

RESOLUTION NO 122-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A MASTER DEVELOPMENT PLAN AND GRANTING FOUR RELATED WAIVER REQUESTS TO THE LAND DEVELOPMENT REGULATIONS FOR DELRAY CENTRAL LOCATED AT 1615 AND 1625 SOUTH CONGRESS AVENUE AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, G&C Arbors Investors, LLC (“Owner”) is the owner of two parcels of land measuring approximately 12.134 acres located at 1615 and 1625 South Congress Avenue (“the Property”) situated on the east side of South Congress Avenue and south of West Linton Boulevard, as more particularly described in Exhibit “A”; and

WHEREAS, the City of Delray Beach, Florida (“City”) received a Master Development Plan application (File No. 2021-138-MDP-SPR) from Bonne Miskel on behalf of the Owner (collectively known as “Applicant”), associated with the Property, seeking to construct an eight-story building containing 1,095 square feet of non-restaurant, commercial space and 271 residential units; and

WHEREAS, the City received a waiver request application (File No. 2021-139-WAI-CCA) from the Applicant, associated with the Property, seeking (1) a 90 feet, 10 inches front setback; (2) a reduction from the required 15-foot-wide landscape buffer along the south property line to 7 feet and a reduction to the required 25-foot-wide landscape buffer along the east property line, adjacent to the CSX/FEC railway to 15.14 feet; (3) a waiver to allow parking to be located adjacent to South Congress Avenue; and (4) a waiver to allow certain existing landscape islands to maintain a width less than nine feet and at intervals greater than every 13 parking spaces in some areas where restriping of the parking area will occur; and

WHEREAS, the Property is zoned Mixed-Use Residential Office and Commercial (MROC) District; and

WHEREAS, Section 4.4.29(F)(1) of the Land Development Regulations (“LDR”) requires a Master Development Plan (“MDP”) for all development of parcels greater than three acres necessitating waivers within the MROC District; and

WHEREAS, Section 4.4.29(G)(2)(g)(1) of the LDR requires a 20-foot setback on buildings that front Congress Avenue; and

WHEREAS, Section 4.4.29(G)(2)(d) of the LDR requires a 15-foot wide landscape buffer surrounding the perimeter of the development; and

WHEREAS, Section 4.4.29(H)(11) of the LDR requires parking adjacent to Congress Avenue be located to the rear of buildings that have direct frontage along Congress Avenue; and

WHEREAS, Section 4.6.16(H)(3)(i) of the LDR requires landscape islands containing a minimum of

135 square feet of planting area, with a minimum dimension of nine feet placed at intervals of no less than one landscaped island for every 13 standard parking spaces; and

WHEREAS, on May 16, 2022, the Planning and Zoning Board denied the application for a MDP and four related waivers for same; and

WHEREAS, on May 20, 2022, pursuant to LDR Section 2.4.7(E), the Applicant filed an appeal of the decision of the Planning and Zoning Board; and

WHEREAS, in addition to its consideration of the MDP, LDR Section 2.4.7(B)(5) requires the approving body to make a finding that the granting of the waivers:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities; and
- (c) Shall not create an unsafe situation; and,
- (d) Do not result in the grant of a special privilege in that the same waivers would be granted under a similar circumstance on other property for another applicant or owner; and

WHEREAS, On August 9, 2022, the City Commission conducted a *de novo* consideration of the MDP application and the four related waivers 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. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission has considered the appeal submitted by Delray Place and hereby grants the appeal.

Section 3. The City Commission makes positive findings that the requested waiver to LDR Section 4.4.29(G)(2)(g)(1) to allow a maximum front setback of 90 feet, 10 inches from the west property line along South Congress Avenue (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 to LDR Section 4.4.29(G)(2)(d) to allow a reduction from the required 15-foot-wide landscape buffer along the south property line to 7 feet and a reduction to the required 25-foot-wide landscape buffer along the east property line, adjacent to the CSX/FEC railway to 15.14 feet (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 5. The City Commission makes positive findings that the requested waiver to LDR Section 4.4.29(H)(11) to allow parking to be located adjacent to South Congress Avenue (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 6. The City Commission makes positive findings that the requested waiver to LDR Section 4.6.16(H)(3)(i) to allow certain existing landscape islands to maintain a width less than nine feet and at intervals greater than every 13 parking spaces in areas where restriping of the parking area will occur (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 7. The City Commission approves the MDP for Delray Central (Exhibit B), located at 1615 and 1625 South Congress Avenue, finding the request, inclusive of the four related waivers, is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the LDR.

Section 8. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Bonnie Miskel, Esq. of Dunay Miskel and Backman, 14 Southeast 4th Street, Suite 36, Boca Raton, Florida, 33444.

Section 9. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 10. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2022.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit “A”
LEGAL DESCRIPTION

1615 South Congress Avenue Site:

All of the Plat of THE ATRIUM AT CENTRE DELRAY, according to the Plat thereof as recorded in Plat Book 42, Page 133, of the Public Records of Palm Beach County, Florida, LESS and except that certain portion of the Plat as deeded to Palm Beach County pursuant to Right-of-Way Deed recorded in Official Records Book 5599, Page 1156, of the Public Records of Palm Beach County, Florida, ALSO LESS AND EXCEPT the following parcel of land conveyed to the State of Florida Department of Transportation by the Warranty Deed recorded In Official Records Book 29779, Page 847, of the Public Records of Palm Beach County, Florida.

AND

1625 South Congress Avenue Site: All of the Plat of THE GARDENS AT CENTRE DELRAY, according to the Plat thereof as recorded in Plat Book 43, Page 49, of the Public Records of Palm Beach County, Florida, LESS and except that certain portion of the Plat as dedicated as Right-of-way according to said Plat.

