

RESOLUTION NO. 58-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.4.13(F)(9)(b) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING THE USE OF AN ASPHALT SHINGLE ROOFING MATERIAL FOR THE PROJECT KNOWN AS ATLANTIC GROVE, 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 IV Site Plan, Landscape Plan, Elevations, Certificate of Appropriateness, and Waiver application (2020-281-COA-WAI-HPB) for the project known as “Atlantic Grove” (“the Property”) as more particularly described in Exhibit “A”, from Atlantic Grove Partners, LLC (“Applicant/Property Owner”), which includes a waiver request to allow the use of an asphalt shingle roofing material; and

WHEREAS, the portion of the Property where the improvements are proposed is located within the West Settlers Historic District; and

WHEREAS, the Property is zoned Central Business District “CBD” in the West Atlantic Neighborhood Sub-District; and

WHEREAS, Section 4.4.13(F)(9)(b) of the City Land Development Regulations (“LDRs”), requires the use of Energy Star roof-compliant, high reflectance, and high emissivity roof, or installation of a “green” roof; and

WHEREAS, the applicant proposes an asphalt shingle roofing material that does not meet the energy efficiency requirements outlined in LDR Section 4.4.13(F)(9)(b); and

WHEREAS, at its meeting of March 3, 2021, the Historic Preservation Board (“HPB”) voted 4-0 to recommend approval to the City Commission of the requested waiver to LDR Section 4.4.13(F)(9)(b); and

WHEREAS, LDR Section 2.4.7(B)(5), which requires the approving body to 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;
- (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; and

WHEREAS, LDR Section 4.4.13(K)(5)(b)(2), requires the approving body to make findings 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, the requested waiver of relief from LDR Section 4.4.13(F)(9)(b) was presented to the City Commission at a quasi-judicial hearing conducted on April 6, 2021; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.4.13(F)(9)(b) to allow use of an asphalt shingle roofing material, and has considered the respective findings as set forth in the LDRs.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. 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 waivers would be granted under 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; (2) does not allow the creation of significant incompatibilities within nearby buildings or uses of land; (3) does not erode the connectivity of the street 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(F)(9)(b) to allow for an asphalt shingle roofing material for the Property as more particularly described in Exhibit "A", which is incorporated herein.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Timothy Hernandez, Atlantic Grove Partners, LLC, at 200 Congress Park Drive, Suite 201, Delray Beach, FL 33445.

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 _____, 2021.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

“EXHIBIT A”
ATLANTIC GROVE DEVELOPMENT

PARCEL 1:

PARCEL ID NO. 12-43-46-16-01 -036-0180

PARCEL ID NO. 12-43-46-16-01-036-0200

PARCEL ID NO. 12-43-46-16-01 -036-0160

PARCEL 2:

PARCEL ID NO. 12-43-46-17-60-018-0010

PARCEL ID NO. 12-43-46-17-60-018-0021

PARCEL 1:

LOTS 16 THROUGH 21, INCLUSIVE, BLOCK 36, REVISED PLAT OF BLOCK 36, TOWN OF DELRAY, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE(S) 38, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH: THAT PORTION OF THE WEST HALF OF THE 16 FOOT ALLEY RIGHT OF WAY, BLOCK 36, MAP OF LINTON (NOW DELRAY BEACH), ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 3, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND LYING EAST OF AND ADJACENT TO LOTS 16 THROUGH 21, INCLUSIVE, BLOCK 36, REVISED PLAT OF BLOCK 36, TOWN OF DELRAY, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 38, PUBLIC RECORDS OF PALM BEACH, COUNTY, FLORIDA.

PARCEL 2:

TRACTS R-1 AND R-2 OF THE PLAT OF ATLANTIC GROVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 96, PAGE 55, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.