



## City of Hallandale Beach Planning and Zoning Board Agenda Cover Memo

|   |  |   |                                  |           |
|---|--|---|----------------------------------|-----------|
| <b>Applicant :</b>  | Graham Penn  | <b>Meeting Date:</b>  | October 25, 2017                 |           |
| <b>Project Name:</b>  | Dunn's River Island Cafe<br>Variance                             | <b>Property Address:</b>  | 908 W. Hallandale Beach Blvd.    |           |
| <b>Application #s:</b>  | V-17-02251   | <b>Application Type:</b>  | Variance                         |           |
| <b>Planning District:</b>   | NW Quadrant  | <b>Quasi Judicial:</b><br><i>(Enter X in box)</i>   | <b>YES</b>                       | <b>NO</b> |
|   |  |   | <b>X</b>                         |           |
| <b>Parcel Size:</b>   | 8,147 Square feet (0.19 acres)                                   | <b>Public Hearing:</b><br><i>(Enter X in box)</i>   | <b>YES</b>                       | <b>NO</b> |
|   |  |   | <b>X</b>                         |           |
| <b>Applicable Zoning :</b>  | Business General (B-G) and Redevelopment Overlay (RDO) Districts |   |                                  |           |
| <b>Existing Use:</b>  | Retail Store   |   |                                  |           |
| <b>Proposed Use:</b>  | Restaurant   |   |                                  |           |
| <b>Comprehensive Plan Future Land Use Designation:</b>  | Commercial General   |   |                                  |           |
| <b>Surrounding Zoning:</b>  |  | <b>Surrounding Land Use:</b>  |                                  |           |
| North: Residential Multi-Family High Density-2 (RM-HD-2) District<br><br>South: (B-G) and (RDO)<br><br>East: (B-G) and (RDO)<br><br>West: (B-G) and (RDO)     |  | North: Residential High Density-2 (Multi-family residential)<br><br>South: Commercial General (Stores and services)<br><br>East: Commercial General (Stores)<br><br>West: Commercial General (Shopping Plaza) |                                  |           |
| <b>Staff Recommendation:</b>  |  | <b>Strategic Plan Priority Area:</b>  |                                  |           |
| <input checked="" type="checkbox"/> <b>Approve</b><br><br><input type="checkbox"/> <b>Approve with Conditions</b><br><br><input type="checkbox"/> <b>Deny</b> |  | <input type="checkbox"/> Safety<br><br><input checked="" type="checkbox"/> Quality<br><br><input type="checkbox"/> Vibrant Appeal   |                                  |           |
| <b>Sponsor Name:</b>  | Keven Klopp, Development Services Director                       | <b>Prepared By:</b>   | Vanessa Leroy, Associate Planner |           |

### **Requests:**

Application # V-17-02251 is a variance request submitted by Graham Penn, representing Dunn's River Island Café Jamaican Restaurant/ JRICH Industries, LLC, to allow a restaurant to operate at 908 W. Hallandale Beach Blvd. The requested variances are from the following Zoning and Land Development Code Sections:

- a. Section 32-925, to intensify the existing parking nonconformity beyond what already existed for the previous retail use to allow for the restaurant use; and,
- b. Section 32-455(c)(2), to allow 4 parking spaces at the location of the business, where 46 spaces are required.

To remedy the parking shortage, the applicant is providing the balance of required number of parking spaces on the neighboring property, Lakeside Shoppes, a shopping center located at 964 W. Hallandale Beach Blvd.

### **Staff Summary:**

#### **Background:**

The existing building located at 908 W. Hallandale Beach Blvd. is a commercial property, which has been occupied by retail uses since 1988. The property has been nonconforming with respect to parking requirements, as it has only contains 4 parking spaces on site. Building permit applications were submitted to remodel the building interior and change the nonresidential use from a retail store to a restaurant called Dunn's River Island Café Jamaican restaurant. As a retail store, the property required 16 parking spaces; however, the existing conditions on the property predate the current parking Code; therefore, the property is deemed nonconforming to current Code. As an existing nonconforming use, the property is allowed to operate with the parking deficiency so long as the use is not enlarged, increased, expanded, extended or intensified beyond what existed at the time it became nonconforming. A restaurant establishment at the property will require 46 parking spaces, which intensifies the parking deficiency beyond what already existed. Consequently, the building permit plan reviews were rejected for the new use and lack of parking.

Pursuant to Code Section 32-455 and the City's Administrative Parking Standards Document (Parking Document), the new nonresidential use requires compliance with parking requirements and additional parking spaces are needed. However, no additional parking spaces can be provided, as the number of parking spaces currently available on site is the maximum physical capacity the premises will allow. As such, the applicant, Graham Penn, representing the restaurant owner, is requesting variances from:

- a. Section 32-925, to allow the restaurant use, which intensifies the existing parking nonconformity beyond what already existed for the previous retail use; and,
- b. Section 32-455(c)(2), to allow 4 parking spaces at the location of the business, where 46 spaces are required.

To remedy the parking shortage, the applicant is providing the balance of required number of parking spaces on the neighboring property, Lakeside Shoppes, a shopping center located at 964 W. Hallandale Beach Blvd.

Notifications of the proposed variance application number V-17-0119 were mailed to the property owners according to Article IX, Notice Requirements, Section 32-1001- 1004 of the City's Code of Ordinances.

**Why Action Is Necessary:**

Pursuant to Section 2-231(f)(3) and Section 32-965(a) of the City's Code of Ordinances, the Planning and Zoning Board has the authority to approve non-administrative variances pertaining to minor developments. The applicant is requesting a non-administrative variance, greater than the 25 percent maximum threshold to process such application administratively; therefore, Planning and Zoning Board approval is required for the request to be granted.

**Analysis:**

The subject property is zoned Business General (B-G) and lies within the Redevelopment Overlay district (RDO). Uses permitted within the zoning designations include retail, office, parking and restaurant. The subject property, which originally housed a retail store, has been non-conforming with respect to parking requirements. The applicant is proposing to introduce a restaurant use which creates a greater parking deficiency than the previous use.

The commercial building contains roughly over 4,500 square feet, which required 16 parking spaces for retail establishments, according to the City's Administrative Parking Standards Document (Parking Document). However, there are currently only 4 parking spaces within property lines. The proposed restaurant offers 88 seats. According to the Parking Document, the restaurant use requires 1 space for every 4 seats or 1 space for every 100 square feet of restaurant use, whichever is greater; therefore, 46 parking spaces are required for the restaurant use.

| Use        | Floor Area<br>(square feet) | No. of Seats | Parking Ratio | Parking<br>Requirement |
|------------|-----------------------------|--------------|---------------|------------------------|
| Retail     | 4,591                       | N/A          | 1:300sf       | 16 spaces              |
| Restaurant | 4,591                       |              | 1:100 sf      | <b>46 spaces</b>       |
| Restaurant |                             | 88           | 1:4 Seats     | 22 spaces              |

Pursuant to Section 32-925(5), no nonconforming use may be enlarged, increased, expanded, extended or intensified beyond what existed at the time it became nonconforming. Off-street parking requirements are characteristics of use subject to this requirement; therefore, a variance is required to allow the parking deficiency to be increased.

The applicant is proposing to change the nonresidential use from the existing retail use to a new restaurant use, which increases the existing parking nonconformity at the subject location. Pursuant to Code Section 32-455, the new nonresidential use requires compliance with parking requirements and, in accordance with the Parking Document, 46 parking spaces are needed. There are currently only 4 parking spaces within property lines. However, no additional parking spaces can be provided, as the number of parking spaces currently available on site is the maximum physical capacity the premises will allow. Therefore, a variance is required to allow 4 parking spaces for the restaurant use, which otherwise requires 46 spaces.

An additional 6 public parking spaces abutting the subject property are located within the right-of-way, along NW 9<sup>th</sup> Terrace. These spaces are intended for multi-purpose use and currently serve patrons of all neighboring commercial properties, including the subject property. These parking spaces cannot be counted towards the minimum parking space requirement for the subject property; however, in accordance with Section 13-65(a), the applicant is responsible to maintain the right-of-way parking area.

A variance of Section 32-455(c)(2) would allow the restaurant to operate with 4 parking spaces on the premises. To address the parking needs, the applicant is offering 49 parking spaces at the Lakeside Shoppes, a shopping center across the street from NW 9th Terrace, through a 10-year lease of a unit within the shopping plaza (Exhibit 3). Pursuant to Section 32-452(d)(3), existing nonresidential uses which need to add parking spaces to satisfy current requirements may provide such additional parking on a remote separate parcel zoned for parking. Even though the subject property is a new nonresidential use, which would not be subject to this Code provision, staff finds this corrective approach appropriate to satisfy the parking needs.

As such, a shared parking analysis was reviewed and accepted, in accordance with Section 32-452(d)(3), to assess the suitability of the additional parking spaces provided. The Lakeside Shoppes property, where the additional parking spaces are provided, is zoned Business General (B-G) and lies within the Redevelopment Overlay district (RDO). Uses permitted include parking lots. The shopping center currently has a parking surplus of approximately 49 spaces based on City parking requirements for the shopping center's current uses. Additional assessments, using standard Urban Land Institute (ULI) assumptions of the use categories within Lakeside Shoppes and evaluations including the Dunn's River restaurant parking needs, demonstrate a parking surplus in every scenario. The additional parking spaces proposed are also located within 450 feet of the restaurant and are accessible to the restaurant without the need to cross an arterial street, railroad or waterway.

According to the Florida Building Code, based on the number of required parking spaces, a total of 2 handicap-accessible spaces are needed. The applicant is providing 3 handicap parking spaces directly in front of the restaurant building.

In reviewing applications for variances, the following standards are required to be adhered to in making any decisions or recommendations:

To authorize any variances to the terms of Section 32-965, it must be found that:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or buildings in the same zoning district.

**Compliance.** The property currently does not meet the parking requirement and currently provides as many spaces as the physical capacity of the premises will allow.

- (2) The special conditions and circumstances do not result from the actions of the applicant.

**Not in Compliance.** The special conditions on the property already existed. The property is nonconforming and currently parking deficient. However, the intensified nonconforming circumstances are created by the new restaurant use introduced by the applicant

- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district.

**Compliance.** Granting the applicant's variance request would not confer special privilege to the subject property, as hardship was determined, and the applicant has taken further steps to reduce the nonconformity.

- (4) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by the properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardships on the applicant.

**Compliance.** Restaurant use is permitted on the property. Literal interpretation of the Code would prevent the use of the property as a restaurant or any other nonresidential use, which parking requirements exceed 1 space for every 300 square feet of gross floor area.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**Compliance.** Considering remedial efforts have been observed to reduce the nonconformity, the requested variance is the minimum variance that would make possible the reasonable use of the land.

- (6) The grant of the variance will be in harmony with the general intent and purpose of this chapter.

**Compliance.** The grant of the variance will be in harmony with the general intent and purpose of this chapter.

- (7) Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**Compliance.** The proposed variance would not be injurious to the area involved or otherwise detrimental to the public welfare.

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| <b>Staff Recommendations:</b> |
|-------------------------------|

Analysis of the application was based upon the variance criteria cited in Chapter 32-965. Staff finds that the application for variances is in harmony with all but one of the variance criteria for approval. The need for variances is a result of the new nonresidential use introduced at the property. However, as the applicant is providing additional parking to address the parking needs, the general purpose and intent of the Code are still observed, and sufficient hardship has been demonstrated for approval. Should the Planning and Zoning Board approve the variance requests, staff recommends the following conditions:

- a. The 10-year lease agreement providing for additional parking spaces must be upheld.
- b. The property must maintain compliance with all other applicable Zoning and Land Development Code, Building, local, county and state regulations.
- c. Any violation of these conditions will result in the annulment of the variance approval, at which time the property must be brought in full compliance with the Zoning and Land Development Code or the use must cease to operate.

As such, staff recommends the Planning and Zoning Board APPROVE application V-17-02251 requesting variances of the following Sections with the conditions specified above:

- a. Section 32-925, to allow the restaurant use, which intensifies the existing parking nonconformity beyond what already existed for the previous retail use; and,
- b. Section 32-455(c)(2), to allow 4 parking spaces at the location of the business, where 46 spaces are required.

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| <b>Attachment(s):</b> |
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Exhibit 1 – Location Map  
Exhibit 2 – Aerial Map  
Exhibit 3 – Applicant's Letter of Intent  
Exhibit 4 – Site Plans  
Exhibit 5 – Lakeside Shoppes Lease Agreement  
Exhibit 6 – Administrative Parking Standards Document