



Cover Memorandum/Staff Report

File #: 25-1585

Agenda Date: 12/8/2025

Item #: 7.B.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: December 8, 2025

RESOLUTION NO. 266-25: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER TO SECTION 4.4.3(F)(2)(B) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW A FLOOR AREA RATIO OF 0.44 FOR THE PROPERTY LOCATED AT 101 NW 17TH STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL)

Recommended Action:

Review and consider a resolution approving a waiver request to the maximum floor area ratio for 101 NW 17th Street.

Background:

The subject property is zoned Single Family Residential R-1-AA and is located within the Lake Ida Overlay District. In addition to the requirements of Land Development Regulations (LDR) Section 4.3.4(K), which establishes setbacks, properties located within the Lake Ida Neighborhood Overlay District are subject to additional development standards in LDR Section 4.4.3(F)(2) to help regulate scale and mass. The house under construction at 101 NW 17th Street is not in compliance with the Lake Ida Overlay development standards related to Floor Area Ratio.

The new home does not exceed the maximum lot coverage limitation, as the application of the code is to count all roofed structures, excluding pools, trellises, and the areas under roof eaves or cantilevered balconies. The future "Pergola under separate permit" is limited to 78 SF and a stop has been noted in the new e-Services system to make sure any future structures do not exceed the limitation. The Lake Ida regulations also require the second story be limited to 75% of the area of the first story - the house complies with this regulation as well.

Floor Area Ratio

Pursuant to LDR Appendix A- Definitions, The term "Floor Area Ratio (FAR) " *shall mean the ratio of the "total floor area" of the structure(s) to the area of the lot. "Total Floor Area" shall be defined as the gross horizontal areas of all floors of all buildings measured from the exterior walls or other types of enclosures and shall include garages, carports and port-cocheres. The floor areas of attics (unless used as a living space), enclosed decks or patios, covered porches, exterior balconies (covered or uncovered) or crawl spaces are excluded from the total floor area used in the Floor Area Ratio calculation.*

LDR Section 4.3.4(F)(1) states, "*In single family detached units and duplex structures, the floor area*

shall be all enclosed space in the principal structure exclusive of terraces and unroofed areas and 50 percent of the area for attached garages, carports, and screened porches.”

The applied practice of the code for single family residential units has been to count all interior (A/C) areas, ½ the garage area, and to exclude open air elements, like porches or covered balconies.

The Lake Ida Overlay regulations direct in LDR 4.4.3(F)(2)(b) “*The maximum Floor Area Ratio is .35 for a multi-story house. Property with frontage on Lake Ida are allowed a Floor Area Ratio of .40 for a multi-story house.*”

Based on the lot size of 8,712 SF, the allowable area of the house is $8,712 (.35) = 3,049.2$ SF
The interior (A/C) area of the first and second stories plus half of the garage measures $1,851 + 1,724 + 297 = 3,872.5$ SF
The house is 823 SF over the FAR limit, resulting in an FAR of 0.44.

The permit (25-222790) was issued on April 16, 2025, and the house is nearing completion. A Certificate of Occupancy cannot be issued without an approved waiver.

LDR Section 2.4.11(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

Findings (a) and (d) apply for consideration, as the development remains a single-family house, is positioned within the setbacks, and is built to the latest Florida Building Code. The Lake Ida Overlay regulations were adopted in 2008 are intended to regulate mass and scale to ensure neighborhood compatibility. The FAR limit was not included in the data tables on the plan set - and reviewing staff did not request the information to ensure compliance. While the design professional sealing the plans is ultimately responsible for meeting all regulations, including local ordinances, the City issued the permit and construction is underway. If the area of noncompliance was identified during permit plan review, approving a larger house than the code prescribes would be considered a special privilege. However, construction is nearing completion and the issue at hand is whether the departure from the regulations warrants physical correction at this point, or if the approval of the waiver is a reasonable request.

City Attorney Review:

Reviewed to form and legal sufficiency

Funding Source/Financial Impact:

N/A

Timing of Request:

The house is under construction cannot be completed without a determination on the waiver requests.