



# City of Delray Beach

100 N.W. 1st Avenue  
Delray Beach, FL 33444

## Cover Memorandum/Staff Report

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File #: 20-788

Agenda Date: 9/22/2020

Item #: 7.B.

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** September 22, 2020

RESOLUTION 172-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING WAIVER REQUESTS TO SECTION 7.10.5(D) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING ADDING THE CITY AS AN ADDITIONAL INSURED TO THE POLICY FOR THE PROPERTY LOCATED AT 1120 NASSAU STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI-JUDICIAL).

**Recommended Action:**

Review and consider Resolution No. 172-20 granting waivers to LDR Section 7.10.5(D) to waive the requirements for a Surety Bond or Letter of Credit for the relocation of an existing historic structure and accept listing the City as an additional insured to the policy for the property located at 1120 Nassau Street.

**Background:**

The 1-story, single-family, Cottage style residence was built in 1938, and is a contributing structure to the Nassau Park Historic District. The structure has been modified over the years, with several additions to rear and side of the structure, which occurred in the 1950s and 1960s.

The Nassau Park Historic District was originally conceived in 1935 as the first planned residential development south of Atlantic Avenue. Samuel Ogren, Sr. designed the first house along Nassau Street and others along the single street historic district. Ogren is recognized as the most prominent early architect in Delray Beach. Nassau Park's close proximity to the beach and charming, simple yet stylish architecture of its small-scale houses made this neighborhood highly desirable and successful from its inception. Eighteen houses were built between 1935 and 1941, with four more homes built during the 1950s and 1960s. The homes were inspired by the Colonial-Cape Cod Revival Style. All houses, except for one, are listed as contributing historic structures to the Nassau Park Historic District.

In 2018, an electrical fire caused damage to the subject structure spreading throughout the residence with the carport, utility room, kitchen and back porch suffering the most damage.

On August 7, 2019, the Historic Preservation Board approved a Certificate of Appropriateness (COA), Variance, and Waiver requests (2019-194) associated with the Cottage style, single-family residence located at 1120 Nassau Street, Nassau Park Historic District, specifically approving:

- A partial demolition of the 1-story single-family residence that was damaged from fire.

- Relocation of the structure forward on lot.
- An addition to the rear of the structure.
- Three Variances, as follows:
  - Reduce the front (north) setback from the required 25' to 14.5',
  - Reduce the side interior (east) setback from the required 7'-6" to 6'-6"; and,
  - Reduce the side interior (west) setback from the required 7'-6" to 4'-1½".
- Two Waivers, as follows:
  - To allow a front facing garage; and,
  - To allow the proposed 2-story addition to the 1-story structure to exceed the Visual Compatibility requirements for the massing of additions.

The approval included several conditions of approval, including a condition relating to relocating the existing structure forward on the lot. Specifically, the condition is as follows:

*"That the owner provide a Surety Bond or a Letter of Credit in favor of the City of Delray Beach and in a form satisfactory to the City Attorney's Office of an amount equal to 125 percent of the "fair market value" of the property which includes the value of the land and any improvements such as the historic structure, as determined by or through an MAI (Member of the Appraisal Institute) appraisal."*

This condition is based upon Land Development Regulation (LDR) Section 7.10.5 (Moving of Building - Historic structure relocation bond), which is required when a building is approved to be moved or relocated pursuant to LDR Section 4.5.1(E)(6) (Historic Preservation-Relocations). LDR Section 7.10.5 states:

*"...an applicant requesting the relocation of a contributing structure or an individually designated structure shall provide a Surety Bond or a Letter of Credit in favor of the City of Delray Beach and in a form satisfactory to the City Attorney's Office of an amount equal to 125 percent of the "fair market value" of the property which includes the value of the land and any improvements such as the historic structure, as determined by or through an MAI (Member of the Appraisal Institute) appraisal. The appraisal must be performed no more than 60 days prior to the date of application for a relocation permit. The Surety Bond or Letter of Credit shall not be released until final inspection of the successfully completed relocation to the new foundation. Failure to successfully relocate a Historic structure may result in the forfeiture of the Surety Bond or a draw on the Letter of Credit as determined by the City Commission upon recommendation by the Historic preservation Board."*

The owner has attempted to obtain a Surety Bond equal to 125 percent of the "fair market value" of the property, which includes the value of the land and any improvements but has not been successful in this attempt. The applicant has requested a Waiver to LDR Section 7.10.5, stating that the City of Delray Beach LDR's have:

*"Created an Impossibility of Performance as no insurance carrier will provide such coverage and my bank where my assets are Bank of America/Merrill Lynch no longer provide letters of credit."*

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the granting body shall make findings

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 similar circumstances on other property for another applicant or owner.

The subject Waiver request would allow the property owner to list the City of Delray Beach as an additional insured on the insurance policy already in place for Brownie Structural Movers, LLC (the moving contractor) as a means to protect the historic structure in the event of damage or loss during or after the relocation of the structure.

The waiver request is before the City Commission for review and action.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

The Applicant is unable to commence relocation and construction without resolving the bond requirement.