



## Cover Memorandum/Staff Report

File #: 25-545

Agenda Date: 5/20/2025

Item #: 7.D.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence Moore, ICMA-CM  
**DATE:** May 20, 2025

RESOLUTION NO. 60-25: 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. (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Review and consider Resolution No. 60-25, an in-lieu of parking fee request in the amount of \$390,000 for 13 of the 22 required parking spaces associated with the development located at 50 SE 4th Avenue.

### **Background:**

In 2017, the City received a Class V Site Plan Application (File No. 2017-112) to demolish the existing professional office located at 50 SE 4th Avenue and to construct a 5,742-square-foot, two-story restaurant. The proposed restaurant required 34 parking spaces. On December 11, 2017, the City Commission approved two off-site parking agreements for a total of 32 spaces: seven spaces at 85 SE 4th Avenue and 25 spaces at 350 SE 1st Street. Per the approved agreements, these off-site parking spaces were available between 6:00 and to 2:00 am. The remaining two spaces were provided on-site. On January 10, 2018, the Site Plan Review and Appearance Board (SPRAB) approved the Class V Site Plan.

On March 24, 2021, SPRAB approved a Class III Site Plan Modification (File No. 2020-204), which maintained the demolition of the existing building and revised the plan to the construction of a new 3,625-square-foot restaurant. The reduction of square footage ultimately reduced the required parking to 22 parking spaces. The construction of the restaurant was completed in August 2024 and a Certificate of Completion was issued.

Pursuant to LDR Section 4.4.13(l)(3)(a)6., if the required parking is not or cannot be provided on-site or off-site, the applicant may request payment of an in-lieu of parking fee pursuant to LDR Section 4.6.9(G) for certain developments that advance City policy-driven goals.

The applicant is requesting an in-lieu of parking fee for 13 parking spaces to allow for termination of the existing off-site parking agreement with 350 SE 1st Street (25 spaces). Note the termination of this off-site parking agreement is contingent upon Commission approval of a replacement parking mechanism.

The subject property is located within In-Lieu Area 1, which has a fee amount of \$30,000 per space. Therefore, the total in-lieu of parking fee is \$390,000.

The City Commission must determine if the request meets the standards and findings outlined below.

**Applicable Findings: LDR Section 2.4.11(F)(5)**

- (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 with 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

Although the project does not technically qualify as an adaptive reuse, it is important to note that the subject site was previously approved with a formal off-site parking agreement that provided the majority of the required parking spaces, thereby satisfying the City's parking standards at the time of original approval. The other party in the agreement seeks to terminate that agreement, therefore, the applicant is requesting to replace the off-site spaces with in-lieu of parking fee. Although the current situation does not fall directly within the definitions of adaptive reuse or expansion, given the unique history of the development under prior approvals, and no desired increase of the intensity of use or required parking, the City Commission may find the intent of the in-lieu fee mechanism to accommodate constrained urban sites and promote vibrant, low-scale infill development remains applicable under these circumstances. The City Commission shall determine if the request substantively supports the broader policy goal of facilitating reinvestment in the downtown without compromising the availability of public parking resources or triggering adverse impacts on the surrounding urban context.

On April 29, 2025, the Parking Management Advisory Board (PMAB) reviewed the parking in lieu fee request for 13 parking spaces and recommended approval, voting 3 to 0.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Approval of the In Lieu of Parking fee request is required prior to the termination of the Off-site Parking Agreement.



RESOLUTION NO. 60-25

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; TERMINATING THE TRI-PARTY OFFSITE PARKING EASEMENT AGREEMENT BETWEEN 50 SE 4<sup>TH</sup> AVENUE LLC, THE COASTAL GROUP, INC., AND THE CITY OF DELRAY BEACH; AUTHORIZING THE CITY MANAGER TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; 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.

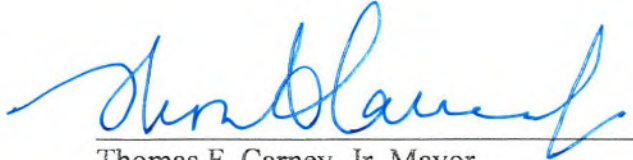
Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. This Resolution shall be effective immediately upon adoption.

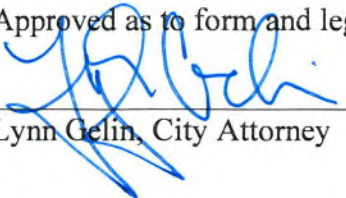
PASSED AND ADOPTED in regular session on the 20 day of MAY, 2025.

ATTEST:

  
\_\_\_\_\_  
Alexis Giving, City Clerk

  
\_\_\_\_\_  
Thomas F. Carney, Jr. Mayor

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
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.