

RESOLUTION NO. 82-20

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(E)(4)(f)1.f; APPROVING A THREE-STORY ARCADE OVER THE PUBLIC RIGHT-OF-WAY FOR THE PIERRE DELRAY II BUILDING LOCATED AT 298 EAST ATLANTIC AVENUE, 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 (2019-266) associated with the construction of a three-story office/retail building with an internal garage with roof top parking area for the Pierre Delray II Building located at 298 E. Atlantic Avenue (“the Property”) within the Central Business District (“the CBD”) with adjacent utility and paving improvements in the public Right-Of-Way (“the ROW”); and

WHEREAS, City Land Development Regulations (“the LDRs”) Section 4.4.13(E)(4)(f)1.f limits arcade areas extending over the ROW to include either a second story or a roof terrace; additional stories are not permitted; and

WHEREAS, the proposed waiver request is seeking relief from LDR Section 4.4.13(E)(4)(f)1.f to provide a three-story arcade over the SE 3<sup>rd</sup> Avenue ROW as more particularly described in Exhibit “A”; and

WHEREAS, at its meeting of August 26, 2020, the Site Plan Review and Appearance Board voted 6 to 1 to recommend approval to the City Commission of the requested waiver to LDR Section 4.4.13(E)(4)(f)1.f; and

WHEREAS, pursuant LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall find 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, pursuant to LDR Section 4.4.13(K)(5)(b)(2), in addition to the standards in LDR Section 2.4.7(B)(5), the following standards shall be used when the approving body is considering a waiver request within the CBD:

(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; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.4.13(E)(4)(f)1.f, for a proposed three-story arcade for the Property as more particularly described in Exhibit "A" in accordance with the standards listed in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2), 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 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(E)(4)(f)1.f, for a proposed three-story arcade for the Property as more particularly described in Exhibit "A".

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Bonnie Miskel, Esq., of Dunay, Miskel & Backman, LLP.

Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

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

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

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney