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Title: RESOLUTION NO. 127-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(D)(2)(a), TABLE 4.4.13(C), AND SECTION 4.4.13(E)(2) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A FRONT SETBACK OF ZERO INCHES TO SEVEN FEET, NINE INCHES AND A STREETScape WIDTH OF 10 FEET FOR THE PROPERTY LOCATED AT 325 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:

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Date	Ver.	Action By	Action	Result
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TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Department
THROUGH: Terrence R. Moore, ICMA-CM
DATE: August 16, 2022

RESOLUTION NO. 127-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(D)(2)(a), TABLE 4.4.13(C), AND SECTION 4.4.13(E)(2) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A FRONT SETBACK OF ZERO INCHES TO SEVEN FEET, NINE INCHES AND A STREETScape WIDTH OF 10 FEET FOR THE PROPERTY LOCATED AT 325 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 No. 127-22.

Background:

The subject property, located at 325 East Atlantic Avenue and formerly known as "Hand's", is on the north side of East Atlantic Avenue between NE 3rd Avenue and NE 4th Avenue. The property is located within the Central Business District (CBD) Central Core Sub-District. This portion of East Atlantic Avenue is classified and subject to the provisions for a Primary Street and Required Retail

Frontage. It is also located within the Atlantic Avenue Limited Height Area and Atlantic Avenue Parking District. A Class III Site Plan Modification request has been submitted for modifications to the front facade of the building including the removal of the arcade and the addition of a total of 396 SF by enclosing portions of the existing recessed entries on the front facade, and new canopies and doors on the rear elevation.

The removal of the arcade changes the applicable minimum setback requirements. Buildings with arcade frontages are positioned based upon the depth of the arcade. With its removal, front setbacks regulations of 10 feet to 15 feet are measured from the property line. Without the arcade, the remaining portion of the building is positioned in a non-conforming location. In addition, the proposed infilling of the recessed entries require a waiver to the minimum front setback requirements as this modification increases the building's encroachment into the minimum front setback area and reduces the minimum streetscape width.

LDR Section 4.4.13(K)(5)(b)1.b., Front Setback Waivers

Section 2.4.7(B)(1)(b) authorizes the City Commission to waive certain other regulations that no other official or board have the authority to waive. Waivers to decrease the minimum front setback depth are permitted if the reduction would not result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2).

LDR Section 4.4.13(E)(2) Streetscape standards. *Front setback areas, which include side setback areas facing streets, shall be detailed to augment public right-of-way design, to establish shaded, continuous routes for pedestrians, and to organize landscaping and other elements to ensure a superior public realm.*

- (a) *Minimum Streetscape Width. The combination of public sidewalk (located within the right-of-way) and hardscape (located in front setback areas) shall provide a minimum streetscape area no less than 15 feet in width, measured from the back of curb..."*

This section of the LDR sets forth minimum standards for the curb zone, which accommodates street trees, lighting, signs, etc., pedestrian clear zone, and design standards for the remaining front setback.

Minimum Streetscape Required: 15 feet

Curb Zone: 4 feet (min.)

Ped. Clear Zone: 6 feet (min.)

Remaining Front Setback Area: 5 feet (min.)

LDR Section 4.4.13(K)(5)(b)2. CBD Waiver Standards

2. Within the CBD, the following standards shall be used by the City Commission, SPRAB or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5):

- 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 uses 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 2.4.7(B)(5), Waiver: Findings

Prior to granting a waiver, the granting body shall make findings that granting of a 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.*

The historic importance of Atlantic Avenue is evident in the desire to conduct a cultural resource survey of the renowned corridor; consideration of the proposed improvements will have an impact on the results of the survey, as the historic architectural integrity of the structure will be affected by the proposed modifications. The proposed changes reuse the existing building and maintain the historic, moderate scale of the building, while accommodating new retail stores. The building, both with or without the arcade, is compatible with the nearby building and uses. Initial analysis also suggests that the building could qualify for historic designation both in its original design (without the arcade) or maintaining the arcade (as the feature has become significant over time).

The arcade in its current position and form provides a clear zone of 10 feet, providing for a superior pedestrian route. The removal of the arcade requires the installation of new street trees to provide shade, which are provided in the application. The City has a goal of planting a significant number of trees in the City and this change creates a new location for additional trees. However, new street trees will also result in a narrowed pedestrian route than exists.

The proposed encroachment of the new facades into the front setback area will further reduce the streetscape width in front of the storefront windows. As a result, the opportunity for passersby to pause to look into the display windows, out of the flow of traffic, will be reduced. Stopping in front of the windows will likely periodically block the pedestrian clear zone on the City's most active street. The proposed modifications increase the front setback and streetscape width non-conformities.

Review By Others

The **Downtown Development Authority (DDA)** reviewed the full Class III Site Plan Modification request at its meeting of June 21, 2022. The need for a waiver had not been identified at that time. A recommendation to approve the proposed changes was carried 6 to 1, with the suggestion that the "*developer individualizes the façade look of each different store, to make them distinctive from each other.*" The DDA Memo is attached and provides additional information.

The **Site Plan Review and Appearance Board (SPRAB)** considered the waiver request at its meeting of July 27, 2022; a recommendation of approval was made on a vote of 5 to 1 (Gray dissenting). The complete review and analysis provided to the SPRAB is in the attached Staff Report.

City Attorney Review:

Approved as to form and sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

Review of the project by SPRAB is dependent on the waiver.