

From: [Virginia Cassady](#)
To: [Dawn Bowne](#); [Andrew Hand](#); [Eddie Esch](#); [Lonnie Smith](#)
Cc: [Teresa Malmberg](#)
Subject: Development Order for Variance - Anglers
Date: Thursday, February 04, 2016 4:58:25 PM
Attachments: [image001.png](#)
[DOR2016_01_Variance_Order#VAR2016_01_Distance_from_property_Jewett_Robt.docx](#)
[Variance_Development_Order.pdf](#)

Attached is a revised development order for a variance for the public hearing on Monday night. After discussion with Andrew and Eddie, I believe it reflects an alternative method of addressing off-site parking in lieu of a shared parking agreement. The major changes begin at bottom of p. 3 and page 4. Also included on p. 2 is a list of current businesses and their required parking spaces.

I will not be in the office tomorrow and so am sending this to you today for inclusion in Council packets. If Andrew or anyone else sees revisions which should be made, I've included the document in Word format. The pdf copy includes the legal description (Exh. "A").



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PLEASE RETURN TO:
Dawn Bowne, City Clerk
City of Dunnellon
20750 River Drive
Dunnellon, FL 34431

PARCEL ID #: 34222-000-00

**CITY OF DUNNELLO
DEVELOPMENT ORDER #DOR2016-01
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DEVELOPMENT ORDER
GRANTING VARIANCE**

APPLICANT: Robert Jewett
VARIANCE #: VAR2016-01
OWNER(s)/Manager: Robert E. Jewett
ADDRESS OF PROPERTY: 12189 S. Williams Street
Dunnellon, Florida 34432
ZONING DESIGNATION: B-3/B-6
COMPREHENSIVE PLAN
LAND USE DESIGNATION: Commercial

THIS MATTER came before the City Council on the 8th day of February, 2016, pursuant to Section 94-37(11)(a) of the Land Development Regulations (LDR) and Section 13.15 of Appendix A, "Zoning," upon the Applicant's request for a variance from Article V Section 5.2(1) of Appendix A, "Zoning" (off-street, off-site parking must be within 300 feet of Property). After having considered the recommendation of the Planning Commission and Staff's Report, having heard testimony, and being otherwise duly advised on the matter, the following findings of fact and conclusions of law are made:

Findings of Fact.

1. The Subject Property comprises .92 acres± and is located at U.S. 41 (12189 S. Williams Street) in Dunnellon and is legally described in Exhibit "A" attached hereto and made a part of this Development Order.

2. The Subject Property is zoned Central Business (B-3) and Water-Oriented Commercial (B-6) with a Comprehensive Plan Future Land Use designation of Commercial. The

goals, objectives, and policies of the Comprehensive Plan do not prohibit variances from the Code requirement that off-street, off-site parking be located within 300 feet of the premises.

3. The Applicant sought a site plan to construct a motel with the same outer dimensions (footprint) as the previous motel which has been demolished. City Council approved the site plan for a new motel with conditions.

4. The following businesses are located on Applicant's Property and the number of parking spaces required for each use under the City's Code are as follows:

Restaurant (160 seats)	40 required parking spaces
Airboat tour	1 required parking space
Bait shop (1/300 sq.ft.)	2 required parking spaces
Motel – 12 rooms, 1 mgr.	13 required parking spaces
Boat rental	1 required parking space
<u>Total</u>	<u>57 required parking spaces</u>

5. The Applicant's Property has only 31 parking spaces and therefore the Property is deficient by 26 parking spaces to accommodate its current uses.

6. Article V Section 5.2(1) of Appendix A, "Zoning," states that:

The off-street parking facilities required by this article shall be located on the same plot or parcel of land they are intended to serve, provided, however, when practical difficulties, as determined by the zoning director, prevent the establishment of such facilities on the same plot, **the off-street parking facilities shall be provided on land within 300 feet of the plot.**

7. There are no available sites within 300 feet of the Applicant's Property.

8. Section 5.4 of the City's Code states:

Nothing in this article shall be construed to prevent collective provision for, or joint use of, off-street parking facilities for two or more buildings or uses by two or more owners or operators, **provided that the total of such parking spaces shall not be less than the sum of the requirements of the several individual uses computed separately in accordance with this article.**

9. Applicant seeks a variance from the 300-foot requirement of Section 5.2(1).

Conclusions of Law.

10. Granting the variance is not inconsistent with the City's Comprehensive Plan.

11. *Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the B-4 zoning district.* Without the variance, the Applicant's Property will incur a

hardship, and the owner will be unable to construct a motel on the Property and will otherwise limit the ongoing businesses on the property.

12. ***The special conditions and circumstances do not result from any actions of the Applicant.*** The Applicant's actions have not created the lack of suitable parking areas within 300 feet of the plot. The current businesses on Applicant's Property have previously been approved by the City.

13. ***Granting the variance requested will not confer on the applicant any special privilege that is denied by ordinance to other lands, buildings, or structures in the same zoning district.*** The Applicant will receive no special privileges as a result of granting the requested variance.

14. ***Literal interpretation of the provisions of the ordinance requiring that off-street, off-site parking be located within 300 feet of the Subject Property would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the Applicant.*** The Applicant, without this variance, would be severely limited in the continued businesses he could have on the Property, and the lack of adequate parking will cause a safety concern.

15. ***The variance granted is the minimum variance that will make possible the reasonable use of the land.*** The variance requested is the minimum to allow the reasonable use of the Property. A minimum of 26 off-site parking spaces is required, and there are no qualified parking areas within 300 feet of the Subject Property.

16. ***The grant of the variance will be in harmony with the general intent and purpose of the ordinance, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*** The Subject Property is located in a commercialized area bordered by U.S. Hwy. 41, a major highway. The requested variance does not pose any injury to the area and will alleviate traffic congestion on the Subject Property's parking lot and Highway 41 immediately adjacent to the Subject Property. Acquiring off-site, off-street parking on non-residential property which has/have excess parking available will not negatively impact the area or the public welfare.

17. In all other respects, the Applicant has met its burden of satisfying all criteria for the variance pursuant to Section 94-37(11)(a) of the LDR and Section 13.15 of Appendix A, "Zoning."

BASED ON THE FOREGOING, IT IS ORDERED:

- A. A variance from Section 5.2(1) of Appendix A, "Zoning" is hereby granted.
- B. To correct the existing business parking deficiency and the additional 3 spaces required for the new motel, the Applicant shall lease a minimum of 26 shared off-street parking spaces from local non-residential property owner(s). Lease

agreements to be entered into by the Applicant and non-residential property owner(s) shall be approved by the City to ensure that: (a) the lease agreement is legally binding; and (2) the lessor's property has surplus parking to accommodate 26 additional parking spaces pursuant to Section 5.4 of the City's Code.

- C. If any lease agreement is terminated such that the Applicant will be deficient in parking, the Applicant shall notify the City in writing within seven (7) days of termination and shall acquire off-site parking from other non-residential property owner(s) to make up the deficiency. The Applicant shall comply with the requirements of paragraph B above within thirty (30) days of termination of the lease agreement. If the Applicant fails to obtain off-site parking, the Applicant shall cease operation of any existing businesses on the Property or reduce the use of the Property in order to bring the Property in conformance with the City Code's parking requirements.
- D. If the Applicant changes any uses on its Property, it must notify the City to determine whether the parking requirements of its Property will change. If the parking requirements change as a result of changes in use, this Development Order shall be modified based on current City Code. A new or amended Development Order may be approved and executed by the City Manager and filed in Public Records of Marion County. If the City Manager determines that the Planning Commission and/or City Council should review this Development Order and approve any modification thereto, then the matter will be set for public meeting(s) without necessity of advertising public hearings in the newspaper or notifying property owners within 300 feet of the Subject Property.
- E. All provisions contained in this Development Order shall run with the land described in Exhibit "A" and shall be binding on and enforceable against the Applicant, its successors in interest and assigns, and future holders in fee simple title to the Subject Property and their respective heirs, legal representatives, and successors and assigns.
- F. If any provisions of this Development Order are judicially declared to be illegal or invalid, the other provisions herein shall remain in full force and effect.
- G. This Development Order shall be recorded in Public Records by the City Clerk or designee. The Applicant shall reimburse the City for the cost of recording this Development Order.
- H. A condition precedent to the City's issuance of any building or construction permits on the Subject Property shall be the execution and recording of this document in Public Records, Marion County.

Upon motion duly made and carried, the foregoing Development Order was approved and passed upon the public hearing on the 8th day of February, 2016.

ATTEST:

CITY OF DUNNELLON

Dawn M. Bowne, M.M.C.
City Clerk

Nathan Whitt, Mayor
City of Dunnellon
20750 River Drive
Dunnellon, Florida 34431

Date: _____

Witnesses:

Print Name: _____

Print Name: _____

STATE OF FLORIDA)
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Nathan Whitt, as Mayor of the City of Dunnellon, a Florida Municipal Corporation, who executed the foregoing instrument and acknowledged before me that he executed the same for the uses and purposes therein expressed, and who is personally known to me and did not take an oath.

SEAL

Notary Public

Type or Print Name
My Commission Expires

Approved as to Form and Legal Sufficiency:

Andrew Hand, City Attorney

I HEREBY CERTIFY that a copy of the foregoing Development Order was sent by electronic mail to Robert Jewett at jewett5151@att.net and by U.S. Mail to Robert Jewett, 12315 N. Osborne Ave., Dunnellon 34434 on the _____ day of February, 2016.

Dawn M. Bowne M.M.C., City Clerk

EXHIBIT "A"

Lots 2 and 3 of Southside Subdivision of the Town of Dunnellon, as recorded in Plat Book D, Page 55, Public Records of Marion County, Florida.

LESS and EXCEPT a portion of Lot 2 of Southside Subdivision as recorded in Plat Book D, Page 55, Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the most Easterly corner of said Lot 2; thence North $89^{\circ}10'05''$ West, along the North line of said Lot 2 and also being the South line of Lot 581 of the Plat of the Townsite of Dunnellon, as recorded in Plat Book A, Page 174-A, Public Records of Marion County, Florida, a distance of 20.92 feet to the intersection with a line being 3 feet Northeasterly and parallel with the Southwesterly line of said Lot 581; thence South $51^{\circ}35'09''$ East, along the Southeasterly extension of last said line, a distance of 16.63 feet to an intersection with the Southeasterly line of aforesaid Lot 2 of Southside Subdivision; thence North $38^{\circ}11'56''$ East, along last said line, a distance of 12.76 feet to the Point of Beginning.

AND

Lot 582 of the Townsite of Dunnellon, a subdivision according to the Plat thereof, as recorded in Plat Book A, Page 174-A, Public Records of Marion County, Florida, and the Southwesterly 3.0 feet of Lot 581 of said Townsite of Dunnellon, according to the Plat thereof, as recorded in Plat Book A, Page 174-A, Public Records of Marion County, Florida, all lying Southeasterly of the existing right-of-way line of State Road No. 45, being more particularly described as follows:

Begin at the most Westerly corner of Lot 582 of the Townsite of Dunnellon, Florida, according to Plat thereof, recorded in Plat Book A, Page 174-A, Public Records of Marion County, Florida; run thence North $38^{\circ}12'48''$ East, along the right-of-way line of U.S. Highway 41 (State Road 45), a distance of 53.64 feet to the beginning of a curve, concave Northwesterly; thence along said curve to the left, having a Delta Angle of $00^{\circ}19'04''$, a radius of 3863.22 feet, an arc distance of 21.43 feet and a chord bearing North $41^{\circ}09'18''$ East, 21.43 feet; thence leaving said right-of-way line, South $51^{\circ}35'09''$ East, along a line being 3.0 feet Northeasterly and running parallel with the Southwesterly line of said Lot 581, a distance of 96.67 feet to an intersection with the South line of said Lot 581 and also being the North line of Lot 2 of Southside Subdivision, as recorded in Plat Book D, Page 55, Public Records of Marion County, Florida; thence North $89^{\circ}10'05''$ West, along said line, a distance of 123.04 feet to the Point of Beginning.