



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING
100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444
(561) 243-7040

HISTORIC PRESERVATION BOARD STAFF REPORT

98 NW 5th Avenue

Meeting	File No.	Application Type
September 2, 2020	2019-261	Waiver Requests

REQUEST

The item before the Board is for recommendation to the City Commission for Waiver requests 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 mixed-use structure on the property located at **98 NW 5th Avenue, West Settlers Historic District**.

GENERAL DATA

Owner: Delray Beach Community Redevelopment Agency

Agent: Tara Toto, CRA Redevelopment Manager

Location: 98 NW 5th Avenue

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

Property Size: 0.16 Acres

Zoning: CBD – Central Business District

LUM: MD (Medium Density Residential)

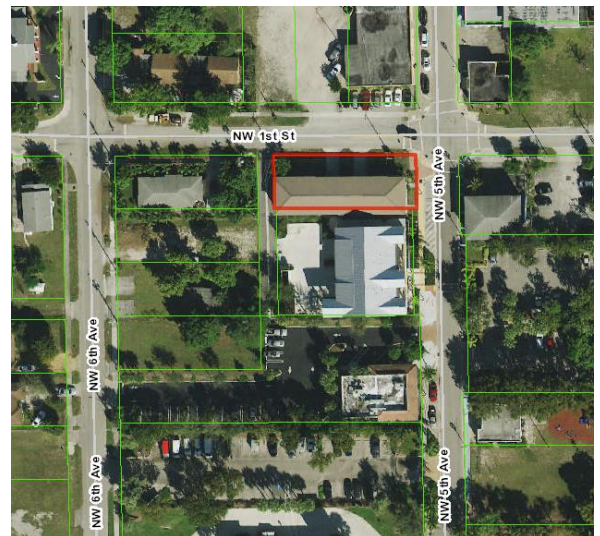
Historic District: West Settlers Historic District

Adjacent Zoning:

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

Existing Land Use: Mixed-Use

Proposed Land Use: Commercial



BACKGROUND INFORMATION 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.

The subject request involves the renovation and adaptive reuse of the existing 2-story mixed-use non-contributing building for use as retail and office. A Certificate of Appropriateness and Class III Site Plan Modification have been requested for the adaptive reuse project, which involves:

- 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;

Project Planner:

Project Planners: Katherina Paliwoda, Planner
PaliwodaK@mydelraybeach.com

Review Dates:

HPB: September 2, 2020

Attachments:

1. Architectural Plans
2. Justification Statements
3. Photos

- Interior and exterior architectural improvements; and,
- Landscaping, hardscaping, and site lighting.

Also, associated with the project are several Waiver requests from the Central Business District (CBD) zoning requirements. The waivers are required to be reviewed and acted upon by the City Commission with a recommendation from the Historic Preservation Board (HPB). Then, following the City Commissions' action on the waivers, the HPB will review and act upon the COA and Class III Site Plan application.

The applicant has requested 5 waivers from requirements listed in LDR Section 4.4.13, which are summarized below:

	Requested Waiver	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%	--	75% (East) 62% (North)

The Waivers are now before the Historic Preservation Board for review and recommendation to the City Commission.

WAIVER ANALYSIS

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.

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.

WAIVER REQUEST 1

Pursuant to LDR Table 4.4.13(C) - **Front Setback**, the required front setback is a minimum of 10' and a maximum of 15'.

The subject waiver is to allow a reduction in the required minimum front setback from 10' to 4'2" for new staircase support columns and 4'8" to the existing structure.

CBD WAIVER CRITERIA:

- 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 subject waiver request is not anticipated to create an inferior pedestrian experience as the site will have the minimum streetscape width measurements required for the zoning standards.

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

Modification of the existing structure requires a 5' right-of-way dedication for NW 5th Avenue that results in a reduced front building setback; thus, the existing 9'8" front setback will be reduced to 4'8". Further, a new support column associated with the staircase will be setback 4'2" from the front property line. The improvement is necessary to ensure structural stability of the existing staircase. The waiver request it is not anticipated to create incompatibilities with the surrounding area.

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

The subject waiver request involves proposed improvements to the structure and site. The proposed project will include improvements to the current sidewalk and streetscape along NW 5th Avenue and NW 1st Street. The improvement is anticipated to have a positive impact on pedestrian connectivity and is not anticipated to have a negative impact any adopted bicycle/pedestrian master plan.

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

The waiver request is part of a proposed adaptive reuse improvement to the structure and site, which are anticipated to have a positive impact on the surrounding area and is not anticipated to reduce the quality of civic open space on the site.

LDR FINDINGS:

- a. **Shall not adversely affect the neighboring area;**

The existing front (east) setback is 9'8" which is an existing non-conformity on the site. In addition, there is a 5' right-of-way dedication along the front of the property, adjacent to the NW 5th Avenue. Allowing relief for this request is not anticipated to have an adverse effect upon the neighboring area as it would not significantly alter the existing streetscape.

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

The waiver request is for retail/office space commercial use and will not significantly diminish the provision of public facilities. The new use of the building will allow for more an upgrade to an existing structure within the West Settlers Historic District creating additional office and retail space.

c. Shall not create an unsafe situation; and,

The waiver request allows for an upgrade and modernization to an existing structure which includes new site lighting and an updated streetscape. Further, the proposal will allow for life safety and ADA compliant improvements to the existing building; therefore, the request it is not anticipated to create an unsafe situation, as the proposal will improve any current unsafe situations on site.

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.

WAIVER REQUEST 2

Pursuant to LDR Table 4.4.13(C) - **Side Street Setback**, side lot lines facing streets are regulated by front setback requirements, which are a minimum of 10' and a maximum of 15'.

The subject waiver is to allow a reduction in the required minimum side street setback from 10' to 1'6" for the new elevator shaft and 9' for the new staircase support columns.

CBD WAIVER CRITERIA:

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 waiver request will not result in an inferior pedestrian experience as the proposed streetscape still meets the required measurements regulated within the CBD Zoning District.

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

The proposed site plan also includes a 10' Right-of-Way dedication on NW 1st Ave adjacent to the north (side) of the property which minimizes the overall width of the site. Should the relief request be granted, it is not anticipated to create any incompatibilities with neighboring structures or land use.

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 will not negatively impact the area, as the proposal also includes areas for bicycle parking and will comply with the required minimum streetscape regulations within the CBD Zoning District.

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

The waiver request is associated with a proposed adaptive reuse improvement to the structure and site, which are anticipated to have a positive impact on the surrounding area and is not anticipated to reduce the quality of civic open space on the site. The property adjacent to the NW 1st Avenue right-of-way has been utilized for driveways and parking purposes, the proposal will create landscaped and open space areas that will improve the quality of open space in the area.

LDR FINDINGS:

a. Shall not adversely affect the neighboring area;

The subject relief request pertains to allowing the addition of the elevator shaft and new staircase support columns that will into the side street setback. Allowing relief for this request would not adversely affect the neighborhood area as it would not significantly alter the neighboring area.

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

The subject structure currently sits vacant and offers no use to the public at this time. The proposed relief will assist in the rehabilitation and adaptive reuse of the structure as a new mixed-use retail/office building.

c. Shall not create an unsafe situation; and,

The subject request allows for the site to be updated with a new life safety/ADA compliant elevator and improved stairways to the existing building. Should this request for relief be approved it will improve any current life safety situations on site.

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.

WAIVER REQUEST 3

Pursuant to LDR Table 4.4.13(C) - Rear Setback, the required rear setback is a minimum of 10'.

The subject waiver is to allow a reduction in the required rear setback from 10' to 1'8" for the existing building and 3'8" for the construction of a new staircase support column.

CBD WAIVER CRITERIA:

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 is adjacent to an alley, therefore will not have any negative effects along a Primary Street.

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

The west side of the structure currently existing on site has a setback of 1'8" from the property line, leaving minimal space for any significant alterations to the rear of the site. The proposed waiver request is not anticipated to create any incompatibilities with its surrounding area.

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 waiver pertains to one of new storefront columns at the northwest corner of the building. Approval of this relief will not negatively impact any streetscape or pedestrian/bike plans.

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

The requested relief is adjacent to an alley way, therefore it is not anticipated to affect any of the civic open space requirements for the proposed site.

LDR FINDINGS:

a. Shall not adversely affect the neighboring area;

The existing rear setback is 3'6", and the project involves a 1'-6" Alley Right-of-Way Dedication, which further reduces the existing conformity. Following the right-of-way dedication, the existing building will be setback 1'8" from the rear property line and the new 12" square staircase support column will be setback 3'8" from the rear property line. This configuration is not anticipated to adversely affect the neighboring area.

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

The subject request for relief is not anticipated to significantly diminish the provision of public facilities as the rear elevation of the structure has minimal significant public use adjacent to the alley.

c. Shall not create an unsafe situation; and,

The subject request is not anticipated to create an unsafe situation as the relief request specifically pertains one newly proposed column on the rear of the structure which will not cause any significant changes to the site. The required site visibility triangles at the intersection of the north/south alley and NW 1st Avenue will be provided.

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.

WAIVER REQUEST 4

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 7'-2" instead of the required 8' on the north and east elevations.

CBD WAIVER CRITERIA

- 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 is 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 create a more proportional view of traditional commercial style windows and doors than what is existing on the façade.

- 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 appearance of the structure as well as the historic streetscape. The relief request is a minimal adjustment from the window glazing height measurement that would 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 will not have any adverse effects 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.

LDR FINDINGS:

- a. **Shall not adversely affect the neighboring area;**

The proposed relief pertains to the height of the window glazing and should not affect 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 will not diminish any of the public facility provisions.

- c. **Shall not create an unsafe situation; and,**

The subject request pertains specifically to the storefront façade design and would not create any unsafe situations on site.

- 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.

Waiver Request 5

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 front (east) elevation to measure 62% and on the side street (north) elevation to measure 75%.

CBD WAIVER CRITERIA:

- 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 openings on the front 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 square footage of the 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 percentage of openings focuses more on the visual compatibility of the side façade of the building; therefore, it should not negatively impact the streetscape.

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.

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 will provide for an adaptive reuse of the structure and site so that it is updated for public use.

c. Shall not create an unsafe situation; and,

The requested relief pertains to the front façade of the structure, which would not 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.

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

OPTIONAL BOARD MOTIONS FOR ACTION ITEMS

A. Move to continue with direction

B. Recommend approval to the City Commission of the Waiver requests associated with the proposed improvements to 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 denial to the City Commission of the Waiver requests associated with the proposed improvements to 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.

PUBLIC AND COURTESY NOTICES

Courtesy Notices are not applicable to this request

Agenda was posted on (8/26/20), 5 working days prior to meeting.