



## Cover Memorandum/Staff Report

---

**File #:** 21-051

**Agenda Date:** 2/2/2021

**Item #:** 7.A.

---

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** February 2, 2021

RESOLUTION NO. 37-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.3.4(H)(4)(f) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING A PLANTER WALL FIVE-FEET SIX-INCHES IN HEIGHT TO BE ERECTED IN REQUIRED SETBACKS FOR THE PROPERTY LOCATED AT 1114 VISTA DEL MAR DRIVE NORTH, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL HEARING)

RESOLUTION NO. 38-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.3.4(H)(4)(I) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING STEPS AND A PLATFORM FOR THE PRINCIPAL BUILDING FIVE-FEET SIX-INCHES IN HEIGHT TO BE ERECTED IN REQUIRED SETBACKS FOR THE EXISTING BUILDING LOCATED AT 1114 VISTA DEL MAR DRIVE NORTH, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Review and consider Resolution No. 37-21 for a waiver to the Land Development Regulations (LDR) Section 4.3.4(H)(4)(f) to allow for the construction of a planter wall five-feet six-inches in height to be erected in the required setbacks for the property located at 1114 North Vista Del Mar Drive.

Review and consider Resolution No. 38-21 for a waiver to the Land Development Regulations (LDR) Section 4.3.4(H)(4)(I) to allow for the construction of steps and a platform for the principal building five-feet six-inches in height to be erected in the required setbacks for the property located at 1114 North Vista Del Mar Drive.

### **Background:**

The property consists of a portion of Lots 31 and 32 of the Delray Beach Esplanade plat, as recorded in the Plat Book 18 Page 39, of the Public Records of Palm Beach County, Florida. The lot is located in the Single-Family Residential R-1-AA Zoning District. It is nonconforming in regard to lot area as it is 8,899 square feet where 9,500 square feet is required. The lot is developed with an existing one-story residence that was built in 1947.

The owner intends to renovate and raise the existing house to be in compliance with the new flood plain maps. Once the house is raised to satisfy Federal Emergency Management Agency (FEMA) requirements, stairs of the same height will be required for access to the front door of the principal

structure. As a result, new front steps and a platform will exceed the allowable height of 3 feet within the front setback. The applicant proposes steps and terraces with garden walls that will exceed the 3-ft. limit by approximately 2'-6" for a total height of 5'-6". The applicant states that the proposed platform and garden walls are designed to soften the curb appeal/ streetscape.

The FEMA flood map shows that the subject site is located in the AE-6 flood zone Special Flood Hazard Area (SFHA), with a 6' NAVD base flood elevation. In accordance with LDR Section 4.3.4(J) (2)(b)(i), per the Florida Building Code (FBC) finish floor elevations are required to be at a minimum 1' above the FEMA base flood elevation within the SFHA, and, in addition, are allowed to have an additional foot of freeboard for long term sustainability purposes, without affecting overall building height. The plans provided show that the existing building will be raised and the finish floor elevation will be 8' NAVD, in compliance with the LDR (6' FEMA + 1' FBC + 1' FB).

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.

The Delray Beach Esplanade neighborhood is located in the AE-6 flood zone SFHA. Any new habitable additions to homes and new home construction within this area are required to conform to the new FEMA flood map and FBC requirements. In this situation, the goal is to protect the existing house by raising it to current standards. The proposed stairs and platform accessing the principal building (the home) are required to safely access the home after meeting new sustainability criteria. The granting of this waiver is necessary to preserve the existing house in its existing location on the lot and will help maintain the existing architectural character of the neighborhood. The stairs, platforms, and garden walls are designed to provide a visual transition to the raised home and will not adversely affect the neighboring area - though the increased elevation of the house will be apparent.

If granted, the waivers would not have an effect on the provision of public facilities; the intended use is for the continued use of the existing single-family house .

Raising the existing home to meet the new FEMA flood map requirements generally improves the level of safety of the property. The proposed design will allow for safe access to the home and will not create an unsafe situation for the surrounding area. While the planter wall is not required for safety, the inclusion of it with the proposal will also not create an unsafe situation, but rather a flush addition to the existing house, which provides safer transition than the alternative of proposing it at the code allowable maximum of 3-feet instead.

This type of waiver may become more common to address other homes built below current FEMA requirements in the City, and the use of garden walls and other transitions in the design would be encouraged under those circumstances to provide for visual transitions.

The granting of these waivers will meet Policy HOU 4.2.2 of the Housing Element of the Comprehensive Plan, "Incorporate quality design compatible with the character of the city,

sustainable / green incentives, flood zone area and base flood elevation compliance in housing design standards.” If granted, the waivers for the residential structure would not be considered a special privilege as they are necessary to comply with the new FEMA flood requirements.

The applicant’s justification letter is included as an attachment.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A