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**Title:** APPEAL OF SPRAB APPROVAL OF A CLASS V SITE PLAN EXTENSION REQUEST FOR DOWNTOWN DELRAY MEDICAL CENTER LOCATED AT 530 SE 6TH AVENUE (QUASI-JUDICIAL HEARING)

**Sponsors:** Planning and Zoning Board

**Indexes:**

**Code sections:**

**Attachments:** 1. Downtown Delray Medical Centre-Staff Report, 2. "EXHIBIT A" - Original SPRAB Conditions of Approval, 3. Excerpt Minutes - December 9, 2015 SPRAB Meeting, 4. Site Aerials, 5. Downtown Delray Plans, 6. Downtown Delray Medical Center Zoning Map, 7. Downtown Delray Medical Center FLUM Map, 8. Letter From Applicant, 9. City Commission Board Order

Date	Ver.	Action By	Action	Result
2/16/2016	1	City Commission	approved	Pass

**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Planning, Zoning and Building Department  
**THROUGH:** Donald B. Cooper, City Manager  
**DATE:** February 16, 2016

APPEAL OF SPRAB APPROVAL OF A CLASS V SITE PLAN EXTENSION REQUEST FOR DOWNTOWN DELRAY MEDICAL CENTER LOCATED AT 530 SE 6<sup>TH</sup> AVENUE (QUASI-JUDICIAL HEARING)

**Recommended Action:**

Approve a 24 month extension (expiring December 11, 2017) of the Class V site plan, landscape plan and architectural elevation plan for Downtown Delray Medical Center, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, meets criteria set forth in Section 2.4.4(F)(1)&(3) and Section 3.1 of the Land Development Regulations, subject to the following conditions:

1. That the project will be responsible for providing continuous paved access (i.e. along the alley abutting the property) from the nearest paved street (SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue) in addition to the improvements on its side of the center line of right-of-way. Such improvements must be provided in coordination with the City Engineer. A note to this effect shall be included on the site plan.
2. That the applicant shall provide the full cost of a bus shelter in the amount of \$11,000 prior to the issuance of a building permit.
3. That the re-plat of the property must be recorded prior to the issuance of a building

permit.

4. That the perimeter construction fence shall be removed within 60 days of the approval of the extension request and that the installation of a construction fence occurs only upon the issuance of a building permit.
5. That the fence is screened. Staff recommends that a green mesh screening is utilized and wraps the existing fence.

### **Background:**

#### **COMMISSION AND SPRAB ACTIONS**

The item before the City Commission is an appeal of the SPRAB (Site Plan Review and Appearance Board) action on the Class V site plan, landscape plan and architectural elevation plan extension request for Downtown Delray Medical Center. At its meeting of January 5, 2016, the City Commission voted 5 to 0 to appeal the SPRAB approval of the 24 month extension of the Class V site plan.

The property is located on the north side of NE 6<sup>th</sup> Street between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue and measures 0.957 acre. The property was previously occupied by Chesterfield Restaurant which was demolished in 2004 and the site has remained vacant.

On December 11, 2013, SPRAB approved with conditions a Class V site plan, landscape plan and architectural elevation plan for Downtown Delray Medical Center associated with the construction of two one-story 6,500 square foot buildings (totaling 13,000 sq. ft.). The Board approved this on a 6-1 vote. The conditions of approval are attached as Exhibit A.

At its meeting of December 9, 2015, SPRAB approved a 24 month extension (expiring December 11, 2017) of the Class V site plan, landscape plan and architectural elevation plan subject to the following conditions:

1. That the building permit plans are revised to reflect the curb-cut locations and the recently installed street improvements within the SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue rights-of-way.
2. That prior to the issuance of a building permit, permits from FDOT shall be submitted for the modifications within the SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue rights-of-way for the proposed curb cuts.
3. That the project will be responsible for providing continuous paved access (i.e. along the alley abutting the property) from the nearest paved street (SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue) in addition to the improvements on its side of the center line of right-of-way. Such improvements must be provided in coordination with the City Engineer. A note to this effect shall be included on the site plan.
4. That the applicant shall provide the full cost of a bus shelter in the amount of \$11,000 prior to the issuance of a building permit.
5. That the re-plat of the property must be recorded prior to the issuance of a building

permit.

6. That a letter from the Traffic Division of Palm Beach County indicating that the proposed project meets the required Traffic Concurrency Performance Standards be provided prior to the issuance of a building permit.
7. That the perimeter construction fence shall be removed within 60 days of the approval of the extension request and that the installation of a construction fence occurs only upon the issuance of a building permit.
8. That the fence is screened. Staff recommends that a green mesh screening is utilized and wraps the existing fence.

The SPRAB approved the extension request with a 7 to 0 vote. The complete SPRAB Staff Report for this item is included as an attachment, along with the minutes of this meeting.

### **EXTENSION REQUEST PROCESS:**

Pursuant to LDR Section 2.4.4(F) (1), extensions may be granted to the previously approved application pursuant to the following:

- § A written request for an extension must have been received by the City at least 45 days prior to the expiration date;
- § The letter must set forth the basis and reason for the extension;
- § The extension shall be considered by the same body which granted the original approval; and
- § The extension, if granted, shall be for 18 months unless otherwise stated.

A written request for an extension was submitted on October 20, 2015 which stated that a two year extension was being sought and provided the following basis for the extension:

*“We have aggressively marketed this project for one year with no success. We hope that with construction of the U.S. Highway One improvements nearing completion and the overall demand for professional office space in downtown Delray increasing, we will be able to develop the project in 2016 or 2017.”*

LDR Section 2.4.4 includes two categories for extension considerations: LDR Section 2.4.4 (F) (2) “Construction Has Commenced” and LDR Section 2.4.4 (F)(3) “No Construction”. Since no construction has commenced on this project, this extension request falls under the “No Construction” category.

### **LDR Section 2.4.4(F)(3) “No Construction”**

Pursuant to LDR Section 2.4.4.(F)(3), when the project has not commenced construction, or construction has not been deemed substantial, the request for extension shall be considered pursuant to the following:

- (a) The project shall be evaluated pursuant to the land development regulations in effect at the time of consideration of the extension request and shall comply with such current

requirements:

With respect to Compliance with the LDR, there have been no LDR changes that affected the development proposal.

- (b) Additional submittal information including a new application and copies of previously submittal material may be required:

No additional submittal information were required.

- (c) The granting body must make findings pursuant to 2.4.4(B):

When an extension is requested for a project on which construction has not commenced, the granting body must make findings as outlined in Article 3.1 of the Land Development Regulations (LDR). These are the same findings that were made for the original approval, which relate to Consistency with the Future Land Use Map and Comprehensive Plan, Concurrency and Compliance with the LDR.

- **Future Land Use Map designation:** The property has a zoning designation of General Commercial (GC) and a General Commercial (GC) Future Land Use Map designation which are consistent. Given that Medical Offices are a permitted use, the request is consistent with the FLUM designation.
- **Concurrency:** A review of Concurrency which includes water and sewer, streets and traffic, drainage, and solid waste was conducted for the development proposal and the original findings stated in the December 11, 2013 staff report with respect to water, sewer, drainage and solid waste were reaffirmed.

With respect to street and traffic Concurrency, the approval issued by Palm Beach County Traffic Division expired at the end of 2015, thus a re-evaluation of traffic concurrency and the issuance of a new Palm Beach County Traffic Concurrency approval letter was required. Subsequent to the SPRAB meeting, a revised traffic data was submitted to Palm Beach County Traffic Division. On December 21, 2015, a new traffic concurrency approval was issued by Palm Beach County Traffic Division, expiring December 31, 2018. Based on this approval condition number 6 listed under the SPRAB approval has been addressed.

- **Consistency:** The original findings with respect to Consistency which were included in **Appendix B of the SPRAB Staff Report were also reaffirmed.** This review is general and each of the listed criteria are not specifically analyzed, as the general review within Appendix B indicates whether the requirement is “not applicable” or if the proposal “meets the intent of standard” or “does not meet intent” of the standard, which are based on the complete review of the applicable LDRs within the Staff Report. When a request has met the intent of a standard, this is an indication that there were no significant issues which remained outstanding. The subject request met the intent of each standard as presented.

Regarding the criteria of Section 3.2.3, Standard F requires that the property shall be developed to be complementary to adjacent land uses. The property was previously

developed as a restaurant and has remained vacant since 2004.

The surrounding zoning designations are GC to the north, south and west; NC (Neighborhood Commercial), RM (Medium Density Residential), and POD (Professional Office District) to the east. The existing land uses are the Delray Beach Teen Center to the north; and retail (hair salon) to the south; medical/professional offices and Barrton Apartment Condominiums to the east; and, the Tzicas Plastic Surgery Medical Center to the west.

The original approval and extension request pertained to medical office uses. Within the GC zoning district, medical offices are a permitted use. Subsequent to the SPRAB approval, the applicant has indicated a financial office as a potential tenant which is a permitted use within the GC zoning district.

Standard (H) of Section 3.2.3 states that “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 nearby residential neighborhoods are the Osceola Park neighborhood located west of commercial strip along SE 5<sup>th</sup> Avenue, the Barrton Apartment Condominiums, located to the east along SE 6<sup>th</sup> Avenue, and the residential neighborhood located along SE 7<sup>th</sup> Avenue.

The geographic siting of the property between SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue is appropriate for office uses. Office uses including medical offices do not generally require mitigation to noise, odors, or dust. Traffic volumes and circulation were noted and addressed in the Concurrency review above.

Compliance with the LDRs: As stated above, the proposed development complies with the requirements of the LDR’s. It should be noted however, that a construction fence was installed without a permit. The installation of the construction fence usually occurs when upon the issuance of a construction permit. Thus, a condition was added that the perimeter construction fence is removed and shall not be re-installed until the construction permit is issued. The Board also added a condition that the construction fence be screened.

- (d) The granting body may impose additional conditions of approval pursuant to 2.4.4(C) to insure compliance with any applicable changes to regulations or changes in circumstances which have occurred since the previous approval.

The development is located within the limits of the Federal Highway Roadway and Beautification project. At the time of the writing of SPRAB staff report, staff had required that the site plan, landscape plan, photometric plan, engineering plan and composite utility plan shall be revised to reflect the existing street improvements for SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue abutting this property and that the FDOT permits were obtained for the proposed curb-cuts within the SE 5<sup>th</sup> Avenue and SE 6<sup>th</sup> Avenue rights-of-way.

The required FDOT permits for the modifications within the abutting rights-of-way have been issued and no changes are required to the site plan as approved. As a result, conditions numbers 1 and 2, listed under the SPRAB approval have been met.

During the evaluation of the extension request it was noted that a construction fence was installed without a permit. The installation of the construction fence usually occurs when upon the issuance of a construction permit. Thus, a condition was added that the perimeter construction fence is removed and shall not be re-installed until the construction permit is issued. The Board also added a condition that the construction fence be screened.

#### **PUBLIC INPUT:**

Two members of the public spoke in opposition of the extension request. The public testimony is noted in the attached SPRAB minutes.

#### Attachments:

SPRAB Extension Staff Report and Original Staff Report of December 11, 2013

Exhibit A” - Conditions of Approval - SPRAB December 11, 2013

Site Aerials

Excerpt of SPRAB Minutes of December 9, 2015

Downtown Delray Medical Center Zoning

Downtown Delray Medical Center FLUM

Letter From Applicant dated January 28, 2016

City Commission Board Order

#### **City Attorney Review:**

Approved as to form and legal sufficiency.