

RESOLUTION NO. 56-26

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A LEVEL 4 SITE PLAN, ARCHITECTURAL ELEVATIONS, LANDSCAPE PLAN AND WAIVER REQUEST TO SECTION 4.4.13(D)(2)(a)3.a. OF THE LAND DEVELOPMENT REGULATIONS TO REDUCE THE 20-FOOT FRONT SETBACK DEPTH ABOVE THE THIRD STORY TO 17 FEET, 11 INCHES FOR THE PROJECT LOCATED AT 398 NE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, DELRAY 6TH AVENUE REALTY, LLC (“Owner”), is the owner of a parcel of land measuring approximately 0.3 acres located at 398 NE 6th Avenue (“Property”), as more particularly described in Exhibit “A”; and

WHEREAS, Owner designated Bradley Miller to act as its agent regarding the Property; and

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

WHEREAS, the City of Delray Beach, Florida (“City”) received an application (File No. 2025-082) requesting approval of a Level 4 Site Plan Application, Architectural Elevations, Landscape Plan, and a waiver request seeking to construct a 4-story, mixed-use retail and residential development (“Project”); and

WHEREAS, Section 4.4.13(D)(2)(a)3.a., of the City of Delray Beach Land Development Regulations (“LDR”) requires a minimum front setback of twenty feet above the third story in the CBD; and

WHEREAS, the Applicant requested a waiver to reduce the minimum required 20-foot front setback above the third story to 17 feet, 11 inches for a portion of the Project; 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 govern waivers from development standards in the CBD, also require the approving body to make a finding that the granting of the waiver:

- (a) Shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls;

- (b) Shall not allow the creation of significant incompatibilities with nearby buildings or uses of land;
- (c) Shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan; and
- (d) 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 Application; and

WHEREAS, on February 23, 2026, the Planning and Zoning Board voted 6 to 1 to recommend approval of the Level 4 Site Plan, Architectural Elevations, Landscape Plan, and waiver request to the City Commission, subject to the condition that the proposed concrete pad to accommodate delivery vehicles be expanded; and

WHEREAS, on March 9, 2026, the City Commission considered the Level 4 Site Plan, Architectural Elevations, Landscape Plan, and 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)(2)(a)3.a., to reduce the minimum required 20-foot front setback to 17 feet, 11 inches for a portion of the Project.

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 Bradley Miller, 610 Clematis Street, Suite CU-02, West Palm Beach, Florida, 33401.

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 _____, 2026.

ATTEST:

Alexis Givings, City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit "A"

LOT 1 AND 2, BLOCK 105, "HIGHLAND PARK SUBDIVISION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA IN PLAT BOOK 2, PAGE 79. LESS THE SOUTH 7.3 FEET THEREOF AND LESS THE PORTION CONVEYED TO THE STATE OF FLORIDA IN OFFICIAL RECORDS BOOK 486, PAGE 269.

SURVEYED PROPERTY CONTAINS 13,001 SQUARE FEET