



## Legislation Text

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File #: 17-746, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Timothy R. Stillings, AICP  
**THROUGH:** Chief Neal de Jesus, Interim City Manager  
**DATE:** September 26, 2017

A WAIVER REQUEST TO LDR SECTION 4.3.4(K) DEVELOPMENT STANDARD MATRIX TO REDUCE THE SIDE INTERIOR FOR THE THIRD FLOOR FROM 30' TO 20' IN THE RM (MULTIPLE FAMILY RESIDENTIAL) ZONING DISTRICT FOR 917 BUCIDA ROAD. (QUASI-JUDICIAL HEARING)

**Recommended Action:**

Motion to Approve the waiver request to LDR Section 4.3.4(K) Development Standard Matrix to reduce the third floor side interior setback from 30' to 20' in the RM (Multiple Family Residential) zoning district for 917 Bucida Road.

**Background:**

The proposed project is a Class V Site Plan Modification which includes a landscape plan and architectural elevations. The proposal consists of the demolition of the existing 1946, 12-unit cooperative and the construction of a four unit, three-story condominium building. Each unit will have a two car garage, guest parking, separate entry, pool and a driveway. The buildings will have flat roofs, balconies, and simple modern elements. The two units to the west that overlook the Intracoastal will have roof top appurtenances.

Pursuant to LDR Section 4.3.4(K) Development Standard Matrix; the required side interior setback for the 1<sup>st</sup> and 2<sup>nd</sup> floor is 15' and the third floor is 30'. The applicant has provided the 15' setback for the first two floors and is requesting the third floor setback at 20'. The applicant is requesting the 20' setback on the northwest corner of the property closest to the Intracoastal.

Pursuant to LDR 2.4.7(B)(b), Special Power to the City Commission: Notwithstanding, the City Commission may grant a waiver to any provision of these regulations when there is no other avenue for relief available in these regulations.

The applicant has provided a justification letter which is included with this item.

**Waiver Analysis:**

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.

The granting of this waiver will not adversely affect the neighboring area, diminish the provision of public facilities and is not creating an unsafe situation. The current building is at a 9'8" setback on all three floors, therefore the 20' setback would decrease the nonconformity. This appears to be a unique situation to where the current building has a significant nonconforming setback requirements. The applicant proposes to come into compliance with all current setbacks except for the northwest corner closest to the Intracoastal, which will not affect any neighboring properties. The applicant proposes to redevelop the site which will greatly enhance the neighborhood. This will not result in the granting of a special privilege as each application that is reviewed has its own set of circumstances that are taken into consideration. Subsequently, a positive finding with respect to LDR Section 2.4.7(B)(5) can be made.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Finance Department Review:**

N/A

**Funding Source:**

N/A

**Timing of Request:**

The waiver is required prior to the Site Plan Review and Appearance Board (SPRAB) consideration of the Class V Site Plan.