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Title: 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 (QUASI-JUDICIAL).

RESOLUTION NO. 83-20: 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, (D)(1)(b)2.b APPROVING SIDE INTERIOR SETBACKS OF 2'-2?" FOR THE WEST SIDE OF THE PROPERTY 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 (QUASI-JUDICIAL).

RESOLUTION NO. 84-20: 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(D)(2)(a) AND TABLE 4.4.13(C); APPROVING A TEN-INCH FRONT SETBACK FOR THE SECOND AND THIRD STORIES FOR THE NORTHEAST CORNER OF THE PROPERTY 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 (QUASI-JUDICIAL).

Sponsors: Development Services Department

Indexes:

Code sections:

Attachments: 1. Agenda Cover Report, 2. Pierre Delray II - Waiver (1) - Res. 82-20 - Arcade, 3. Pierre Delray II - Waiver (2) - Res. 83-30 - Side Interior Setback, 4. Pierre Delray II - Waiver (3) - Res. 84-20 - Front Setback Corner Clip, 5. Pierre Delray II - Waivers - Exhibit A for Res. 82-20, 83-20, 84-20, 6. Pierre Delray II - Waivers - Location Map, 7. Pierre Delray II - Waivers - SPRAB Staff Report, 8. Pierre Delray II - Waiver (1) - Justification Statement, 9. Pierre Delray II - Waiver (2) - Justification Statement, 10. Pierre Delray II - Waiver (3) - Justification Statement, 11. Pierre Delray II - Waivers - Site Plan Exhibit, 12. Pierre Delray II - Waivers - REFERENCE ONLY - CLV Site Plans, 13. Pierre Delray II - Waivers - Legal Review

Date	Ver.	Action By	Action	Result
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TO: Mayor and Commissioners
FROM: Anthea Giannotes, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: October 6, 2020

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 (QUASI-JUDICIAL).

RESOLUTION NO. 83-20: 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, (D)(1)(b)2.b APPROVING SIDE INTERIOR SETBACKS OF 2'-2³/₈" FOR THE WEST SIDE OF THE PROPERTY 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 (QUASI-JUDICIAL).

RESOLUTION NO. 84-20: 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(D)(2)(a) AND TABLE 4.4.13(C); APPROVING A TEN-INCH FRONT SETBACK FOR THE SECOND AND THIRD STORIES FOR THE NORTHEAST CORNER OF THE PROPERTY 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 (QUASI-JUDICIAL).

Recommended Action:

Review and consider Resolution Nos. 82-20, 83-20, and 84-20.

Background:

The subject site is zoned Central Business District (CBD) and is in the Central Core sub-district. The 0.42 acre parcel is located at 298 E. Atlantic Avenue and SE 3rd Avenue, which situated at the southwest corner of E. Atlantic Avenue and SE 3rd Avenue, adjacent to the Florida East Coast (FEC) Railroad. The subject site is currently a vacant parking lot zoned Central Business District (CBD), is in the Central Core sub-district, has Required Retail Frontage, and is partially within the Atlantic Avenue Limited Height Area, which limits building height to three stories and 38 feet. The Pierre Delray II is a proposed three-story mixed-use building, approximately 52,453 sq. ft. with retail uses on the first floor, office uses in the upper stories, and a parking garage with rooftop parking.

The development proposal includes three waiver requests, which require City Commission action prior to consideration of the Class V Site Plan application by the Site Plan Review and Appearance Board (SPRAB):

1. A waiver from LDR Section 4.4.13 (E)(4)(f)1.d, which sets forth that the arcade area extending over the public right-of-way may contain a second story or incorporate roof terraces; additional stories are not permitted. A three-story arcade is proposed over a portion of the SE 3rd Avenue right-of-way.
2. A waiver from LDR Section 4.4.13 (D)(1)(b)2.b., which sets forth that buildings with openings, including doors, windows, and glass wall materials, facing an interior side property line must setback a minimum five feet from the property line, whereas a 2'-2³/₈" side interior setback on

the west side (adjacent to the FEC train tracks) is proposed.

3. A waiver from LDR Section 4.4.13 (D)(2)(a) Table (C) Dimensional Requirements by Central Business District (CBD) Sub-District, which sets forth a front setback of 10 feet minimum and 15 feet maximum for buildings in the CBD Commercial Core Sub-district, whereas a front setback of 10 inches is proposed for the second and third stories only at the northeast corner of the property.

Waiver 1: Arcade Waiver Analysis

The CBD requires the use of one of seven frontage types. One of the options is an arcade, which per the code, “*extends into the public right-of-way, over the streetscape area, creating a shaded environment ideal for pedestrians.*” The project proposes arcades along both E. Atlantic Avenue and SE 3rd Avenue. Per LDR Section 4.4.13(E)(4)(f)1.f, arcades may extend over the public right-of-way and contain a second story or roof terraces. The arcades proposed along E. Atlantic Avenue and the northern portion along SE 3rd Avenue have a second story with office uses and an open terrace accessible from the third story. The arcade along the southern portion of the site on SE 3rd Avenue proposes an arcade with two upper stories, requiring a waiver.

As designed, the proposed three-story arcade provides the minimum 15-foot wide streetscape along SE 3rd Avenue and provides 10 feet of unobstructed covered pedestrian sidewalk. The 2nd and 3rd stories of the arcade would accommodate parking garage spaces. The required parking for the project is 57 spaces. It is important to note that with the waiver, the garage will accommodate approximately 65 parking spaces. If the waiver is not granted, the garage will accommodate approximately 34 spaces (a 23-space deficiency).

The proposed three-story arcade is on a portion of the site outside of the Limited Height Area, so the maximum building height is 4 stories and 54 feet. The proposed waiver would not increase the maximum building height allowed in this area of the CBD. The proposed building is three stories and 38'-6" tall, including the three-story arcade. In terms of safety, if granted, the arcade will provide a protected pedestrian area and will comply with the sight line visibility requirements. Additionally, a right-of-way agreement will be required, which will establish maintenance and liability responsibilities.

Waiver 2: Interior Side Setback Waiver Analysis

Pursuant to LDR Section 4.4.13 (D)(1)(b)2.b., Buildings with openings, including doors, windows, and glass wall materials, facing an interior side property line must setback a minimum of five feet from the property line. The intent of the LDR is to ensure air, light, and access is available on the property with the side-facing openings - and to prevent conflicts as adjoining properties develop, some without side setbacks. The site has two front property lines (E. Atlantic Avenue and SE 3rd Avenue) and two side interior property lines (south and west adjoining the FEC train tracks). The proposed building design has openings on the west side facing the FEC train tracks. Per the code, these openings require a minimum 5' setback along the west side interior lot line. The waiver request proposes a 2'-2³/₈" side interior setback, in-lieu of the minimum 5' required, which equates to a 2'-9¹/₈" setback reduction. Granting the waiver requested appears to have no adverse effect on the neighboring property, since the adjoining parcel is the FEC train tracks and it is highly unlikely that an abutting building would be built. If granted, the waiver will allow for openings on the façade, rather than create a large expanse of blank wall and it is unlikely conflicts with the view or ventilation will occur over time. The setback reduction does not affect a sidewalk, bike path or an adopted pedestrian/bicycle plan.

Waiver 3: Front Setback for 2nd and 3rd Stories

Pursuant to LDR Section 4.4.13(D)(2)(a) and Table 4.4.13 (C), the front setback for buildings in the CBD Central Core Sub-District are required to be 10 feet minimum and 15 feet maximum. LDR Section 5.3.1 (D)(3), requires a 20'x20' corner clip dedication be provided when a property is located at an intersection formed by two public rights-of-way in the CBD. The corner clip required provides for adequate right-of-way area for the safe movement of pedestrians. As a result of the corner clip dedication, the property line is re-adjusted and creates a chamfer at the northeast corner of the property. As designed, the ground floor corner of the building is also chamfered providing for the 10' setback on the first floor, adjacent to the sidewalk. The request for relief is to allow for a 10-inch front setback for the 2nd and 3rd stories at the northeast corner of the property, creating an overhang over the entry. If granted, the waiver will not impact the pedestrian area. Also, the waiver would not diminish the minimum 15-ft. streetscape area.

Required Findings LDR Section 4.4.13 (K)(5)(b)(2)

- 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 use 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.

LDR Section 4.4.13 (D)(2) Table (G), lists that sites smaller than 20,000 sf are not required to provide civic open space. The proposed Pierre Delray II site is approximately 18,880 sf, therefore, no civic open space is required.

Required Findings LDR Section 2.4.7 (B)(5)

- 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.

On August 26, 2020, the Site Plan Review and Appearance Board (SPRAB) voted 6 to 1 recommending approval to the City Commission for waiver (1) LDR Section 4.4.13 (E)(4)(f)1.f. (two-story arcade height limit), 7 to 0 recommending approval to the City Commission for waiver (2) LDR Section 4.4.13 (D)(1)(b) 2.b. (Side Interior setback), and 7 to 0 recommending approval to the City Commission for waiver (3) LDR Section 4.4.13 (D)(2)(a) (Front setbacks).

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

N/A