RESOLUTION NO. 185-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
DELRAY BEACH, FLORIDA, GRANTING A WAIVER TO SECTION
4.4.13(F)(4)(A)(2) OF THE CITY OF DELRAY BEACH LAND
DEVELOPMENT REGULATIONS; APPROVING A SETBACK
REDUCTION FROM 5 FEET TO 4.5 FEET FOR THE PROPERTY
LOCATED GENERALLY AT THE NORTHEAST CORNER OF
ATLANTIC AVENUE AND NE 6TH AVENUE, AS MORE
PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN
EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida ("the City") approved a Class V site plan for Atlantic Crossing ("the Project") on January 21, 2014, for a mixed use project located generally at the northeast corner of Atlantic Avenue and NE 6th Avenue; and

WHEREAS, the Property is zoned Central Business District ("the CBD"); and

WHEREAS, pursuant to an agreement between the owners of the property and the City, the 2013 Land Development Regulations (the "LDR") and Comprehensive Plan shall apply to the Project; and

WHEREAS, Section 4.4.13(F)(4)(a)2 of the 2013 LDRs requires five feet of setback for buildings with nonresidential uses on the ground floor in the CBD; and

WHEREAS, the Project was approved for nonresidential uses on the ground floor with a five-foot setback; and

WHEREAS, after the Project was approved, the Florida Department of Transportation required a dedication of right-of-way for a portion of the area on the corner of Atlantic Avenue and NE 6th Avenue; and

WHEREAS, the dedication of right-of-way to the Florida Department of Transportation will result in a 4.5 feet setback for the existing building thus necessitating a waiver from the LDRs; and

WHEREAS, in 2013, LDR Section 2.4.7(B)(5), which governs waivers from development regulations, required 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, the requested waiver was presented to the City Commission at a quasi-judicial hearing conducted on _____, 2020; and

WHEREAS, the City Commission considered the waiver request to Section 4.4.13(F)(4)(a)2 of the 2013 LDRs, to reduce the building setback from 5 feet to 4.5 feet in accordance with the standards listed in LDR Sections 2.4.7(B)(5), and has considered the respective findings as set forth in the 2013 Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1.     The forgoing 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 waivers would be granted under a similar circumstances on other property for another applicant or owner.

Section 3.     The City Commission approves the waiver request to Section 4.4.13(F)(4)(a)2 of the 2013 LDRs, to reduce the setback from 5 feet to 4.5 feet as described in Exhibit "A."

Section 4.     The City Clerk, or designee, is directed to send a certified copy of this Resolution to Weiss, Handler & Cornwell, P.A.

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

Section 6.     This Resolution shall be effective upon adoption and the recording of the right-of-way dedication to the Florida Department of Transpiration.

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

ATTEST:

_____          _____
Katerri Johnson, City Clerk                                    Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

_____
Lynn Gelin, City Attorney

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