

RESOLUTION NO. 127-22

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), TABLE 4.4.13(C), AND SECTION 4.4.13(E)(2) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A FRONT SETBACK OF ZERO INCHES TO SEVEN FEET, NINE INCHES AND A STREETSCAPE WIDTH OF 10 FEET FOR THE PROPERTY LOCATED AT 325 EAST ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, 325 East Atlantic Avenue LLC, represented by Gary Eliopoulos of GE Architecture, Inc. (collectively referred to as the “Applicant”), submitted a Class III Site Plan Modification application (File No. 2022-131) for the property located at 325 East Atlantic Avenue (“the Property”); and

WHEREAS, the proposed modifications include removal of the arcade, shifting portions of the front façade into the front setback area to add 396 square feet, and installing new canopies and doors on the rear elevation of the building; and

WHEREAS, the Property is located within the Central Business District (“the CBD”) Central Core Sub-district; and

WHEREAS, Section 4.4.13(D)(2)(a) and Table 4.4.13(C) the Land Development Regulations (“LDR”) set forth a minimum 10-foot and maximum 15-foot front setback for buildings in the CBD Central Core Sub-district; and

WHEREAS, the proposed improvements reduce the front setback from a range of zero feet to eleven feet four inches to a range of zero feet to seven feet nine inches, as more particularly described in Exhibit “A”; and

WHEREAS, LDR Section 4.4.13(E)(2) requires a minimum streetscape width of fifteen feet; and

WHEREAS, a streetscape width ranging from ten feet to thirteen feet is proposed; and

WHEREAS, LDR Section 2.4.7(B)(5), requires the approving body to make a finding 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 a similar circumstance on other property for another applicant or owner; and

WHEREAS, LDR Section 4.4.13(K)(5)(b)(2), which governs waivers from development standards in the CBD, also requires the approving body to 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.

(d) Shall not reduce the quality of civic open spaces provided under this code; and

WHEREAS, LDR Section 4.4.13(K)(5)(a), requires the Site Plan Review and Appearance Board to make a formal recommendation to City Commission for any waivers in the CBD that can only be granted by the City Commission; and

WHEREAS, at its meeting of July 27, 2022, the Site Plan Review and Appearance Board voted 5 to 1 to recommend approval to the City Commission of the requested waivers to LDR Sections 4.4.13(D)(2)(a), Table 4.4.13(C) and 4.4.13(E)(2); and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.4.13(D)(2)(a) and Table 4.4.13(C) and Section 4.4.13(E)(2) at a quasi-judicial hearing conducted on August 16, 2022, as well as the respective findings as set forth in the LDR.

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 that the requested waiver (1) does not adversely affect the neighboring area, (2) does not significantly diminish the provision of public facilities, (3) does not create an unsafe situation, and (4) does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstances on other property for another applicant or owner.

Section 3. The City Commission makes positive findings that the requested waiver (1) does not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls, (2) does not allow the creation of significant incompatibilities with nearby buildings or uses of land, (3) does not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle pedestrian master plan, and (4) does not reduce the quality of civic open spaces provided under this code.

Section 4. The City Commission approves the waiver request to LDR Section 4.4.13(D)(2)(a) and Table 4.4.13(C), to allow a front setback of zero inches to seven feet, nine inches as more particularly described in Exhibit “A”, which is incorporated herein.

Section 5. The City Commission approves the waiver request to LDR Section 4.4.13(E)(2) to allow a streetscape width ranging from ten feet to thirteen feet as more particularly described in Exhibit “A”, which is incorporated herein.

Section 6. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Gary Eliopoulos, GE Architecture, Inc. at 1045 E. Atlantic Avenue, Suite 3030, Delray Beach, Florida 33483.

Section 7. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 8. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

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

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney