

RESOLUTION NO. 188-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A LEVEL 4 SITE PLAN, ARCHITECTURAL ELEVATIONS, AND LANDSCAPE PLAN WITH A WAIVER TO SECTION 4.6.16(H)(3)(i) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW A LANDSCAPE ISLAND WITHOUT A SHADE TREE FOR THE PROJECT KNOWN AS THE EDGE AT PINEAPPLE GROVE LOCATED AT 605 NE 2ND STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Downtown Second Street, LLC, and 355-357 Cottage Place Associates, LLC (collectively “Owners”), are the owners of a parcel of land measuring approximately 0.36 acres located at 605 NE 2nd Street (the “Property”), as more particularly described in Exhibit “A”; and

WHEREAS, Owners designated Miskel & Backman, LLP (“Applicant”), to act as their 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 4 Site Plan, Architectural Elevations, and Landscape Plan with a waiver (File No. 2022-008) from the Applicant to construct a seven-unit townhouse development known as the Edge at Pineapple Grove (“Project”); and

WHEREAS, Section 4.6.16(H)(3)(i) of the Land Development Regulations of the City of Delray Beach (“LDR”) requires one shade tree to be planted in every island with a minimum of 75 square feet of shrubs and groundcovers; and

WHEREAS, the Project proposes a landscape island with a minimum of 75 square feet of shrubs and groundcovers without a shade tree; 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)(j), requires the Planning and Zoning Board to make a recommendation to the City Commission prior to final action for Level 4 Site Plan Applications; and

WHEREAS, on September 17, 2024, the Planning and Zoning Board voted 5 to 1 to recommend approval of the Level 4 Site Plan, Architectural Elevations, Landscape Plan with a waiver request to the City Commission, with the condition that the Knox Box for the emergency access from NE 2nd Street is regulated within the Homeowners Association documents; and

WHEREAS, on October 15, 2024, the City Commission considered the Level 4 Site Plan, Architectural Elevations, and Landscape Plan with a 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. That 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 4.6.16(H)(3)(i) to allow a landscape island with a minimum of 75 square feet of shrubs and groundcovers without a shade tree.

Section 5. The City Commission approves the Level 4 Site Plan, Architectural Elevations, and

Landscape Plan with the waiver by finding that the Project 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 certified copies of this Resolution to Miskel & Backman, LLP, 14 SE 4th Street, Suite 36, Boca Raton, Florida, 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 _____, 2024.

ATTEST:

Alexis Givings, Interim City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit "A"

Lots 9 and 10, Block 114, Map of the Town of Linton (now Delray Beach), according to the map or plat thereof, as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.

LESS the following described property conveyed to the State of Florida in Official Records Book 624, Page 160, as follows: The West 5 feet of Lots 9 and 10, Block 114, Delray Beach, formerly Linton, Florida, according to the Plat thereof as recorded in Plat Book 1, Page 3, Palm Beach County Public Records.

ALSO LESS, a parcel of land in Lot 10, Block 114, Delray Beach, as recorded in Plat Book 1, Page 3, Palm Beach County Public Records, more particularly described as follows: From a point on the South line of Lot 10, located 5 feet Easterly from the S.W. corner of said Lot 10, run Easterly along said South line for 14.84 feet; thence run Northwesterly along curve concave to the Northeast and having a radius of 15 feet for 23.40 feet through a central angle of $89^{\circ}23'00''$ to a point on a line parallel to and 5 feet Easterly from the West line of said Lot 10; thence run South $01^{\circ}08'35''$ East along said parallel line for 14.84 feet to the Point of Beginning.