



## Cover Memorandum/Staff Report

File #: 24-832

Agenda Date: 6/18/2024

Item #: 7.C.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** June 18, 2024

RESOLUTION NO. 137-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER TO SECTION 4.5.1(F)(3) OF THE LAND DEVELOPMENT REGULATIONS TO APPROVE THE DEMOLITION OF STRUCTURES LOCATED AT 19 SE 2<sup>ND</sup> STREET, 148 SE 1<sup>ST</sup> AVENUE, AND 130 SE 1<sup>ST</sup> AVENUE PRIOR TO THE ISSUANCE OF A BUILDING PERMIT IN ACCORDANCE WITH THE CERTIFICATE OF APPROPRIATENESS FOR THE PROJECT KNOWN AS MAGNOLIA PLACE, AS MORE PARTICULARLY DESCRIBED HEREIN; AUTHORIZING THE DEMOLITION OF SAID STRUCTURES IN CONJUNCTION WITH THE ISSUANCE OF BUILDING PERMITS FOR THE FOUNDATIONS; PROVIDING A CONFLICTS CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI JUDICIAL).

### **Recommended Action:**

Review and consider Resolution No. 137-24 for a waiver request to LDR Section 4.5.1(F)(3) to allow demolition of three non-contributing structures in the Old School Square Historic District in conjunction with the issuance of foundation permits for the project known as Magnolia Place (fka Downtown Delray Villas).

### **Background:**

The subject properties are located north of SE 2<sup>nd</sup> Street on SE 1<sup>st</sup> Avenue within the south half of Lot 13 and all of Lots 14 through 19, inclusive Block 70, Amended Plat of Sundy and Cromer's Subdivision of Block 70. The properties are zoned Old School Square Historic Arts District (OSSHAD) and are located within the Old School Square Historic District.

On March 5, 2024, the City Commission, on appeal, approved the Certificates of Appropriateness, Demolitions, Variances, & Waivers (File Nos. 2023-132, 2023-133, 2023-134, 2023-135, and 2023-136) associated with Downtown Delray Villas/Magnolia Place ("Magnolia Place"). At the same meeting, the City Commission approved the Major Plat Subdivision (File No. 2023-139). Magnolia Place is approved to replat four existing lots into five lots and construct new two-story duplexes, each with a pool.

The subject request at this time is a waiver to Land Development Regulations (LDR) Section 4.5.1(F)(3), which states, "*demolition shall not occur until a building permit has been issued for the alterations or redevelopment as described in the applicable Certificate of Appropriateness*," to allow demolition of the three existing buildings upon issuance of foundation permits, instead of the issuance of permits for the full construction of each duplex. The applicant's justification statement is attached.

It is also important to note the approved plat cannot be recorded until the certificates of completion of the demolition of the existing buildings have been issued. Since the approved 5-lot plat would result in new lot lines through existing buildings, recording of the plat requires that the existing buildings are first removed.

Currently three structures are located at 19 SE 2<sup>nd</sup> Street, 148 SE 1<sup>st</sup> Avenue, and 130 SE 1<sup>st</sup> Avenue. The structure at 19 SE 2<sup>nd</sup> Street is a one-story, Ranch-style quadraplex constructed in 1950, currently classified as non-contributing. It was noted in the 2005 Florida Master Site File Historical Structure Form to contribute to the district “as a modest example of domestic architecture...” The 2020 5-District Historic Resource Resurvey recommended the property be reclassified as a contributing resource. The property located at 148 SE 1<sup>st</sup> Avenue contains a non-contributing structure constructed in the late 1970s that has not yet gained historic significance. The structure located at 130 SE 1<sup>st</sup> Avenue is non-contributing and not recommended for contributing due to modifications made to the structure in the 1980s.

It is important to note, the approvals of the Certificates of Appropriateness, Demolitions, Variances, and Waivers are not open for reconsideration. The issue under consideration is limited to the sequence of demolition and construction of the approved project.

Limitations on demolition in historic districts are a common practice to protect historic (or potentially historic) resources. Limitations like the one in Delray Beach’s Land Development Regulations stop the clearing of historic properties for future redevelopment that may not occur for years (or even decades), capitalizing on the character of the historic district, while removing contributing resources and contributing nothing in return. Maintaining existing structures for as long as possible provides opportunities for preservation if the construction plans do not progress.

For Magnolia Place, the following factors are relevant to the request:

1. The three buildings approved for demolition are not contributing structures, though 19 SE 2<sup>nd</sup> Street has potential to be reclassified as a contributing structure.
2. The plat cannot be fully executed and recorded until the existing buildings are removed.
3. The applicant proposes positive work in the form of foundation permits.
4. The infill redevelopment has approved Certificates of Appropriateness.

Ultimately, the City Commission must consider the request using the findings in LDR Section 2.4.11(B)(5).

LDR Section 2.4.11(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;

If the construction proceeds in a timely manner, the waiver will accelerate timeline for the construction of the project. The existing structures are not contributing structures and the infill development has been determined to be appropriate for the district. Approving the demolition with the issuance of positive construction permits suggests the intent to build the project, rather than hold the land in a vacant state.

- (b) Shall not significantly diminish the provision of public facilities;

Public facilities are not affected by this request. Approving the demolition will allow for the execution of the plat, which includes right-of-way dedications.

- (c) Shall not create an unsafe situation; and

An unsafe situation will not result from demolishing the buildings.

- (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 circumstances of this (and each) request are unique. The structures are not contributing in the historic district. Not being able to record the plat, creates complications with permit review, from intake through review process.

On June 5, 2024, the Historic Preservation Board reviewed the request and voted 4 to 1 to recommend approval.

**City Attorney Review:**

Approved as to legal form and sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A