new square footage or expansion to the existing facility.
- (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.* N/A, this is not a housing project.
- (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.* The proposed application will not result in new construction within the subject parcel, while the FDOT intersection expansion will have impacts from noise and a temporary traffic pattern, those improvements are not the subject of this application.
- (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.* The application will not result in any new traffic impacts; no expansion of the existing building is proposed.
- (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.* N/A Not a tot lot or recreational area.

Thank you for your consideration of our request; I will make myself available in person or over the phone to discuss any questions or concerns you may have in advance of a scheduled review meeting or hearing.

Best Regards;

Kristina Belt, P.E.