

RESOLUTION NO. 22-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(C)(3)(a)(2)(a) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A PORCH FRONTAGE TYPE ALONG WEST ATLANTIC AVENUE BETWEEN NW 7TH AVENUE AND NW 6TH AVENUE FOR THE PROJECT KNOWN AS 7TH AVENUE BANYAN, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, West Atlantic Development Company, LLC (“Owner”) is the owner of property located at 625, 633, and 645 West Atlantic Avenue, as more particularly described in “Exhibit A,” (“the Property”); and

WHEREAS, the Owner, represented by John Szerdi, LEED AP of Living Designs Group Florida Architects, Inc. (collectively referred to as the “Applicant”), submitted a Class V Site Plan Modification application (File No. 2022-092) for the Property seeking to construct a three-story development; and

WHEREAS, the Property is located within the Central Business District (“the CBD”) within the West Atlantic Neighborhood Sub-district; and

WHEREAS, West Atlantic Avenue between NW 7th Avenue and NW 6th Avenue is designated with required retail frontage; and

WHEREAS, for streets designated with required retail frontage, Section 4.4.13(C)(3)(a)(2)(a) of the Land Development Regulations of the City of Delray Beach (“LDR”), requires that the frontage type be either a storefront or arcade with a storefront; and

WHEREAS, the Applicant desires to construct the development with a porch as its frontage type; and

WHEREAS, LDR Section 4.4.13(K)(5) authorizes the City Commission to consider a waiver request to CBD development standards; 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) The waiver 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) The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land; and

(c) The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan; and

(d) The waiver shall not reduce the quality of civic open spaces provided under this code.; and

WHEREAS, at its meeting of December 14, 2022, the Site Plan Review and Appearance Board voted 6 to 0 to recommend approval to the City Commission of the requested waiver; and

WHEREAS, on January 10, 2023, the City Commission considered the waiver request to LDR Section 4.4.13(C)(3)(a)(2)(a), to allow a porch frontage type on West Atlantic Avenue between NW 7th Avenue and NW 6th Avenue.

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 incorporated herein by this reference and are approved and adopted.

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 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 4. The City Commission approves the waiver request to LDR Section 4.4.13(C)(3)(a)(2)(a) to allow a Porch frontage type on West Atlantic Avenue between NW 7th Avenue and NW 6th Avenue.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to John Szerdi, Living Designs Group Florida Architects, Inc. at 1005 Lake Avenue, Lake Worth Beach, Florida 33460.

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 _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT A
Legal Description of the Property

Parcel 1

The west fifty feet (50) of the east 176 feet of the north 120 feet of the south 140 feet of Block 12, less state road right-of-way. Map of Town of Linton (now known as the City of Delray Beach), according to the map or plat on file in the Office of the Clerk of the Circuit Court, recorded in Plat Book 1, Page 3, of the public records of Palm Beach County, Florida.

PCN: 12-43-46-16-01-012-0030

Parcel 2

The east 51.6 feet of the west 76.6 feet of the south one-half (s1/2) of Block 12. Map of Town of Linton (now known as the City of Delray Beach), according to the plat thereof on file in the Office of the Clerk of the Circuit Court, recorded in Plat Book 1, Page 3, of the public records of Palm Beach County, Florida, less the south twenty (20) feet.

PCN: 12-43-46-16-01-012-0040

Parcel 3

The east fifty feet (50) of the west one hundred twenty-six (126) feet of the north one hundred twenty (120) feet of the south one hundred forty (140) feet of the south one-half (s1/2) of Block 12. Map of Town of Linton (now known as the City of Delray Beach), according to the map or plat thereof on file in the Office of the Clerk of the Circuit Court, recorded in Plat Book 1, Page 3, of the public records of Palm Beach County, Florida.

PCN: 12-43-46-16-01-012-0050