

RESOLUTION NO 135-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AFFIRMING THE HISTORIC PRESERVATION BOARD'S APPROVAL OF A CERTIFICATE OF APPROPRIATENESS, RELOCATION, VARIANCES, AND WAIVERS FOR THE PROPERTY LOCATED AT 46 MARINE WAY, AS MORE PARTICULARLY DESCRIBED HEREIN; APPROVING A VERTICAL RELOCATION PURSUANT TO SECTION 4.5.1(E)(6)(B)(1) OF THE LAND DEVELOPMENT REGULATIONS (LDR); APPROVING VARIANCES TO LDR SECTION 4.3.4(K) TO REDUCE THE FRONT, SIDE INTERIOR, AND REAR SETBACKS FOR THE STRUCTURE AND TO LDR SECTION 4.6.15 TO REDUCE THE SIDE INTERIOR SETBACK FOR A SWIMMING POOL; APPROVING WAIVERS TO THE VISUAL COMPATIBILITY STANDARDS IN LDR SECTIONS 4.5.1(E)(7)(A)(1), 4.5.1(E)(7)(J)(2), AND 4.5.1(E)(7)(M)(6) ; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, 46 Marine, LLC ("Owner") is the owner of the parcel of land measuring approximately 0.11 acres located at 46 Marine Way ("the Property"), as more particularly described in Exhibit "A"; and,

WHEREAS, the City of Delray Beach, Florida ("City") received a Certificate of Appropriateness ("COA") application (File No. 2024-133) from Catherine Edwards on behalf of the Owner ("Applicant"), seeking to vertically relocate the existing structures, alter and rehabilitate the existing structures, construct additions to the existing residential house and guest cottage, and build a new swimming pool on the Property; and,

WHEREAS, the Property is zoned Medium Density Residential District; and,

WHEREAS, the Property is located within the locally and nationally designated Marina Historic District; and,

WHEREAS, on June 4, 2025, the Historic Preservation Board approved the Application, by a vote of 4-3; and,

WHEREAS, on June 17, 2025, the City Commission voted to appeal the Historic Preservation Board action pursuant to LDR Section 2.5(C)(2); and,

WHEREAS, pursuant to LDR Section 2.5(E)(2) a *de novo* review of the decision was held on August 19, 2025; and,

WHEREAS, the existing structures are situated below the base flood elevation of nine feet for the property as required by the Federal Emergency Management Agency (FEMA) and established by the Flood Insurance Rate Map; and,

WHEREAS, the Applicant is proposing to elevate the structure to 14 feet North American Vertical

Datum (NAVD), five feet higher than the required base flood elevation; and

WHEREAS, LDR Section 4.5.1(E)(6)(b)(1) establishes the criteria the Board shall consider for the relocation of contributing structures; and,

WHEREAS, the Applicant requested four variances to reduce the required setbacks for the front, side interior, and rear of the structure and to reduce the required side interior setback for the proposed swimming pool; and,

WHEREAS, LDR Section 4.3.4(K) requires a front setback of 25 feet and a range of nine feet eight inches to 12 feet seven inches is proposed; and,

WHEREAS, LDR Section 4.3.4(K) requires a side interior setback of seven feet six inches and two feet three inches is proposed; and,

WHEREAS, LDR Section 4.3.4(K) requires a rear setback of ten feet and eight feet four inches is proposed; and,

WHEREAS, LDR Section 4.6.15(G)(1)(a) requires a side setback of ten feet and seven feet six inches is proposed for a swimming pool; and,

WHEREAS, the Applicant has requested three waivers to the Visual Compatibility Standards in LDR Section 4.5.1(E); and,

WHEREAS, LDR Section 4.5.1(E)(7)(a)(1) establishes the Building Height Plane and a “No Build Zone”; and,

WHEREAS, the Applicant has requested a waiver to allow the structure to encroach into the No Build Zone; and,

WHEREAS, LDR Section 4.5.1(E)(7)(j)(2), requires that upper floors must be set back a minimum of five additional feet for a portion of the façade for buildings deeper than 50 percent of the lot depth and greater than one story high; and,

WHEREAS, the Applicant has requested a waiver to allow a structure that does not provide for additional upper floor setbacks along the south facade; and,

WHEREAS, LDR Section 4.5.1(E)(7)(m)(6) requires additions to be secondary and subordinate to the main mass of the historic building and not overwhelm the original building; and,

WHEREAS, the Applicant has requested a waiver to allow additions that are not secondary and subordinate to the main massing of the historic building and overwhelm the original building; and,

WHEREAS, LDR Section 2.4.12(A)(5), requires the approving body make a finding that a Certificate of Appropriateness is consistent with Objective HPE 1.4 of the Historic Preservation Element of the Comprehensive Plan; the provisions of LDR Section 4.5.1; the Delray Beach Historic Preservation Design

Guidelines; and, the Secretary of the Interior's Standards for Rehabilitation; and,

WHEREAS, LDR Section 4.5.1(E)(6)(b)(1), requires the approving body make a finding that the relocation:

- (a) Whether the structure will be relocated within the same historic district, into a new historic district, or outside of a historic district;
- (b) Whether the proposed relocation may have a detrimental effect on the structural soundness of the building or structure;
- (c) Whether the proposed relocation would have a negative or positive effect on other historic sites, buildings, or structures within the originating historic district, at the new site; and
- (d) Whether the new surroundings of the relocated structure would be compatible with its architectural character; and
- (a) Whether the proposed relocation is the only practicable means of saving the structure from demolition.

WHEREAS, LDR Section 2.4.11(A)(6) requires the approving body to make a finding that the granting of the variances:

- (a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.
- (b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.
- (c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.
- (d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.
- (e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.

WHEREAS, LDR Section 2.4.11(B)(5) requires the approving body to make a finding that the granting of the waivers:

- (b) Shall not adversely affect the neighboring area;

- (c) Shall not significantly diminish the provision of public facilities;
- (d) Shall not create an unsafe situation; and
- (e) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

WHEREAS, on August 19, 2025, the City Commission of the City of Delray Beach considered the COA Application, relocation, four variance requests, and three waiver requests and has considered the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission affirms the approval of the Certificate of Appropriateness, Relocation, Variances and Waivers by the Historic Preservation Board for the Property.

Section 3. The City Commission makes positive findings that (1) that a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare; (2) that special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places; (3) that literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site; (4) that the variance requested will not significantly diminish the historic character of a historic site or of a historic district; and, (5) that the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.

Section 4. The City Commission makes positive findings that the requested waivers (1) shall not adversely affect the neighboring area; (2) shall not significantly diminish the provision of public facilities; (3) shall 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 similar circumstances on other property for another applicant or owner.

Section 5. The City Commission approves the variance request to LDR Section 4.3.4(K) to allow a front setback that ranges from nine feet eight inches to twelve feet seven inches.

Section 6. The City Commission approves the variance request to LDR Section 4.3.4(K) to allow a side interior setback of two feet three inches.

Section 7. The City Commission approves the variance request to LDR Section 4.3.4(K) to allow a rear setback of eight feet four inches.

Section 8. The City Commission approves the variance request to LDR Section 4.6.15(G)(1)(a) to allow a side interior setback of seven feet six inches for the swimming pool.

Section 9. The City Commission approves the waiver request to LDR Section 4.5.1(E)(7)(a)(1) to allow the building to encroach into the No Build Zone.

Section 10. The City Commission approves the waiver request to LDR Section 4.5.1(E)(7)(j)(2) to allow no additional side setbacks for the upper floors along the south façade of the structure.

Section 11. The City Commission approves the waiver request to LDR Section 4.5.1(E)(7)(m)(6) to allow additions that are not secondary and subordinate to the main mass of the historic building and to allow the additions to overwhelm the original building.

Section 12. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Catherine Edwards at 654 Lakewood Circle W., Delray Beach, Florida 33445.

Section 13. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 14. 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

Lynn Gelin, City Attorney

Exhibit "A"
LEGAL DESCRIPTION

46 Marine Way:

PARCEL I

A parcel of land in Block 133, Delray Beach (formerly Town of Linton,) Florida, according to the Plat thereof recorded in Plat Book 1. Page 3, Public Records of Palm Beach County, Florida; being more particularly described as follows:

Commence at the Northwest corner of Block 125 of said Delray Beach, Florida (formerly Town of Linton); thence Easterly along the North line of said Block 125, a distance of 311.12 feet to the Northwest corner of said Block 133 thence Southerly along the West line of said Block 133, a distance of 338.60 feet, thence Easterly parallel with the North line of said Block 133, a distance of 51.15 feet to the Point of Beginning and the Northwesterly corner of the herein described parcel; thence continue Easterly along said parallel line, a distance of 96.75 feet, more or less, to the Westerly right of way line of the Intracoastal Waterway; thence Southerly along said Westerly right of Way line a distance of 40.36 feet; thence Westerly parallel to the North line of said Block 133, a distance of 90.79 feet. to a point in a line parallel to and 51.15 feet Easterly of, as measured along a line parallel to the North line of said Block 133; thence Northerly along said parallel line, a distance of 40.00 feet to the Point of Beginning.

PARCEL II

A parcel of Land in Block 133, Delray Beach, (formerly Town of Linton) , Florida according to the Plat thereof recorded in Plat Book I. Page 3, Public Records of Palm Beach County, Florida, being more particularly described as follow:

Commence at the Northwest corner of Block 125 of said Delray Beach, Florida, (formerly Town of Linton); thence Easterly along the North line of said Block 125, a distance of 311.12 feet to the Northwest corner of said Block 133; thence Southerly, along the West line of said Block 133, a distance of 338.60 feet; thence Easterly, parallel with the North line of said Block 133, a distance of 51.15 feet to the Point of Beginning and the Southwesterly corner of the herein described parcel; thence continue Easterly, along said parallel line a distance of 96.75 feet; more or less, to the Westerly right of way of the Intracoastal Waterway; thence Northerly, along said Westerly right of way line, a distance of 12.61 feet; thence Westerly parallel to the North line of said Block 133, a distance of 98.61 feet to a point in a line, parallel to and 51.15 feet Easterly of, as measured along a line parallel to the North line of said Block 133, thence Southerly, along and parallel line a distance of 12.50 feet to the Point of Beginning.