RESOLUTION NO. 127-26

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CERTIFICATE OF APPROPRIATENESS PURSUANT TO SECTION 2.4.12(A)(5) OF THE LAND DEVELOPMENT REGULATIONS (LDR); APPROVING A DEMOLITION PURSUANT TO LDR SECTION 4.5.1(F)(6); APPROVING A VERTICAL RELOCATION PURSUANT TO LDR SECTION 4.5.1(E)(6)(B)(1); APPROVING VARIANCES TO LDR SECTION 4.3.4(K) TO REDUCE THE FRONT AND SIDE INTERIOR SETBACKS FOR THE STRUCTURE; AND APPROVING WAIVERS TO THE VISUAL COMPATIBILITY STANDARDS IN LDR SECTIONS 4.5.1(E)(7)(A)(1) AND 4.5.1(E)(7)(M)(6) FOR THE PROPERTY LOCATED AT 46 MARINE WAY, AS MORE PARTICULARLY DESCRIBED HEREIN; 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. HP-544-2026) from Catherine Edwards on behalf of the Owner ("Applicant"), seeking to vertically relocate, alter, and rehabilitate the existing principal structure, demolish the rear accessory structure, construct an addition to the existing residential house, 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 July 1, 2026, the Historic Preservation Board denied the Application, by a vote of 4-3; and

WHEREAS, on July 8, 2026, the Applicant filed an appeal of the decision of the Historic Preservation Board; and 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 18, 2026; and

WHEREAS, the Applicant is proposing to demolish the existing accessory structure; and

WHEREAS, LDR Section 4.5.1(F)(6) establishes the criteria the Board shall consider for the demolition of the contributing structure; 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 principal structure to ten feet and eleven feet ten inches North American Vertical Datum (NAVD), 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 two variances to reduce the required setbacks for the front, and side interior of the principal structure; and

WHEREAS, LDR Section 4.3.4(K) requires a front setback of 25 feet and a range of seven feet seven inches to twenty feet six 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, 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)(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 to 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(F)(6), requires the approving body, upon a request for demolition by a property owner, to consider the following guidelines in evaluating applications for a Certificate of Appropriateness for demolition of designated historic sites, historic interiors, or buildings, structures, or appurtenances within designated historic districts:

(a) Whether the structure is of such interest or quality that it would reasonably fulfill criteria for designation for listing on the national register.

(b) Whether the structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty or economically nonviable expense.

(c) Whether the structure is one of the last remaining examples of its kind in the designated historic district within the city.

(d) Whether retaining the structure would promote the general and value of a particular culture and heritage.

(e) Whether there are approved plans for immediate reuse of the property if the proposed demolition is carried out, and what effect those plans will have on the historic district designation or the individual designation of the property.

WHEREAS, LDR Section 4.5.1(E)(6)(b)(1), when considering the relocation of a contributing structure from a historic district, or an individually designated structure from a site, the Board shall be guided by the following, as applicable:

(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 the following findings as to the variances requested:

(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 18, 2026, the City Commission of the City of Delray Beach considered the COA Application, demolition, relocation, two variance requests, and two 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 foregoing recitals are hereby incorporated herein by reference and are approved and adopted.

Section 2. The City Commission approves the Certificate of Appropriateness, Demolition, Relocation, Variances, and Waivers.

Section 3 The City Commission makes positive findings 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.

Section 4. The City Commission makes positive findings supporting demolition after consideration after reviewing the guidelines as to: (1) whether the structure is of such interest or quality that it would reasonably fulfill criteria for designation for listing on the national register; (2) whether the structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty or economically nonviable expense; (3) whether the structure is one of the last remaining examples of its kind in the designated historic district within the city; (4) whether retaining the structure would promote the general and value of a particular culture and heritage; and (5) whether there are approved plans for immediate reuse of the property if the proposed demolition is carried out, and what effect those plans will have on the

historic district designation or the individual designation of the property.

Section 5. The City Commission makes positive findings as to relocation following its review of the guidelines: (1) whether the structure will be relocated within the same historic district, into a new historic district, or outside of a historic district; (2) whether the proposed relocation may have a detrimental effect on the structural soundness of the building or structure; (3) 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; (4) whether the new surroundings of the relocated structure would be compatible with its architectural character; and, (5) whether the proposed relocation is the only practicable means of saving the structure from demolition.

Section 6. 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 7. 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 8. The City Commission approves the variance request to LDR Section 4.3.4(K) to allow a front setback that ranges from seventeen feet seven inches to twenty feet six inches.

Section 10. 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 11. 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 12. The City Commission approves the waiver request to LDR Section 4.5.1(E)(7)(m)(6) to allow an addition that is not secondary and subordinate to the main mass of the historic building and to allow the addition to overwhelm the original building.

Section 13. 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 14. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 15. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2026.

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 comer 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 fe.et, 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 comer 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 comer 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 comer 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.