

RESOLUTION NO. 25-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.3.4(H)(6)(b)(4) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING A SPECIAL LANDSCAPE SETBACK ON THE SOUTH SIDE OF LINTON BOULEVARD FOR THE PROPERTY LOCATED AT 1200 W. LINTON BOULEVARD AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received a development application (2021-031-WAI-CCA) associated with the property located at 1200 W. Linton Blvd., Delray Beach, Florida (“the Property”), from Kimley Horn and Associates, Inc., (“Applicant/Property Owner”), and

WHEREAS, as a result of a right of way taking by the Florida Department of Transportation, the available landscape setback was reduced. resulting in the applicant’s request for a waiver to the special landscape setback despite being considered a legal nonconformity; and

WHEREAS, the applicant seeks to reduce the special landscape setback from 30 feet to 10.78 feet on the westerly side of the property and from 30 feet to 22.81 feet on the easterly side of the Property, due to a taking by the Florida Department of Transportation; and

WHEREAS, the Property is located at the South side of Linton Boulevard, consists of 9.8 acres, and is zoned Planned Commercial (“PC”); and,

WHEREAS, Section 4.3.4(H)(6)(b)(4) of the Delray Beach Land Development Regulations (“the LDR”) sets forth the standards for special landscape setbacks along Linton Boulevard, from A-1-A, to the Western City limits; and

WHEREAS, LDR Section 2.4.7(B)(5), which governs waivers from development regulations, requires the approving body to 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 requested waiver of relief from LDR Section 4.3.4(H)(6)(b)(4) seeking to reduce the special landscape setback of 30 feet along Linton Boulevard for the proposed development was presented to the City Commission at a quasi-judicial hearing conducted on January 5, 2021; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.3.4(H)(6)(b)(4) to allow a reduction in the special landscape setback as well as 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 by this reference.

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 waiver would be granted under similar circumstances on other property for another applicant or owner.

Section 3. The City Commission approves the waiver request to LDR Section 4.3.4(H)(6)(b)(4) and authorizes the reduction of the special landscape setback from 30 feet to 10.78 feet on the westerly side of the Property and from 30 feet to 22.81 feet on the easterly side of the Property, as more particularly described in Exhibit "A".

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Kimley Horn and Associates, Inc. at 1615 South Congress Avenue, Suite 201, Delray Beach, FL 33445.

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

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

PASSED AND ADOPTED in regular session on the ____ day of _____, 2021.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney