

RESOLUTION NO. 213-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO LAND DEVELOPMENT REGULATIONS SECTION 4.4.13(D)(2)(A), WHICH SETS FORTH A MINIMUM 10' SETBACK FOR BUILDING FRONTS AND REARS, TO ALLOW FOR THE FRONT SETBACK OF PHG DELRAY LOCATED AT 200 NE 5TH AVENUE TO ENCROACH 9' ALONG NE 2ND STREET, 8'-2.5" ALONG NE 5TH AVENUE, AND 9.51' ALONG THE WEST SIDE OF THE PROPERTY, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida ("the City") received a Class V Site Plan application (2019-233) ("Project") for PHG Delray located at 200 NE 5<sup>th</sup> Avenue ("the Property"); and

WHEREAS, LDR Section 4.4.13(D)(2)(a) requires a minimum 10' front and rear building setback for storefronts ("the Requirement"); and

WHEREAS, the proposed waiver request seeks relief from the Requirement, as it pertains to a fully subterranean parking level, to allow for the front setback to encroach 9' along NE 2<sup>nd</sup> Street, 8'-2.5" along NE 5<sup>th</sup> Avenue, and 9.51' along the west side of the property; and

WHEREAS, at its meeting of November 20, 2019, the Site Plan Review and Appearance Board (SPRAB) voted 5 to 0 (Perez, L'Herrou absent) to recommend approval to the City Commission of the waiver from LDR Section 4.4.13(D)(2)(a) to allow for the proposed building to encroach 9' on the south, 8'-2.5" on the east side of the property into the 10' required front setback and 9.51' into the 10' required rear setback on the west side of the property, as it pertains to a fully subterranean parking level; and

WHEREAS, the City Commission of the City of Delray Beach, Florida, reviewed the waiver request in accordance with the standards listed in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2), granting relief from LDR Section 4.4.13(D)(2)(a), to allow for encroachment into the required 10' front and rear setback, as it pertains to a fully subterranean parking level, and has considered the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings for the granting of the waiver from LDR Section 4.4.13(D)(2)(a), to allow for the front setback to encroach 9' along NE 2<sup>nd</sup> Street, 8'-2.5" along NE 5<sup>th</sup>

Avenue, and 9.51' along the west side of the Property, solely as it pertains to a fully subterranean parking level, and;

Section 3. The granting of this waiver does not apply to any portion of the property or building located at or above ground-level.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Covelli Design Associates, Inc.

Section 5. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

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Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney