



Legislation Details (With Text)

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Title:	RESOLUTION NO. 02-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(D)(1)(b)(2)(b) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A SIDE INTERIOR SETBACK OF TWO FEET THREE INCHES ALONG THE WEST PROPERTY LINE FOR THE PROJECT KNOWN AS PIERRE DELRAY II, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL).				
	RESOLUTION NO. 03-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(E)(4)(f)(1)(f) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A THIRD STORY WITH ROOFTOP PARKING FOR AN ARCADE EXTENDING OVER THE PUBLIC RIGHT-OF-WAY FOR THE PROJECT KNOWN AS PIERRE DELRAY II, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL).				
Sponsors:	Development Services Department				
Indexes:					
Code sections:					
Attachments:	1. Agenda Cover Report, 2. Res. No. 02-23 - Setback Waiver - Pierre Delray II 298 E Atlantic, 3. Res. No. 03-23 - Arcade Waiver - Pierre Delray II 298 E Atlantic, 4. Staff Report, 5. Waiver Justification Statement - West Setback, 6. Waiver Justification Statement - Arcade, 7. Pierre II Plans, 8. DDA memo Pierre Delray II, 9. Legal Review Res 02-23 Setback Waiver Pierre Delray II 298 E Atlantic Ave, 10. Legal Review Res 03-23 Arcade Waiver Pierre Delray II 298 E Atlantic Ave				

Date	Ver.	Action By	Action	Result
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TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: January 10, 2023

RESOLUTION NO. 02-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(D)(1)(b)(2)(b) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A SIDE INTERIOR SETBACK OF TWO FEET THREE INCHES ALONG THE WEST PROPERTY LINE FOR THE PROJECT KNOWN AS PIERRE DELRAY II, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL).

RESOLUTION NO. 03-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(E)(4)(f)(1)(f) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A THIRD STORY WITH ROOFTOP PARKING FOR AN ARCADE EXTENDING OVER THE PUBLIC RIGHT-OF-WAY FOR THE PROJECT KNOWN AS PIERRE DELRAY II, AS MORE PARTICULARLY DESCRIBED HEREIN;

PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL).

Recommended Action:

Review and consider Resolution Nos. 02-23 and 03-23, granting waivers related to setbacks and arcade requirements in LDR Section 4.4.13 for a Class IV Site Plan Modification application for the Pierre Delray II project located at 298 E. Atlantic Avenue.

Background:

In 2020, a Class V Site Plan application was approved for a three-story mixed-use office and commercial building (the "Pierre Delray II") at 298 East Atlantic Avenue, located at the SW corner of Atlantic Avenue and SE 3rd Street. A Class IV Site Plan Modification application (File No. 2022-080) has been submitted for the project, which includes the incorporation of a .11-acre parcel on the south side of the original parcel into the project and the subsequent modification of the approved site plan to expand the footprint of the previously approved building onto the recently acquired land.

The architectural design and proposed uses remain consistent with the prior approval; however, the square footage of the building has expanded, and the amount devoted to each specific use (restaurant/retail/office) is proposed to be modified. Given the increased building size and the larger area devoted to restaurant use, the amount of required parking is also increasing.

Two waivers are requested with the Class IV Site Plan Modification. These waivers seek to expand (onto the additional land added to the project) allowances afforded by the waivers that were approved as part of the original project approval. The waivers relate to the side setback and arcade and are detailed below.

Setback Waiver:

The setback waiver request is from LDR Section 4.4.13(D)(1)(B)(2)(b), which requires a minimum side interior setback of 5 feet when an opening (window or door) is located on the side facade of the interior property line. The request is to reduce the required side interior setback from 5 feet to 2 feet 3 inches along the west property line, adjacent to the FEC railroad corridor. Prior to the expansion of the building onto the newly added land to the south, a similar waiver was approved allowing a 2 feet 2 3/8 inches setback. The waiver has to be reconsidered to extend the setback relief onto the newly added southern parcel. Since the property adjoins the FEC Railroad corridor, no adjacent building will be affected by granting the waiver. Allowing the openings on the west elevation improves the aesthetics and visual impact of the new structure. It's also important to note that the building curves in the southwest corner so the new portion of the building that requires the waiver is minimal.

Arcade Waiver:

Pursuant to LDR Section 4.4.13(E)(4)(f)(1)(f), projects that implement the Arcade frontage type, which extends over the public right of way, are permitted to have a second story of the arcade, subject to an agreement with the City. This provision is afforded in the code to encourage the creation of open-air, covered pedestrian elements along downtown streets. Arcades by definition extend into the public right-of-way over the sidewalk to capture passersby to entice potential customers; a parallel sidewalk is discouraged. The position and floor elevation of the arcades on the Pierre Delray II project are in compliance with the LDR.

The inclusion of the usable area on the second floor for both habitable space and parking is permitted; however, the extension above the second story to include a third story with rooftop parking requires a waiver. On October 6, 2020, a waiver was approved for the Class V application, allowing a

third story with rooftop parking on the arcade along SE 3rd Avenue. The arcade was approximately 93 feet in length.

With the addition of the new parcel to the south, a new waiver is needed to extend the arcade with a third story and rooftop parking along SE 3rd Avenue. The length of the arcade has increased from 93 feet to 126 feet, approximately 33 feet. The third story of the arcade includes portions of the parking garage, including parking areas on the roof of the third story. As designed, with a 7'-2" tall parapet encircling rooftop parking, the arcade proposed will both visually appear and function as a four-level structure. As the length of the building grows, the visual impact of the proposed arcade structure also increases. It is important to consider that it is not feasible to provide the requisite internal circulation for a parking structure given the limited lot width dimension without taking advantage of the area that extends over the arcade.

On October 12, 2022, the Site Plan Review and Appearance Board (SPRAB) voted 5 to 1 to recommend approval to the City Commission of the requested setback waiver and 6 to 0 to recommend approval to the City Commission of the requested arcade waiver. The SPRAB report is attached and provides additional analysis.

The Downtown Development Authority has also forwarded a recommendation of approval for the Class IV site plan modification.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

SPRAB will review the Class IV Site Plan Modification following action by the City Commission on the Waiver requests.