



## Cover Memorandum/Staff Report

File #: 24-1192

Agenda Date: 9/16/2024

Item #: 7.F.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** September 16, 2024

RESOLUTION NO. 144-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(D)(2)(a)1. OF THE LAND DEVELOPMENT REGULATIONS APPROVING A FRONT SETBACK OF 6 FEET, FOR THE PROJECT LOCATED AT 314 NE 3RD AVENUE AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL)

### **Recommended Action:**

Review and consider Resolution No. 144-24, a request associated with a Level 4 Site Plan for a mixed-use development, to reduce the front setback requirement from the required 10 feet to 6 feet for the project located at 314 NE 3<sup>rd</sup> Avenue.

### **Background:**

The subject site, 314 NE 3<sup>rd</sup> Avenue, located within the Central Business District (CBD), Railroad Corridor Sub-district. On August of 2023, the property received a demolition permit for the previously existing building, constructed in 1954, consisting of a warehouse on the ground floor and one residential unit on the second floor with a garage accessible via the alley. The subject site fronts NE 3<sup>rd</sup> Avenue, which has recently undergone streetscape improvements as part of a City funded public improvement project. A Level 4 Site Plan application has been submitted to construct a mixed-use development featuring an office on the ground floor and a residential unit on the second floor. The proposed architectural style is Miami Modern, which is being considered separately.

The site plan includes two relief requests: a waiver to reduce the landscape barrier from the required 5 feet to 2 feet and 4 inches; and a waiver to LDR Section 4.4.13(D)(a)1. to reduce the front setback requirement from 10 feet to 6 feet, which requires City Commission approval prior to site plan consideration by the approving board. The landscape waiver will be acted on with the complete site plan and does not require approval at this time. The current consideration is the front setback relief request.

**LDR Section 2.1.5(E)(5)(k)**, *The Planning and Zoning Board shall review and make recommendations to the City Commission with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR): Relief to the requirements of the Central Business District prior to the consideration of an associated site plan application.*

The applicant is requesting a reduction of the required front setback from 10 feet to 6 feet. The ground floor of the building begins at the required setback of 10 feet and the majority of the front façade (at the entrance) angles upward to a setback of six feet. The encroachment does not impact

the pedestrian clear zone or curb zone; therefore, the pedestrian experience on the sidewalk level will not be affected by the request. The proposed streetscape has been reorganized to place the pedestrian clear zone adjacent to the travel lanes and the curb zone adjacent to the property line; this reorganization responds to the unique existing condition of NE 3<sup>rd</sup> Avenue. The proposed streetscape meets the dimensional requirements in LDR Section 4.4.13(E)(2). The proposal depicts approximately six feet and four inches for the pedestrian clear zone and four feet for the curb zone.

The City Commission has to consider the request and determine if the waivers meet the standards and findings.

**LDR Section 2.4.11(B)(5), Waiver: Findings**

*Prior to granting a waiver, the granting body shall make findings that 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.*
- e. *Within the CBD, the following additional findings apply:*
  1. *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.*
  2. *The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.*
  3. *The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.*
  4. *The waiver shall not reduce the quality of civic open spaces provided under this code.*

Within the LDR, various elements are allowed to encroach into minimum setback areas; in fact, the ordinance was recently revised to clarify these allowances. Within the CBD, additional building elements surrounding building entrances, including arcades, stoops, porches, and other open-air elements are also allowed to encroach. In this case, the request is to lean the building forward at the entrance, with the amount of encroachment into the setback increasing as the height increases. In consideration of the waiver criteria, the request is not anticipated to diminish the pedestrian experience or the connectivity of the street and sidewalk network. However, it is important to note, the required pedestrian clear zone and curb zone are minimum standards. The building could setback farther, providing more than the minimum setback and a wider streetscape at the ground level and then tilt the upper facade within the minimum setbacks. It is also important to consider the small size of the lot, which does not require civic open space. The request is not anticipated to negatively affect the neighboring area or create unsafe conditions.

The PZB Staff report provides additional background and a complete analysis of the request.

On August 12, 2024, the PZB review the request and recommended approval by a vote of 6-0.

The project is currently under review with the Technical Advisory Committee (TAC), and modifications may be made to address TAC review comments. Once all technical comments have been addressed, the Level 4 Site Plan with the requested Landscape Waiver will return to City Commission via the recommendation from PZB.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Approval of the waiver is required prior to the review of the Level 4 Site Plan.