

RESOLUTION NO. 113-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REPEALING RESOLUTION NO. 45-23 IN ITS ENTIRETY; GRANTING A WAIVER REQUEST TO SECTION 4.3.4(K) OF THE LAND DEVELOPMENT REGULATIONS APPROVING A DWELLING UNIT WITH 864 SQUARE FEET OF FLOOR AREA FOR THE PROPERTY LOCATED AT 1115 NORTH SWINTON AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, on March 6, 2023, the City Commission considered an application (2023-056-WAI-CCA) seeking a waiver to convert a portion of the existing 1,040 square foot, two-story, three-car detached garage into a dwelling unit with 864 square feet of floor area for the parcel of land located at 1115 North Swinton Avenue (the “Property”); and

WHEREAS, the request for a waiver was denied by the Commission; and

WHEREAS, on May 16, 2023, the City Commission voted to reconsider the waiver request; and

WHEREAS, the Property is zoned Single Family Residential (R-1-AA) District; and

WHEREAS, Section 4.3.4(K) of the City Land Development Regulations (“LDR”) requires a minimum floor area of 1,500 square feet in Single Family Residential (R-1-AA) District zoning; and

WHEREAS, LDR Section 2.4.7(B)(5) 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, pursuant to LDR Section 2.4.7(B)(4), conditions may be imposed upon the granting of a waiver to the extent they are directly related to mitigating any adverse effect which may be created by the waiver of a specific development regulation; and

WHEREAS, the requested waiver from LDR Section 4.3.4(K) to allow a dwelling unit with 864 square feet of floor area was presented to the City Commission at a quasi-judicial hearing conducted on June 6, 2023; and

WHEREAS, the City Commission considered the requested waiver to LDR Section 4.3.4(K) to allow the construction of a dwelling unit with 864 square feet of floor area on the Property, and has 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. The foregoing recitals are hereby incorporated by this reference and are approved and adopted.

Section 2. Resolution 45-23 is hereby repealed in its entirety.

Section 3. 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 a similar circumstance on other property for another applicant or owner.

Section 4. The City Commission approves the waiver request to LDR Section 4.3.4(K) and approves the construction of a dwelling unit with 864 square feet of floor area, with the condition that the Unity of Title recorded in Official Record Book 11214, Page 965, must be dissolved before a Certificate of Occupancy may be issued for the dwelling unit with 864 square feet of floor area.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Ann Koplak, at 1115 North Swinton Avenue, Delray Beach, Florida, 33444.

Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petroliia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

Parcels 1 and 2 of the REPLAT OF LOTS 13, 14, 15, 16 AND 17, BLOCK 6 OF DELL PARK, according to the Plat recorded in Plat Book 76, Page 110, as recorded in the Public Records of Palm Beach County, Florida.