



## Cover Memorandum/Staff Report

**File #:** 20-059

**Agenda Date:** 3/3/2020

**Item #:** 7.F.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** George Gretsas, City Manager  
**DATE:** March 3, 2020

RESOLUTION NO. 36-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA GRANTING A WAIVER REQUEST FOR TO LAND DEVELOPMENT REGULATIONS 4.3.4(H)(6)(B)(4) AND (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 (QUASI-JUDICIAL).

### **Recommended Action:**

Review and consider Resolution No. 36-20, granting a waiver to the Special Landscape Setback at 1660 S. Congress Avenue.

### **Background:**

The request is for a waiver to reduce the required landscape setbacks on the corner of Linton Boulevard from 10 feet to 3.6 feet and Congress Avenue from 10 feet to 3.7 feet and to relocate any existing landscaping that will be part of the Florida Department of Transportation (FDOT) taking. The reduction in the special landscape setback is a result of an action of FDOT to claim eminent domain to acquire private property to expand the width of both Linton Boulevard and Congress Avenue associated with the efficiency of turning movements, signal light timing, and the general geometry of southbound Congress Avenue and westbound Linton Boulevard. The applicant has elected to request a waiver to the landscape setback impacted by the FDOT taking in lieu of the site and respective condition being considered a legal, nonconformity. The waiver, if approved, would apply to the property for any future modifications which are not considered redevelopment impacting of more than 25%.

The applicant has provided a justification letter.

Pursuant to LDR Section 2.4.7 (B)(5), prior to granting a waiver, the granting body shall make findings 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 similar circumstances on other property for another applicant or owner.

The granting of this waiver will not adversely affect the neighboring area, diminish the provision of public facilities and is not creating an unsafe situation. The right of way dedication to FDOT was taken to provide improvements and relief to an increasingly busy and potentially dangerous intersection. The site is developed and, as such, adding additional landscaped area is not feasible, given the existing parking, etc. The reduction in landscaped area is necessary to improve the roadway in the area. The waiver does not result in a special privilege. On February 5, 2019, the City Commission approved a similar request on Linton Boulevard at Delray Crossings and Home Goods to reduce the special landscape setback in order to make improvements pending construction of a modified 1-95 interchange.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A