

RESOLUTION NO. 36-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO LAND DEVELOPMENT REGULATIONS 4.3.4(H)(6)(b)(4)&(5) PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AND THE COMPREHENSIVE PLAN, FOR THE SPECIAL LANDSCAPE SETBACK ALONG LINTON BOULEVARD AND CONGRESS AVENUE AT 1660 S. CONGRESS AVENUE (PCN 12-43-46-19-36-001-0000); PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, Mark Rickards (“Agent”), on behalf of Wells Fargo Bank, National Association (“Applicant/Property Owner”), submitted a development application (2020-074-WAI-CCA) for the approval of a waiver request for the special landscape setback requirements from 10 feet to 3.6 feet along Linton Boulevard and 10 feet to 3.7 feet along Congress Avenue for the property located at 1660 S. Congress Avenue due to a taking by the Florida Department of Transportation of the corner at Linton Boulevard and Congress Avenue in Delray Beach; and

WHEREAS, the subject property is located on the southwest corner of Linton Boulevard and S. Congress Avenue, consists of 0.77 acres, and is zoned Professional Office District (POD); and

WHEREAS, the proposal consists of a requested waiver to Land Development Regulation (LDR) Sections 4.3.4(H)(6)(b) Special landscape setbacks requirements:

(4) Along Linton Boulevard, from A-1-A to the western City limits, a special landscape area shall be provided. This landscape area shall be the smaller distance of either 30 feet or ten percent of the average depth of the property; however, in no case shall the landscape area be less than ten feet;

(5) Along Congress Avenue, from the L-38 Canal northward to the L-30 Canal, a special landscape area shall be provided. This landscape area shall be the smaller distance of either 30 feet or ten percent of the average depth of the property; however, in no case shall the landscape area be less than ten feet; and

WHEREAS, LDR Section 2.4.7(B)(5) *Waiver*; prior to granting a waiver, the approving body shall make a finding that the granting of the 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, the Waiver for the special landscape setback at 1660 S. Congress Avenue (2020-074-WAI-CCA) was presented to the City Commission at a quasi-judicial hearing conducted on March 3, 2020; and

WHEREAS, the City Commission reviewed the waiver request from LDR Sections 4.3.4(H)(B)(5)&(6) as it relates to a 10-foot setback for a reduction to 3.6 feet on Linton Boulevard and to 3.7 feet on Congress Avenue at 1660 S. Congress Avenue due to a taking by the Florida Department of Transportation of the land located on the corner of Linton Boulevard and Congress Avenue and has considered the respective findings for each 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. That the foregoing recitals are hereby incorporated by this reference.

Section 2. The City Commission makes positive findings that the requested waiver (1) do not adversely affect the neighboring area, (2) do not significantly diminish the provision of public facilities, (3) do not create an unsafe situation, and (4) do not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstances on other property for another applicant or owner.

Section 3. The City Commission approves the waiver of the special landscape setback at 1660 S. Congress Avenue, Delray Beach, as reflected in Exhibit "A" and Exhibit "B", which are incorporated herein.

Section 4. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 5. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2020.

Shelly Petrolia, M A Y O R

ATTEST:

Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

Exhibit “A”

1660 S. Congress Avenue
Site Plan

Exhibit “B”
1660 S. Congress Avenue
Survey