

RESOLUTION NO. 64-25

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 50 SE 4TH 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, 50 SE 4th Avenue, LLC (“Owner”), is the owner of a parcel of land measuring approximately 0.121 acres located at 50 SE 4th Avenue, Delray Beach, Florida 33483 (“Property”), as more particularly described in Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, Owner designated Lee Cohen (“Applicant”) to act as its agent regarding the Property; and

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

WHEREAS, in 2017, the City of Delray Beach, Florida (“City”), received an application to demolish an existing office building to construct a 5,742 square-foot two-story restaurant on the Property (“Original Project”); and

WHEREAS, pursuant to the Land Development Regulations of the City of Delray Beach (“LDR”), the Original Project was required to provide 34 parking spaces; and

WHEREAS, the Original Project proposed two on-site parking spaces and 32 off-site parking spaces; and

WHEREAS, on December 11, 2017, the City Commission approved two off-site parking agreements for the Original Project: one for 7 spaces located at 85 SE 4th Avenue, Delray Beach, Florida 33483, and another for 25 spaces located at 350 SE 1st Street, Delray Beach, Florida 33483; and

WHEREAS, on January 10, 2018, the Site Plan Review and Appearance Board (“SPRAB”) approved the Original Project; and

WHEREAS, on March 24, 2021, SPRAB approved a Class III Site Plan Modification to the Original Project, reducing the restaurant to 3,625 square feet (“Project”); and

WHEREAS, pursuant to the LDR, the Project was required to provide 22 parking spaces; and

WHEREAS, the City received an application requesting In-Lieu of Parking (File No. 2025-115) for 13 parking spaces so the off-site parking agreement associated with 350 SE 1st Street could be terminated; 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, the in-lieu of parking fee option provided in Section 4.6.9(G) may be requested 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 the approving body to make a finding that the granting of the in-lieu:

- (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 amending 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 \$390,000.00 in lieu of providing 13 required parking spaces on the Property; and

WHEREAS, at its meeting on April 29, 2025, the Parking Management Advisory Board voted 3 to 0 to recommend approval to the City Commission of the requested In-Lieu of Parking fee; and

WHEREAS, on May 20, 2025, the City Commission considered the in-lieu request for 13 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 incorporated herein by this reference and are approved.

Section 2. The City Commission makes positive findings pursuant to LDR Section 2.4.11(F)(5) 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 adaptive reuse of an existing 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 \$390,000.00 in-lieu of providing 13 required parking spaces for the existing restaurant.

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 Lee Cohen, 11 South Swinton Avenue, Suite C, Delray Beach, Florida, 33444.

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:

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Alexis Giving, City Clerk

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Thomas F. Carney, Jr. Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney

**Exhibit “A”**

Lot 1, of FIFTY SOUTHEAST 4TH AVENUE, according to the plat thereof as recorded in Plat Book 126, Page(s) 193, public records of Palm Beach County, Florida; said plat being a replat of Lot 9, Block 93, RESUBDIVISION OF BLOCK 93 TOWN OF LINTON (NOW DELRAY BEACH), according to the plat thereof recorded in Plat Book 2, Page(s) 18, of the public records of Palm Beach County, Florida.