



Cover Memorandum/Staff Report

File #: 26-0229

Agenda Date: 2/24/2026

Item #: 7.G.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: February 24, 2026

RESOLUTION NO. 57-26: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER TO SECTION 4.4.3(F)(1)(A) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW A FLOOR AREA RATIO OF 0.85 FOR THE PROPERTY LOCATED AT 1006 BROOKS LANE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL)

Recommended Action:

Review and consider a resolution approving a waiver request to the maximum floor area ratio for 1006 Brooks Lane.

Background:

On June 25, 2023, the City of Delray Beach, Florida ("City"), approved an Owner/Builder Building Permit (File No. 22-00204096) for Boris Zusin to construct a single-family house at 1006 Brooks Lane. At the time, Mr. Zusin was the fee simple owner of the property. Pursuant to Section I 05.4.1 of the Florida Building Code, "*every permit issued shall become invalid unless the work authorized by such permit is commenced within 6 months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 6 months after the time the work is commenced.*" On September 14, 2024, the fees for the building permit were remitted to the City for the permit. No construction activity for the house commenced. On March 4, 2025, the City revoked the permit as invalid and returned the fees. The Owner/Builder permit was no longer valid, as too much time had passed since the approval without activity and the property had transferred ownership to an LLC, which is not able to utilize an Owner/Builder permit.

During the period of time between the approval of the original permit and the submission of fees, multiple regulations had changed or were updated, including the applicable FEMA Flood Zone, the Florida Building Code, and the City of Delray Beach Land Development Regulations for property in the R-1 residential districts on the barrier island. Ordinance No. 08-24 added standards that limited building size through a maximum floor area ratio, established a step-back above the 2nd story, and required facade articulations. The applicant has revised the proposed house design to meet the updated regulations and standards, except for the limitation on the overall area of the house, which is the subject of the waiver. The applicant has submitted a justification statement for the request (attached).

The subject property is zoned Single Family Residential R-1-AA and is located on the barrier island outside of the overlays requiring adherence to the Beach Property Owners Design Manual. In

addition to the requirements of Land Development Regulations (LDR) Section 4.3.4(K), which establishes setbacks, properties located on the barrier island are subject to additional development standards in LDR Section 4.4.3(F)(1) to help regulate scale and mass. LDR Section 4.4.3(F)(1)(a) stipulates, "*The maximum floor area ratio for a single family structure is 0.65.*"

Pursuant to LDR Appendix A- Definitions, the term "Floor Area Ratio (FAR)" *shall mean the ratio of the "total floor area" of the structure(s) to the area of the lot. "Total Floor Area" shall be defined as the gross horizontal areas of all floors of all buildings measured from the exterior walls or other types of enclosures and shall include garages, carports and port-cocheres. The floor areas of attics (unless used as a living space), enclosed decks or patios, covered porches, exterior balconies (covered or uncovered) or crawl spaces are excluded from the total floor area used in the Floor Area Ratio calculation.*

LDR Section 4.3.4(F)(1) states, "*In single family detached units and duplex structures, the floor area shall be all enclosed space in the principal structure exclusive of terraces and unroofed areas and 50 percent of the area for attached garages, carports, and screened porches.*"

The applied practice of the code for single family residential units has been to count all interior (A/C) areas, ½ the garage area, and to exclude open air elements, like porches or covered balconies, in the FAR calculation.

A waiver is requested to LDR Section 4.4.3(F)(1)(a) to allow an FAR of 0.85, where 0.65 is allowed. Based on the lot area of 8,624.57 SF, the allowable area of the house is $8,624.57(.65) = 5,606$ SF. The proposed house is 7,330 SF, resulting in a building 1,724 SF over the limit.

Construction has not commenced, and the applicant is preparing to submit a new building permit application.

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

Findings (a) and (d) apply for consideration. The proposed single-family house is positioned within the setbacks, and provides the required step-back above the 2nd story and facade articulations. In concert with the FAR limitation, these requirements are intended to regulate mass and scale to ensure neighborhood compatibility. These development standards were added by Ordinance No. 08-24, a community driven LDR text amendment based on concerns that recent home construction was adversely changing the character of the beach neighborhoods. The Commission should consider whether allowing a house that is 1,724 SF over the maximum limit is a special privilege or if a permit approved in 2023 to a different owner under a different regulatory framework constitutes a unique situation.

City Attorney Review:

Reviewed to form and legal sufficiency

Funding Source/Financial Impact:

N/A

Timing of Request:

A decision on the requested waiver is needed to finalize the house design.