

RESOLUTION NO. 189-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.4.13(D)(2)(A)(1) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING A FRONT SETBACK OF 3.3 FEET, FOR THE PROPERTY LOCATED AT 310 E ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received a Class III Site Plan Modification application (File No. 2023-199) from Lelyn Delray Properties (“Owner”) associated with the property located at 310 E. Atlantic Ave (“the Property”), which involves a waiver request to allow a decreased front setback of 3.3 feet; and

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

WHEREAS, City Land Development Regulation (“LDR”) Section 4.4.13(D)(2)(a)(1) provides that, for properties zoned CBD, the minimum front setback is ten feet; and

WHEREAS, the Owner is requesting to provide a front setback of 3.3 feet for a portion of the structure; and

WHEREAS, at its meeting on September 27, 2023, the Site Plan Review and Appearance Board voted 7 to 0 to recommend approval to the City Commission of the requested waiver to LDR 4.4.13(D)(2)(a)(1); and

WHEREAS, LDR Section 2.4.7(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 4.4.13(K)(5)(b)(2), which governs waivers from development standards in the CBD, also requires 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; and

(b) Shall not allow the creation of significant incompatibilities with nearby buildings or uses of land; and

(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, the requested waiver from LDR Section 4.4.13(D)(2)(a)(1), to allow a decreased front setback, was presented to the City Commission at a quasi-judicial hearing conducted on October 17, 2023; and

WHEREAS, the City Commission considered the requested waiver as well as 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 that the request is consistent with the Land Development Regulations, City Comprehensive Plan, and all currently adopted City policies and/or studies.

Section 3. 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 4. 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 5. The City Commission approves the waiver request to LDR Section 4.4.13(D)(2)(a)(1), to allow a front setback of 3.3 feet, whereas 10 feet is required subject to the condition that the applicant amend the site plan to inset the entrance doors for each retail bay at least three feet from the primary

storefront facade.

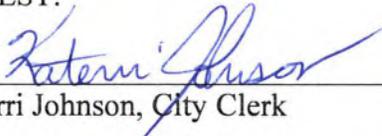
Section 6. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Steven E. Myott, Architect, 639 East Ocean Avenue, Suite 403, Boynton Beach, FL, 33435.

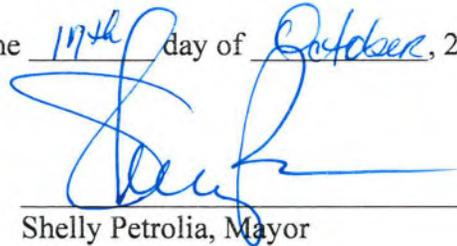
Section 7. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 8. This Resolution shall be effective immediately upon adoption.

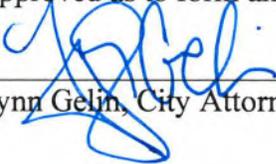
PASSED AND ADOPTED in regular session on the 17<sup>th</sup> day of October, 2023.

ATTEST:

  
\_\_\_\_\_  
Katerri Johnson, City Clerk

  
\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
Lynn Gelin, City Attorney





# CITY OF DELRAY BEACH

OFFICE OF THE CITY CLERK

100 N.W. 1<sup>ST</sup> AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7050

Delray Beach

Florida



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## CERTIFICATION

I, **Katerri Johnson**, City Clerk of the City of Delray Beach, do hereby certify that the attached document is a true and correct copy of **Resolution No. 189-23**, as the same was passed and adopted by the Delray Beach City Commission in regular session on the 17<sup>th</sup> day of October 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City of Delray Beach, Florida, on this the 30<sup>th</sup> day of October 2023.

A handwritten signature in blue ink that reads "Katerri Johnson".

Katerri Johnson

City Clerk

City of Delray Beach, Florida

