



## Legislation Details (With Text)

**File #:** 18-118      **Version:** 1      **Name:**  
**Type:** Request      **Status:** Passed  
**File created:** 2/9/2018      **In control:** City Commission  
**On agenda:** 3/6/2018      **Final action:** 3/6/2018  
**Title:** WAIVER REQUESTS TO LDR SECTION 4.4.24(F)(4) TO ALLOW BUILDING WIDTHS OF 71' 6", and 81' 4" ASSOCIATED WITH THE MIDTOWN DELRAY PROJECT WHERE A MAXIMUM WIDTH OF 60' FEET IS PERMITTED IN THE OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD). (QUASI-JUDICIAL HEARING)  
**Sponsors:** Planning & Zoning Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Memo, 2. Class V HPB Staff Report, 3. Revised Midtown Delray site plan, 4. revised waiver board order

Date	Ver.	Action By	Action	Result
3/6/2018	1	City Commission	approved	

**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Planning, Zoning and Building Director  
**THROUGH:** Mark R. Lauzier, City Manager  
**DATE:** March 6, 2018

WAIVER REQUESTS TO LDR SECTION 4.4.24(F)(4) TO ALLOW BUILDING WIDTHS OF 71' 6", and 81' 4" ASSOCIATED WITH THE MIDTOWN DELRAY PROJECT WHERE A MAXIMUM WIDTH OF 60' FEET IS PERMITTED IN THE OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD). (QUASI-JUDICIAL HEARING)

**Recommended Action:**

Motion to approve the waiver to LDR Section 4.4.24(F)(4) to allow building widths of 71' 6", and 81' 4", where a maximum width of 60' is permitted in the Old School Square Historic Arts District (OSSHAD), for two buildings associated with the Midtown Delray project, based on a positive finding with respect to LDR Section 2.4.7(B)(5).

**Background:**

At its meeting of February 6, 2018, the applicant requested that the project be postponed to the March 6, 2018 to modify the development proposal to eliminate the waivers to the building width for buildings #8 and #9 (located along SW 1st Avenue) and the rear setback for building #1 (fronting Atlantic Avenue). Revised plans were submitted that demonstrate the building width waivers for buildings #8 and #9 are no longer required. Further, building #1 has been revised to eliminate the requested waiver to the rear setback. The waivers for building #3 (west of Swinton Avenue, south of Atlantic Avenue) and the building at the southeast corner of SE 1st Street and Swinton Avenue still remain.

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.

**Building Width:**

Per LDR Section 4.4.24(F)(4), the maximum width of a building fronting a street shall be limited to 60' and shall have a minimum separation of 15' between buildings fronting a street in a development site that contains more than one structure. The Residential-Type Inn building along Swinton Avenue (building #3, 71' 6"), and the Inn building at the southeast corner of Swinton Avenue and SE 1<sup>st</sup> Street (81' 4") exceed the 60-foot maximum.

The proposed waiver will have no meaningful impact on the neighboring area given the proximity to those portions of the development subject to the CBD regulations. A more detailed analysis of each waiver is provided in the attached staff report. The wider buildings will have no impact on the provision of public facilities and will not create an unsafe situation. Given the surrounding use of land, the waiver will not grant a special privilege and would be supported for other properties with similar circumstances. Based on the above, a positive finding can be made with respect to LDR Section 2.4.7(B)(5).

At its meeting of December 19, 2017, the Historic Preservation Board recommended denial of this waiver to the City Commission.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

The approval of the waivers are a requirement for the site plan to be approved.