



Cover Memorandum/Staff Report

File #: 22-1792

Agenda Date: 1/10/2023

Item #: 7.A.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: January 10, 2023

RESOLUTION NO. 06-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.4.13(E)(4)(E)(1)(D) OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, APPROVING A LOWER STOREFRONT GLAZING HEIGHT ON THE EAST AND NORTH FACADES OF THE EXISTING BUILDING AT 98 NORTHWEST FIFTH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL).

RESOLUTION NO. 07-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.4.13(E)(4)(E)(1)(B) OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, APPROVING A DECREASE IN THE PERCENTAGE OF STOREFRONT OPENING REQUIRED ALONG THE NORTH FAÇADE OF THE BUILDING AT 98 NORTHWEST FIFTH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSE. (QUASI-JUDICIAL).

Recommended Action:

Review and consider Resolution Nos. 06-23 and 07-23, granting waivers related to storefront requirements in LDR Section 4.4.13 for an existing building located at 98 NW 5th Avenue.

Background:

The subject property consists of the north 50 feet of the east 135 feet of Block 20, Town of Delray, contains 0.16 acres, and is located on the southwest corner of NW 5th Avenue and NW 1st Street. A two-story mixed-use building exists on the site, which was built in 1972 in a Modern style and is CBS construction with a flat cement tile roof. The building is a non-contributing structure within the West Settlers Historic District and is zoned Central Business District (CBD). In 2020, the 7,076 sq. ft. structure was approved by the Historic Preservation Board (HPB) for a Community Redevelopment Agency (CRA) adaptive reuse project and construction is underway.

The building originally contained garages and commercial use on the first floor, and apartments on the second floor. On October 7, 2020, the Historic Preservation Board (HPB) 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 building for use as retail and office, including 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.
- ☐ Waivers related to setbacks, window glazing height, and storefront percentage of opening.

Building permits were issued and the project is under construction. During construction, the applicant discovered that the approved waiver reductions for storefront glazing height and percentage of openings could not be met due to the structural configuration of the existing building. The applicant has requested further modifications to the approved waivers to the Land Development Regulations (LDR):

1. Relief from LDR Section 4.4.13(E)(4)(e)1.d. to reduce 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 reduce the percentage of storefront openings on the side (north) facade from the minimum 80% to 69% (**a 6% reduction from the approved 75%**).

The proposed changes are minor adjustments from the approved relief in the previous actions. The LDR does not currently afford any type of administrative relief for these types of adjustments to waivers; therefore, the board must reconsider the waiver findings. The HPB Staff report is attached and provides a detailed analysis.

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.

In addition, pursuant to LDR Section 4.4.13(K)(5)(b)2., which governs waivers from development regulations within the CBD, the approving body must make a finding that the granting of the waiver:

- (a) Shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls;
- (b) Shall not allow the creation of significant incompatibilities with nearby buildings or uses of land;
- (c) Shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan; and,
- (d) Shall not reduce the quality of civic open spaces provided under this code.

At its meeting of December 7, 2022, the Historic Preservation Board voted 5 to 0 (Lemstrom and Weber absent) to recommend approval to the City Commission of the revised waivers.

City Attorney Review:

Approve as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

The Historic Preservation Board will review the Certificate of Appropriateness and Class III Site Plan Modification following action by the City Commission on the Waiver requests.