

RESOLUTION NO. 94-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER TO SECTION 4.4.13(D)(1)(b)(1)(b) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW AN AWNING TO ENCROACH INTO THE FRONT SETBACK NINE FEET SEVEN INCHES, WHEREAS THE MAXIMUM ALLOWABLE ENCROACHMENT IS FOUR FEET, FOR THE PROJECT LOCATED AT 220 NE 1ST STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Delray Trio, LLC (“Owner”), is the owner of a parcel of land measuring approximately 1.4 acres located at 220 NE 1<sup>st</sup> Street (“Property”), as more particularly described in Exhibit “A”; and

WHEREAS, Owner designated Miskel Backman LLP to act as its agent regarding the Property; and

WHEREAS, the Property is zoned Central Business District (“CBD”) within the Central Core Sub-district; and

WHEREAS, the City of Delray Beach, Florida (“City”) received a Level 1 Site Plan, Architectural Elevations, Landscape Plan, and waiver request (File No. 2025-090) from the Applicant for a Modification to a previously approved Site Plan for a change of use to establish a restaurant at the subject property (“Project”); and

WHEREAS, Section 4.4.13(D)(1)(b)(1)(b) of the Land Development Regulations of the City of Delray Beach (“LDR”) allows awnings to encroach into the front setback a maximum of 4 feet; and

WHEREAS, the existing building has a nonconforming front setback ranging from 8 feet to 9 feet 7 inches; and

WHEREAS, the Project proposes an awning that extends to the property line encroaching up to 9 feet 7 inches into the setback from face of existing building; and

WHEREAS, LDR Section 2.4.11(B)(5) requires the approving body to make a finding that the granting of a 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 circumstance on other property for another applicant or owner; and

WHEREAS, LDR Section 2.4.11(B)(5)(e), which governs waivers from development standards in

the CBD, also requires the approving body to make a finding that the granting of the waiver:

- (1) Shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls;
- (2) Shall not allow the creation of significant incompatibilities with nearby buildings or uses of land;
- (3) Shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan; and
- (4) Shall not reduce the quality of civic open spaces provided under this code; and

WHEREAS, LDR Section 2.1.5(E)(5)(k), requires the Planning and Zoning Board to make a recommendation to the City Commission as to requests for relief to the requirements of the Central Business District prior to the consideration of an associated site plan application; and

WHEREAS, on May 19, 2025, the Planning and Zoning Board voted 4 to 0 to recommend approval of the waiver request to the City Commission; and

WHEREAS, on June 3, 2025, the City Commission considered the waiver request as well as the Comprehensive Plan and respective criteria and findings 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. The foregoing recitals are hereby affirmed and ratified.

Section 2. The City Commission makes positive findings that the requested waiver (1) does not adversely affect the neighboring area, (2) does not significantly diminish the provision of public facilities, (3) does not create an unsafe situation, and (4) does 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.

Section 3. The City Commission makes positive findings that the requested waiver (1) does not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls, (2) does not allow the creation of significant incompatibilities with nearby buildings or uses of land, (3) does not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan, and (4) does not reduce the quality of civic open spaces provided under this code.

Section 4. The City Commission approves the waiver request to LDR Section 4.4.13(D)(1)(b)(1)(b) to allow an awning to encroach nine feet seven inches into the front setback.

Section 5. The City Commission approves the Level 4 Site Plan, Architectural Elevations, and Landscape Plan by finding that the Project, with the approved waiver, is consistent with the Comprehensive

Plan and meets the respective criteria and findings as set forth in the Land Development Regulations.

Section 6. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Miskel Backman LLP at 14 S.E. 4<sup>th</sup> Street, Suite 36, Boca Raton, FL 33432.

Section 7. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 8. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

ATTEST:

\_\_\_\_\_  
Alexis Givings, City Clerk

\_\_\_\_\_  
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney

**Exhibit “A”**

LOT 3, ONNEN SUBDIVISION, according to the Plat thereof as recorded in Plat Book 72, Page 100, of the Public Records of palm Beach County, Florida