



CITY OF DELRAY BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



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HISTORIC PRESERVATION BOARD STAFF REPORT

98 NW 5th Avenue

Meeting

December 7, 2022

File No.

2023-003

Application Type

Waiver Request

REQUEST

The item before the Board is for a recommendation to the City Commission for Waiver requests (2023-003) associated with a Class III Site Plan Modification and Certificate of Appropriateness (2019-261) for the adaptive reuse and additions to an existing 2-story non-contributing, commercial structure on the property located at **98 NW 5th Avenue, West Settlers Historic District**.

GENERAL DATA

Owner: Delray Beach Community Redevelopment Agency

Agent: Synalovski Romanik Saye, LLC

Location: 98 NW 5th Avenue

PCN: 12-43-46-16-01-020-0110

Property Size: 0.1458 acres

Zoning: CBD – Central Business District

Historic District: West Settlers Historic District

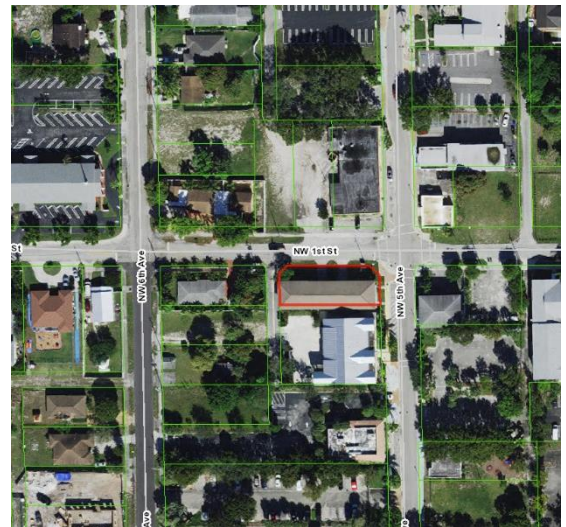
Land Use: MD (Medium Density Residential)

Adjacent Zoning:

- CBD – Central Business District (North)
- CBD – Central Business District (West)
- CBD – Central Business District (South)
- CBD – Central Business District (East)

Existing Land Use: Mixed-Use

Proposed Land Use: Commercial



BACKGROUND AND PROJECT DESCRIPTION

The subject property consists of the north 50 feet of the east 135 feet of Block 20, Town of Delray and is located on the southwest corner of NW 5th Avenue and NW 1st Street. The two-story apartment building was built in 1972 in a modern style and is of CBS construction with a flat cement tile roof. The 7,076 square foot structure contains garages and commercial use on the first floor, apartments on the second floor and is a non-contributing structure within the West Settlers Historic District. The property is currently zoned Central Business District (CBD).

At its meeting of May 4, 2005, the Historic Preservation Board approved a Certificate of Appropriateness request for the replacement of the existing gray cement roof tiles with tan dimensional asphalt shingles.

At its meeting of September 2, 2020, the Historic Preservation Board recommended approval to the City Commission for Waiver requests from the Central Business District (CBD) zoning requirements associated with a Class III Site Plan Modification and Certificate of Appropriateness (2019-261) application. Then, at their September 22, 2020, meeting the City Commission approved the 5 waiver requests, which are summarized in the table below:

Project Planner:	Review Dates:	Attachments:
Katherina Paliwoda, Historic Planner, paliwodak@mydelraybeach.com Michelle Hoyland, Principal Planner, hoylandm@mydelraybeach.com	HPB: December 7, 2022	1. Plans 2. Justification Statements

	City Commission Approved Waivers	Required	Existing	Proposed
1	Relief from LDR Table 4.4.13(C) , to allow a reduction in the required minimum front (east) setback.	10' min. 15' max.	9'8"	4'2" – 4'8"
2	Relief from LDR Table 4.4.13(C) , to allow a reduction in the required minimum side street (north) setback.	10' min. 15' max.	19'	1'6" – 9'
3	Relief from LDR Table 4.4.13(C) , to allow a reduction in the required rear (west) setback.	10'	3'2"	1'8" – 3'8"
4	Relief from LDR Section 4.4.13(E)(4)(e)(1)(d) to allow reduced storefront glazing heights on the front (east) and side (north) elevations.	8'	--	7'2"
5	Relief from LDR Section 4.4.13(E)(4)(e)(1)(b) to allow relief for the percentage of required façade storefront openings on the front (east) and side (north) elevations.	80%	--	62% (East) 75% (North)

Then, at its meeting of October 7, 2020, the Historic Preservation Board approved a Class III Site Plan Modification and Certificate of Appropriateness (2019-261) request involving the renovation and adaptive reuse of the existing 2-story mixed-use non-contributing building for use as retail and office. The request included the following:

- Enclosure of the ground floor parking garage for use as retail space;
- Conversion of the 2nd floor residential use to office space;
- Construction of an elevator shaft on the north side of the building.
- Interior and exterior architectural improvements; and,
- Landscaping, hardscaping, and site lighting.

Building permits were issued and the project is under construction. During construction the applicant discovered that the required storefront measurements for glazing height and percentage of openings could not meet the approved waiver reductions due to the configuration of the existing building. The applicant has requested modification of the approved waivers as follows:

1. Relief from LDR Section 4.4.13(E)(4)(e)(1)(d) to allow reduced storefront glazing heights on the front (east) and side (north) elevations from the minimum 8' to 6'10" (a 4" reduction from the approved 7'2" waiver); and,
2. Relief from LDR Section 4.4.13(E)(4)(e)(1)(b) to allow a reduction in the percentage of required façade storefront openings on the side (north) elevation from the minimum 80% to 69% (a 6% reduction from the approved 75%)

The waiver recommendations are now before the board for review.

REVIEW AND ANALYSIS

LDR REQUIRED FINDINGS

Pursuant to LDR Section 2.4.7(B)(5) Findings. Prior to granting a waiver, the granting body shall make findings 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 similar circumstances on other property for another applicant or owner.

CBD WAIVER CRITERIA

Pursuant to LDR Section 4.4.13(K)(5) - *Waivers*. This section allows consideration of two types of waivers:

- (a) Section 2.4.7(B)(1)(a) authorizes the waiver of certain regulations irrespective of a property's zoning district. Those waivers may be considered within the CBD in accordance with those specific provisions. When reviewing applications that include waivers that can only be granted by the City Commission, the SPRAB and the HPB shall make formal recommendations to the City Commission regarding those waivers prior to site plan consideration.
- (b) Section 2.4.7(B)(1)(b) authorizes the City Commission to waive certain other regulations that no other official or board have the authority to waive.

1. Within the CBD, that authority of the City Commission is limited by the following restrictions:
 - a. *Building Height Waivers*. Building Height Waivers. Waivers to increase the number of stories or maximum height of a building are not permitted.
 - b. *Front Setback Waivers*. Waivers to decrease the minimum front setback depth are permitted if the reduction would not result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2).
 - c. *Sidewalk Width Waivers*. Waivers to decrease the minimum sidewalk width are not permitted in the CBD.
2. Within the CBD, the following standards shall be used by the City Commission, SPRAB or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5):
 - a. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.
 - b. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.
 - c. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.
 - d. The waiver shall not reduce the quality of civic open spaces provided under this code.

WAIVER REQUEST 1

Pursuant to LDR Section 4.4.13(E)(4)(e)(1)(d) - Transparent Glazed Windows shall extend from the base to at least eight feet in height as measured from sidewalk grade adjacent to the building.

The subject request is a waiver to permit the glazing height of the storefront windows to measure from the approved 7'-2" to 6'-10" instead of the required 8' on the north and east elevations.

LDR FINDINGS:

- a. **Shall not adversely affect the neighboring area;**
The proposed relief pertains to the height of the window glazing which was previously approved at 7'-2". However, as the measurements of the existing building cannot accommodate the approved measurements, additional relief to allow the window glazing height to 6'-10" is being sought. The modified waiver request is not anticipated to have an adverse effect upon the neighboring area.
- b. **Shall not significantly diminish the provision of public facilities;**
The request does not cause a significant differentiation in the front storefront façade; therefore, it is not anticipated to significantly diminish the provision of public facilities.

c. Shall not create an unsafe situation; and,

The subject request pertains specifically to the storefront façade design and is not anticipated to create an unsafe situation.

d. 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.

The waiver request will facilitate the adaptive reuse of an existing structure within the West Settlers Historic District and is not expected to grant any special privileges in that the same waiver could be granted under similar circumstances.

CBD CRITERIA ANALYSIS:

a. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.

The request involves a minor modification from the required storefront window glazing height measurements within the CBD Zoning District. The proposed storefront faces the primary street of NW 5th Avenue and will allow adaptive reuse of an existing structure. The waiver to reduce the glazing height will allow for a proportional configuration of the existing traditional commercial style windows and doors.

b. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.

The waiver is a part of an adaptive reuse and rehabilitation of an existing structure that will significantly improve the historic streetscape. The relief request to allow a 4' inch reduction to the previously approved waiver will accommodate a new use without significantly altering an existing structure that may be eligible to be a contributing historic resource to the West Settlers Historic district in the near future.

c. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.

The requested relief is not anticipated to have an adverse effect on the surrounding streetscape.

d. The waiver shall not reduce the quality of civic open spaces provided under this code.

The requested relief specially pertains to the appearance of the façade, and therefore will not have any negative effects on the civic open space.

Waiver Request 2

Pursuant to LDR Section 4.4.13(E)(4)(e)(1)(b), Storefront (Window And Door) Openings shall extend along at least 80 percent of the width of the facade of the commercial space, measured by the sum of the widths of the rough openings.

The subject waiver request is to allow a reduced percentage of the required storefront openings from 80% of the width of the façade on the side street (north) elevation to measure 69% instead of the approved 75%.

LDR FINDINGS:

a. Shall not adversely affect the neighboring area;

The request is a minor adjustment to the storefront façade measurement regulations and is not anticipated to have a negative effect on the surrounding area.

b. Shall not significantly diminish the provision of public facilities;

The waiver request is a part of a rehabilitation of an existing structure within the West Settlers Historic District. The proposal provides for an adaptive reuse of an existing structure and site and is not anticipated to significantly diminish the provision of public facilities.

c. Shall not create an unsafe situation; and,

The requested relief pertains to the front façade of the structure, which is not anticipated to create an unsafe situation.

- d. **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.**

The waiver request will facilitate the adaptive reuse of an existing structure within the West Settlers Historic District and would not grant any special privileges in that the same waiver could be granted under similar circumstances.

CBD CRITERIA ANALYSIS:

- a. **The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.**

The requested relief pertains to the percentage of storefront openings on the façade along NW 5th Ave. As this is an existing structure within an historic district, the request seeks to improve the structure by updating the rhythm of openings to the required storefront design, without significantly altering the openings of the existing structure.

- b. **The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.**

The proposed adaptive reuse for the structure will be an improvement to the building that seeks to benefit the overall compatibility of the streetscape.

- c. **The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan.**

The waiver request to the percentage of openings will not have an impact on the connectivity of the street, the adjacent sidewalk network, nor the adopted bicycle/pedestrian master plan.

- d. **The waiver shall not reduce the quality of civic open spaces provided under this code.**

As the waiver request pertains to the appearance of the building's façade, it will not reduce the quality of civic open spaces required on site.

The property owner has submitted a justification statement for the waiver requests (attached).

REVIEW BY OTHERS

On September 9, 2019, the **Downtown Development Authority (DDA)** recommended approval for the overall project associated with the requested waivers.

The request will be forwarded to the **Community Redevelopment Agency (CRA)** in December of 2022 for inclusion on the Development Applications update memorandum.

ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Recommend approval to the City Commission for the Waiver (2023-003) request to allow for the storefront glazing height at 6'10" instead of the required 8', and for the storefront openings to be at 69% instead of the required 80% for the property located at **98 NW 5th Avenue, West Settlers Historic District**, by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- C. Recommend approval to the City Commission for the Waiver (2023-003) request to allow for the storefront glazing height at 6'10" instead of the required 8', and for the storefront openings to be at 69% instead of the required 80% for the property located at **98 NW 5th Avenue, West Settlers Historic District**, by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, subject to the following conditions:

- D. Recommend denial to the City Commission for the Waiver (2023-003) request to allow for the storefront glazing height at 6'10" instead of the required 8', and for the storefront openings to be at 69% instead of the required 80% for the property located at **98 NW 5th Avenue, West Settlers Historic District,,** by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.

PUBLIC AND COURTESY NOTICES	
<input checked="" type="checkbox"/> Courtesy Notices are not required for this request.	<input checked="" type="checkbox"/> Public Notices are not required for this request. <input checked="" type="checkbox"/> Agenda was posted on (11/30/22), 5 working days prior to the meeting.