

RESOLUTION NO. 26-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.6.7(E)(3)(a) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING THE SETBACK FOR THE EXISTING FREESTANDING SIGN TO BE IN THE SPECIAL LANDSCAPE SETBACK AT 0.56 FEET WHERE 10 FEET IS REQUIRED, 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”), requesting to allow an existing monument sign to remain at a 0.56-foot setback; 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, as a result of a right of way taking by the Florida Department of Transportation, the available sign setback was reduced, resulting in the applicant’s request for a waiver to the sign setback despite being considered a legal nonconformity; and

WHEREAS, Section 4.6.7(E)(3)(a) of the Delray Beach Land Development Regulations (“the LDR”) and requires a 10-foot setback; and

WHEREAS, the applicant proposes to keep the existing monument sign at a 0.56-foot setback on the north side of the Property; 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 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 of relief from LDR Section 4.6.7(E)(3)(a) to allow the monument sign to remain at a 0.56 foot setback where a 10-foot setback is required due to a taking by the Florida Department of Transportation 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 4.6.7(E)(3)(a) to allow an existing monument sign to remain at a 0.56-foot setback where a 10-foot setback is required, 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. 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 waiver would be granted under similar circumstances on other property for another applicant or owner.

Section 3. The City Commission approves the waiver requests to LDR Section 4.6.7(E)(3)(a) to allow the monument sign to remain at a 0.56-foot setback, due to a taking by the Florida Department of Transportation, 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 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 be 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