



Cover Memorandum/Staff Report

File #: 20-789

Agenda Date: 11/10/2020

Item #: 7.C.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: November 10, 2020

RESOLUTION NO. 171-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF A PORTION OF A SIDEWALK EASEMENT, A PUBLIC INGRESS-EGRESS EASEMENT, AND A GENERAL UTILITY EASEMENT FOR A DEVELOPMENT KNOWN AS ATLANTIC CROSSING LOCATED AT THE NORTHEAST CORNER OF ATLANTIC AVENUE AND NE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

RESOLUTION 185-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER TO SECTION 4.4.13(F)(4)(A)(2) OF THE CITY OF DELRAY BEACH LAND DEVELOPMENT REGULATIONS; APPROVING A SETBACK REDUCTION FROM 5 FEET TO 4.5 FEET FOR THE PROPERTY LOCATED GENERALLY AT THE NORTHEAST CORNER OF ATLANTIC AVENUE AND NE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Recommended Action:

Review and consider Resolution No. 171-20, for the abandonment of portions of sidewalk easement, public ingress-egress easement and general utility easement and a waiver to the building setback requirements per LDR Section 2.4.6(N)(5).

Review and consider Resolution No. 185-20, for a waiver to the building setback requirements of Land Development Regulation 4.4.13(F)(4)(a)(2) for a 6 inch encroachment into the required 5-foot building setback per LDR Section 2.4.7(B)(5).

Background:

The site plan for the development known as Atlantic Crossing was approved on January 21, 2014. The site plan consists of a mixed use project that contains 37,642 square feet of retail floor area, 39,434 square feet of restaurant floor area (includes 1,443 square feet of outdoor dining area), 83,462 square feet of office floor area, and 343 dwelling units. The project is currently under construction and is located at the northeast corner of NE 6th Avenue and Atlantic Avenue.

The development includes a sidewalk easement along NE 6th Avenue and Atlantic Avenue for portions of the public sidewalk that encroach onto the private property. The development also includes a public ingress-egress easement and general utility easement for the former NE 7th Avenue public right-of-way (abandoned). The Florida Department of Transportation (FDOT) has requested

that portions of the subject easements at the intersections of NE 1st Street and NE 6th Avenue; NE 6th Avenue and Atlantic Avenue; and, NE 7th Avenue and Atlantic Avenue be dedicated as right-of-way. This proposed dedication has resulted in the request for the abandonment of the easements. The right-of-way dedication adjusts the property line, and, as a result, the building setback. This adjustment causes the existing building at the northwest corner of NE 7th Avenue and Atlantic Avenue to encroach 6 inches into the required 5' building setback. The applicant has requested a waiver from the setback encroachment in order to avoid the creation of a non-conformity. It is important to note, that as part of the settlement agreement with Atlantic Crossing, the project is evaluated using the Land Development Regulations in effect as of January 2013, which required a minimum setback of five feet, rather than the current requirement of 10 feet with a minimum streetscape of 15 feet.

Staff Analysis:

The requested setback waiver is a result of the dedication of public right-of-way requested by the FDOT. Since the setback is taken from the right-of-way line, the approved 5' setback is reduced to 4.5'. In order to avoid the creation of a non-conformity, the applicant has requested the waiver.

Pursuant to LDR Section 2.4.7(B)(5), 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.

The proposed 6 inch encroachment will have no meaningful impact on the neighboring area since the massing on the streetscape is not changed by the conversion of the easements to public right-of-way. The physical design of the roadway, streetscape, and building position will not appear differently than approved. The requested FDOT right-of-way dedication only changes where the setback is taken from, whereas, the setback was previously taken from the edge of the easement. This minor reduction will have no impact on the provision of public facilities or create an unsafe situation. Since the need for the setback waiver is based on the dedication of the right-of-way, the waiver request is not the result of the applicant's action and would not grant a special privilege.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

None