

RESOLUTION NO. 128-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A LEVEL 4 SITE PLAN, ARCHITECTURAL ELEVATIONS, AND LANDSCAPE PLAN AND APPROVING A WAIVER TO SECTION 4.6.16(H)(3)(a) OF THE LAND DEVELOPMENT REGULATIONS TO REDUCE THE REQUIRED FIVE-FOOT LANDSCAPE STRIP BETWEEN OFF-STREET PARKING OR OTHER VEHICULAR USE AREAS AND ADJACENT PUBLIC RIGHTS-OF-WAY TO A RANGE BETWEEN ZERO FEET AND FOUR FEET, FOUR INCHES FOR THE PROJECT KNOWN AS THE MAXWELL, LOCATED AT 306 NE 2ND STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, 306 NE 2nd Street, LLC (“Owner”), is the owner of a parcel of land measuring approximately 0.86 acres located at 306 NE 2nd Street (“Property”), as more particularly described in Exhibit “A”; and

WHEREAS, Owner designated Jon Kinsman (“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 an application (File No. 2023-196) requesting approval of a Level 4 Site Plan, Architectural Elevations, Landscape Plan, and a waiver to construct of a four-story, mixed-use development consisting of retail and residential uses (“Project”); and

WHEREAS, Section 4.6.16(H)(3)(a) of the Land Development Regulations of the City of Delray Beach (“LDR”) requires perimeters adjacent to rights-of-way to have a five-foot landscape strip between off-street parking or other vehicular use areas and abutting rights-of-way; and

WHEREAS, the Applicant requested a waiver to allow a landscape strip ranging between zero feet and four feet, four inches between the off-street parking and the abutting Florida East Coast Railway (“FEC”) right-of-way; 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 2.1.5(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 June 17, 2025, the Planning and Zoning Board voted 6 to 0 to recommend approval of the Level 4 Site Plan, Architectural Elevations, Landscape Plan, and waiver request to the City Commission; and

WHEREAS, on July 8, 2025, 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. 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 approves the waiver request to LDR Section 4.6.16(H)(3)(a) to reduce the landscape strip between off-street parking and the abutting FEC right-of-way from five feet to a range between zero feet and four feet, four inches.

Section 4. 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 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Jon Kinsman, 265 NE 5th Avenue, Delray Beach, Florida, 33483.

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"

A PARALLELOGRAM SHAPED PARCEL OF LAND MEASURING APPROXIMATELY 50' X 480' WHICH LIES ADJACENT TO A PORTION OF LOT 3 AND LOTS 4 TO 12 IN BLOCK 90 OF L.R. BENJAMIN'S SUBDIVISION MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EASTERLY 50 FEET OF THE FLORIDA EAST COAST RAILWAY COMPANY'S 150 FOOT RIGHT OF WAY IN BLOCK 90 OF THE TOWN OF DELRAY, FLORIDA, ACCORDING TO MODEL LAND COMPANY'S SUBDIVISION AND PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 33, THAT LIES ADJACENT TO THE SOUTH ONE-HALF OF LOT 3 AND LOTS 4 THROUGH 12, INCLUSIVE, IN BLOCK 90 OF L.R. BENJAMIN'S SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 12, PAGE 18, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THE NORTH 100 FEET OF BLOCK 91, LYING EAST OF FLORIDA EAST COAST RAILWAY COMPANY RIGHT OF WAY IN THE CITY OF DELRAY BEACH (FORMERLY LINTON), FLORIDA, ACCORDING TO THE PLAT THEREOF, RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 1, AT PAGE 3, WHICH IS THE SAME PROPERTY AS SHOWN ON THE PLAT OF THE RESUBDIVISION OF BLOCKS 91 AND 92, AND THE WEST HALF OF BLOCK 99, TOWN OF LINTON, DADE COUNTY, FLORIDA, FILED MAY 9, 1912, AND RECORDED IN PLAT BOOK 2, PAGE 21, PALM BEACH COUNTY, FLORIDA, RECORDS, SHOWN AS BEING SITUATE ON THE NORTHERLY SIDE OF THE RESUBDIVISION OF BLOCK 91, BEING AN AREA 100 FEET FROM THE NORTH TO SOUTH ON THE EAST, RUNNING WEST OF THE FLORIDA EAST COAST RAILWAY COMPANY RIGHT OF WAY, AND DESIGNATED "NOT INCLUDED" AND BEING THE PROPERTY IN PART CONVEYED TO CALVIN W. GARNER AND EULALIE M. GARNER, HIS WIFE, TO L.C. VAUGHN, BY DEED DATED APRIL 26, 1954, RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IN DEED BOOK 1052, AT PAGE 452.