



Legislation Text

File #: 18-080, **Version:** 1

TO: Mayor and Commissioners
FROM: Timothy Stillings, Planning, Zoning and Building Director
THROUGH: Mark R. Lauzier, City Manager
DATE: February 6, 2018

WAIVER REQUESTS TO LDR SECTION 4.4.24(F)(4) TO ALLOW BUILDING WIDTHS OF 164', 156' 4", 71' 6", and 81' 4" ASSOCIATED WITH THE MIDTOWN DELRAY PROJECT WHERE A MAXIMUM WIDTH OF 60' FEET IS PERMITTED IN THE OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD) AND A WAIVER TO LDR SECTION 4.6.4(A)(1)(a)(ii) TO REDUCE THE REAR SETBACK FOR THE PORTION OF BUILDING #1 GREATER THAN THREE STORIES FROM 30' TO 19' .
(QUASI-JUDICIAL HEARING)

Recommended Action:

Motion to approve the waiver to LDR Section 4.4.24(F)(4) to allow building widths of 164', 156' 4", 71' 4", and 81' 4", where a maximum width of 60' is permitted in the Old School Square Historic Arts District (OSSHAD), for three buildings associated with the Midtown Delray project, based on a positive finding with respect to LDR Section 2.4.7(B)(5).

Motion to approve the waiver to LDR Section 4.6.4(A)(1)(a)(ii) to reduce the rear setback for portion of Building #1 greater than three stories from 30' to 19' associated with the Midtown Delray project, based on a positive finding with respect to LDR Section 2.4.7(B)(5).

Background:

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall 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 similar circumstances on other property for another applicant or owner.

Building Width:

Per LDR Section 4.4.24(F)(4), the maximum width of a building fronting a street shall be limited to 60' and shall have a minimum separation of 15' between buildings fronting a street in a development site that contains more than one structure. The two Residential-type Inn buildings along SW 1st Avenue (164' and 156' 4"), the Inn building along Swinton Avenue (building #3, 71' 6"), and the Inn building at the southeast corner of Swinton Avenue and SE 1st Street (81' 4") exceed the 60-foot maximum.

The proposed waiver will have no meaningful impact on the neighboring area. The subject buildings border on SW 1st Avenue, which are located across from the library, surface parking lot, and the Palm Beach County parking garage. The streetscape of the library and parking garage will not be

impacted by allowing buildings wider than 60'. The wider buildings will have no impact on the provision of public facilities and will not create an unsafe situation. Given the surrounding use of land, the waiver will not grant a special privilege and would be supported for other properties with similar circumstances. Based on the above, a positive finding can be made with respect to LDR Section 2.4.7(B)(5).

Rear Setback:

LDR Section 4.6.4(A)(1)(a)(ii) requires a minimum 30 foot rear setback for the portion of the building greater than three stories if the property abuts a zoning district with a height limitation of 35 feet. LDR Section 4.6.4(A)(1) is applicable to properties subject to the development standards of the CBD. In this case, Buildings #1 and #2 on Block 61 are subject to the development standards of the CBD (by overlay) and abut OSSHAD, which limits building heights to 35 feet. Building #1 exceeds three stories in height. Therefore, this code provision requires a 30 foot rear setback for Building #1 above the third floor. LDR Section 4.6.4(A)(1)(a)(ii) also provides that the rear setback is measured from the property line to the top of the third story.

The intent of this code provision is to create a visual separation between the height differentials of the CBD and OSSHAD zoning districts. The Applicant still meets the intent of the Code despite the proposed waiver request due to the fact that both the subject building within the CBD overlay and the portion of the property to the south within OSSHAD are within the same project boundaries. On the southwest façade of Building #1, there is a significant distance separation (approximately more than 80 feet) between Building #1 in CBD and Building #9 in OSSHAD, which achieves the visual separation in excess of the minimum required. On the southeastern portion of the façade, there is a distance separation (approximately 37' 9") between Building 1 in CBD and Building #3 in OSSHAD, which also achieves the visual separation in excess of the minimum required. It is also important to note that the areas of Building #1 that do comply with the minimum rear setback are also the areas that are most visible from the adjacent right-of-ways. Therefore, the maximum amount of visual separation is achieved even if the requested waiver is granted. The remainder of the area is adjacent to the open interior courtyard. Based on the above, a positive finding can be made with respect to LDR Section 2.4.7(B)(5).

At its meeting of December 19, 2017, the Historic Preservation Board recommended denial of these two waivers to the City Commission. A more detailed analysis of each waiver is provided in the attached staff report.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

The approval of the waivers are a condition of the site plan approval.