

RESOLUTION NO. 110-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN IN-LIEU OF PARKING FEE REQUEST FOR THE PROJECT LOCATED AT 270 EAST ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT CONSISTENT WITH THE APPROVAL HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, 290 East Atlantic, LLC (“Owner”), is the owner of a parcel of land measuring approximately 0.4 acres located at 270 East Atlantic Avenue, Delray Beach, Florida 33444 (“Property”), as more particularly described in Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, Owner designated David Milledge, Miskel Backman, LLP (“Applicant”), to act as its agent regarding the Property; and

WHEREAS, the Property is zoned Central Business District (“CBD”); and

WHEREAS, the City of Delray Beach, Florida (“City”), received a Level 2 Site Plan Modification (File No. 2025-008) and an In-Lieu of Parking fee request (File No. 2025-168) from the Owner for the expansion of an existing building to include a walk-in cooler and outdoor seating on the Property (“Project”); and

WHEREAS, pursuant to the Land Development Regulations of the City of Delray Beach (“LDR”), the amount of parking spaces required for the Project is 46 parking spaces, 42 of which are vested through the approved existing use; and

WHEREAS, the City received an application requesting In-Lieu of Parking for 4 parking spaces for the Project; and

WHEREAS, for properties zoned CBD, Section 4.4.13(I)(3)(a)6. of the LDR provides an option if the required parking is not or cannot be provided on-site or off-site, to request the in-lieu of parking fee option provided in Section 4.6.9(G) for certain developments that advance City policy-driven goals; and

WHEREAS, the Owner is eligible to request an in-lieu parking fee pursuant to LDR Section 4.6.9(G)(2)(a); and

WHEREAS, LDR Section 2.4.11(F)(5) requires that prior to approving an in-lieu of parking fee request, the approving body must make the following findings:

- (a) Public parking options, including on-street parking, public parking lots, and public parking garages are available within 1,320 feet measured along a pedestrian route to the building entrance. Parking with utilization rates higher than 80% in the 12 months preceding the request is not considered to be available. Historic properties, as defined in Section 4.6.9(G)(2)(b) are exempt from this finding.

- (b) The in-lieu of parking fee request supports at least one of the following City policy driven goals:
1. Preservation of a historic structure by allowing its use, adaptive reuse, or expansion while maintaining the character of the property or historic district by avoiding excessive use of historic properties for parking; or
 2. Investment in the West Atlantic Neighborhood Sub-district consistent with the West Atlantic Master Plan; or
 3. Adaptive reuse or expansion of an existing building resulting in a building not more than a total of two stories in height.
- (c) The in-lieu of parking fee request does not facilitate development that will demolish the following types of structures within the Central Business (CBD) District or Old School Square Historic Arts District (OSSHAD) zoning:
1. An individually designated or contributing historic structure in a historic district;
 2. A non-contributing structure that is at least 35 years old in a historic district, unless the Historic Preservation Board makes a finding the building should not be reclassified to contributing; or
 3. Any structure that has been identified for potential designation through a resource survey; and

WHEREAS, Resolution No. 80-24 amended the schedule of In-Lieu of Parking Fees per designated area; and

WHEREAS, the Project is located within Area 1, which sets forth an in-lieu of parking fee of \$30,000 per space; and

WHEREAS, the Owner is requesting to pay a fee of \$120,000 in lieu of providing 4 required parking spaces on the Property; and

WHEREAS, at its meeting on May 27, 2025, the Parking Management Advisory Board voted **X** to **X** to recommend **approval/denial** to the City Commission of the requested In-Lieu of Parking fee; and

WHEREAS, on June 17, 2025, the City Commission considered the in-lieu request for 4 parking spaces and the respective 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 public parking options, including on-street parking, public parking lots, and public parking garages are available within 1,320 feet measured along a pedestrian route to the building entrance, the in-lieu of parking fee request supports the expansion of an existing building resulting in a building not more than a total of two stories in height, and does not facilitate development that will demolish an individually designated or contributing historic structure in a historic district or a non-contributing structure that is at least 35 years old in a historic district, or any structure that has been identified for potential designation through a resource survey.

Section 3. The City Commission approves the Owner's request to pay a fee of \$120,000 in-lieu of providing 4 required parking spaces for the Project.

Section 4. The City Commission authorizes the City Manager to execute an agreement consistent with the approval herein.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to David Milledge, Miskel Backman, LLP, 14 SE 4th Street, Suite 36, Delray Beach, Florida, 33432.

Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. 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:

Lynn Gelin, City Attorney

Exhibit “A”

TRACT “B” OF AVENUE EAST PLAT, PLAT BOOK 107, PAGE 11, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.