

RESOLUTION NO. 09-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AFFIRMING ITS APPEAL OF THE PLANNING AND ZONING BOARD'S SIMILARITY OF USE DETERMINATION FINDING THAT THE OPERATION OF A GUNITE YARD IS CONSISTENT WITH THE MANUFACTURING AND WHOLESALE OF FINAL PRODUCTS USING CERAMICS AND PLASTER MATERIAL WITHIN THE MIXED INDUSTRIAL AND COMMERCIAL (MIC) DISTRICT, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Platinum RE HLDG, Inc. (the "Owner") is the owner of the parcel of land measuring approximately 1.85 acres located at 135 North Congress Avenue (the "Property"), as more particularly described in Exhibit "A"; and

WHEREAS, the Property is zoned Mixed Industrial and Commercial (MIC); and

WHEREAS, the City of Delray Beach, Florida (the "City") received a request for a Similarity of Use Determination (2024-232) (the "Application") from Neil Schiller, Esq. on behalf of Owner and the Lessee of the Property, Calabash Gunitite, Inc. (collectively, the "Applicant"), seeking a determination that the operation of a gunitite yard is consistent with the manufacturing and wholesale of final products using ceramics and plaster material, a permitted use in the MIC district; and

WHEREAS, on October 21, 2024, the Planning and Zoning Board approved the similarity of use; and

WHEREAS, on November 4, 2024, the City Commission voted to appeal the Planning and Zoning Board's finding of a similarity of use; and

WHEREAS, pursuant to Article 2.5(E)(2) of the Land Development Regulations of the City of Delray Beach (the "LDR"), the appeal of a decision made by an approving body shall be subject to de novo review and shall not be limited to the record from the previous hearing; and

WHEREAS, Article 2.5(E)(3) of the LDR provides that the appeal of a board decision or other administrative decision, in accordance with quasi-judicial proceedings, will be based on the substantial competent evidence in the record and the application of the correct law; and

WHEREAS, the appeal was presented to the City Commission at a quasi-judicial hearing on February 4, 2025; and

WHEREAS, the City Commission considered the appeal and whether the operation of a gunitite yard is consistent with the manufacturing and wholesale of final products using ceramics and plaster material thereby allowing this use in the MIC district.

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 and adopted.

Section 2. The City Commission affirms the Planning and Zoning Board's determination of the similarity of use and finds that the operation of a gunite yard is a use consistent with the "Manufacturing and Wholesale of Final Products Using Ceramics and Plaster Material".

Section 3. The City Commission authorizes the operation of a gunite yard within the Mixed Industrial and Commercial (MIC) District.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Neil Schiller, Esq. at 137 NW First Avenue, Delray Beach, Florida 33444.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. 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”

LEGAL DESCRIPTION

Lot 2, Plat of Congress Industrial Square, according to the Plat thereof, as recorded in Plat book 82, Page 61, of the Public Records of palm beach County, Florida.