

RESOLUTION NO. 152-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES AND THE COMPREHENSIVE PLAN, TO ALLOW A MAXIMUM BUILDING HEIGHT OF 55 FEET FOR BUILDINGS 3, 4, 5 AND 6 FOR THE AURA DELRAY BEACH PROJECT, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, Trinsic Residential Group ("Petitioner") is the contract purchaser of the aggregation of parcels comprising \pm 12.20-acres ("Property"), which are located generally at the northwest corner of the intersection of Congress Avenue and West Atlantic Avenue within the City of Delray Beach ("City"), more particularly described in the legal description in Exhibit "A" and shown on the map in Exhibit "B," respectively attached hereto and incorporated herein; and

WHEREAS, a Conditional Use Application (File Number 2020-247-USE-PZB) was submitted by the Petitioner's agent, Dunay, Miskel, and Backman, LLP, to increase the maximum building height from 48 feet to 55 feet as defined in the Land Development Regulations (LDR) Section 4.3.4 (j)(4), "Increases to height regulations;" for buildings 3, 4, 5, and 6 for the Aura Delray Beach Project, as more particularly described in Exhibit "A"; and

WHEREAS, pursuant to LDR Section 4.3.4(j)(4)(b), the maximum height of buildings may be increased up to 60 feet when approved by City Commission pursuant to a conditional use request if the request complies with subsections 4.3.4(j)(4)(b)(i)-(iv); and

WHEREAS, pursuant to LDR Section 4.3.4(j)(4)(b)(i), the structure must be located in one of the permitted geographic areas; and

WHEREAS, pursuant to LDR Section 4.3.4(j)(4)(b)(ii), the increase in height must not provide for, nor accommodate, an increase in floor area beyond that which could be accomplished by development which adheres to a height limitation of 48 feet, unless the increase in height is for the purpose of accommodating residential use on the top floor; and

WHEREAS, pursuant to LDR Section 4.3.4(j)(4)(b)(iii), workforce housing units of low or moderate income levels compliant with LDR Article 4.7 equal at least 20 percent of the residential units on the top floor shall be provided onsite, offsite, or through monetary contributions; and

WHEREAS, pursuant to LDR Section 4.3.4(j)(4)(b)(iv), the increase in height must comply with at least two of three of the following: (1) that for each foot in height above 48 feet, an additional building setback of two feet is provided from the building setback lines which would be established for a 48-foot tall structure. The additional setback is required from all setback lines (i.e., front, side, and rear) for the

portion of the building that extends above 48 feet, (2) that a minimum of 50 percent of the ground floor building frontage consist of nonresidential uses (excluding parking), or (3) that open areas, such as courtyards, plazas, and landscaped setbacks, be provided in order to add interest and provide relief from the building mass; and

WHEREAS, the Property is located within the geographical boundaries of 4.3.4(J)(4)(b)(i)(9); and

WHEREAS, the increase in height is for the purpose of accommodating residential use on the top floor of the structure as required by 4.3.4(J)(4)(b)(ii)(1); and

WHEREAS, at least 20 percent of residential units on the top floor are workforce housing units for low or moderate income levels in compliance with LDR Article 4.7; and

WHEREAS, buildings 3, 4, 5 and 6 of the Aura Delray Project are setback from the property line an additional two feet for every foot above 48 feet requested in accordance with 4.3.4(J)(4)(b)(iv)(1); and

WHEREAS, the proposed development provides open areas throughout the site in order to add interest and provide relief from the building mass in accordance with 4.3.4(J)(4)(b)(iv)(3); and

WHEREAS, pursuant to LDR Section 2.4.5(E), which governs the establishment of a conditional use, the approving body is required to make a finding that the granting of the conditional use will not:

- (a) have a significantly detrimental effect upon the stability of the neighborhood within which it will be located; and
- (b) hinder development or redevelopment of nearby properties; and

WHEREAS, this request was reviewed by the Planning and Zoning Board at a public hearing on September 21, 2020, with the Board voting 6 to 1 recommending approval of the application; and

WHEREAS, the requested conditional use pursuant to LDR Section 4.3.4(J)(4)(b), requesting an increase to the maximum building height for buildings 3, 4, 5 and 6 from 48 feet to 55 feet for the Aura Delray Beach Project, was presented to the City Commission at a quasi-judicial hearing on November 10, 2020.

WHEREAS, pursuant to LDR Section 2.4.5(E), the City Commission finds that establishing a conditional use to increase the maximum building height for buildings 3, 4, 5 and 6 from 48 feet to 55 feet for the Aura Delray Beach Project will not have a significantly detrimental effect upon the stability of the neighborhood within which it is located nor hinder development or redevelopment of nearby properties; and

WHEREAS, the City Commission reviewed the request for conditional use to allow for the increase of the maximum allowable building height for buildings 3, 4, 5, and 6 from 48 feet to 55 feet for the Aura Delray Beach and considered the respective findings 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 herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested conditional use will not have a significant detrimental effect upon the stability of the neighborhood within which it will be located and will not hinder development or redevelopment of nearby properties.

Section 3. The City Commission approves the conditional use request, pursuant to Land Development Regulations Chapter 3, Section 2.4.5(E)(5), and Section 4.3.4(J)(4)(b), to increase the maximum building height for buildings 3, 4, 5, and 6 from 48 feet to 55 feet for the Aura Delray Beach Project, as more particularly described in Exhibit "A", which is incorporated herein.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Petitioner's agent, Dunay, Miskel, and Backman, LLP.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

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

Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT A
LEGAL DESCRIPTION – AURA DELRAY BEACH OVERLAY DISTRICT

A PORTION OF TRACT 27, "MODEL LAND COMPANY'S SUBDIVISION OF THE NORTH HALF AND PART OF THE SOUTH HALF OF SECTION 18-46-43", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6 AT PAGE 51 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 18; THENCE SOUTH 89°47'40" WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST ONE-QUARTER, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING, ALSO LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE; THENCE CONTINUE SOUTH 89°47'40" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 754.34 FEET; THENCE NORTH 11°08'27" EAST, ALONG THE EAST LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-4 CANAL, A DISTANCE OF 349.89 FEET; THENCE NORTH 89°55'29" EAST, ALONG THE SOUTH LINE AND EASTERLY EXTENSION THEREOF, OF TRACT

1, "PALM TRAN SOUTH COUNTY FACILITY", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 127 AT PAGES 194 AND 195 OF SAID PUBLIC RECORDS, A DISTANCE OF 681.33 FEET; THENCE SOUTH 00°54'26" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE, A DISTANCE OF 341.53 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACTS 38 AND 39, "MODEL LAND COMPANY'S SUBDIVISION OF THE NORTH HALF AND PART OF THE SOUTH HALF OF SECTION 18-46-43", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6 AT PAGE 51 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 18; THENCE SOUTH 89°47'40" WEST, ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING, ALSO LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE; THENCE SOUTH 00°53'40" EAST, ALONG SAID WESTERLY LINE, A DISTANCE OF

38.29 FEET; THENCE SOUTH 15°07'58" WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF CONGRESS AVENUE, AS RECORDED IN OFFICIAL RECORDS BOOK 29036 AT PAGE 463 OF SAID PUBLIC RECORDS, A DISTANCE OF 67.36 FEET; THENCE SOUTH 00°53'40" EAST, ALONG SAID WEST LINE, A DISTANCE OF 60.32 FEET; THENCE SOUTH 89°49'29" WEST, ALONG THE NORTH LINE OF TRACT A OF "CHEVRON 50128 TRACT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 60 AT PAGE 187 OF SAID PUBLIC RECORDS, A DISTANCE OF 174.43 FEET; THENCE SOUTH 00°53'52" EAST, ALONG THE WEST LINE OF SAID TRACT A, A DISTANCE OF 319.15 FEET; THENCE SOUTH 53°51'39" WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF WEST ATLANTIC AVENUE (STATE ROAD 806), ACCORDING TO THE ORDER OF TAKING AS RECORDED IN OFFICIAL

RECORDS BOOK 29115 AT PAGE 34 OF SAID PUBLIC RECORDS, A DISTANCE OF 109.46 FEET; THENCE NORTH 00°53'52" WEST, A DISTANCE OF 120.83 FEET; THENCE SOUTH 70°17'01" WEST, A DISTANCE OF 128.78 FEET; THENCE NORTH 00°53'52" WEST, A DISTANCE OF 149.91 FEET; THENCE SOUTH 70°12'20" WEST, ALONG THE NORTH LINE AND EASTERLY EXTENSION THEREOF, OF TRACT A, "CAUSEWAY LUMBER PLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 72 AT PAGE 146 OF SAID PUBLIC RECORDS, A DISTANCE OF 474.44 FEET; THENCE NORTH 10°48'51" EAST, ALONG THE EAST LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-4 CANAL, A DISTANCE OF 487.16 FEET; THENCE NORTH 89°47'40" EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER, A DISTANCE OF 754.34 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA AND CONTAIN 12.200 ACRES, MORE OR LESS.

EXHIBIT B
LOCATION MAP – AURA DELRAY

Location Map

