



## Legislation Text

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File #: 19-248, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Chief Neal de Jesus, Interim City Manager  
**DATE:** March 12, 2019

A WAIVER REQUEST TO LDR SECTION 4.1.4(B) AND (D) USE OF LOTS OR RECORD TO PERMIT "MARKET RATE" RESIDENTIAL STRUCTURES ON LOTS WHICH HAVE FRONTAGE OF LESS THAN 50 FEET. (QUASI-JUDICIAL HEARING)

**Recommended Action:**

Motion to approve the waiver request to LDR Section 4.1.4(B) and (D) to permit "market rate" residential structures on lots which have frontage of less than 50 feet based on positive findings per LDR Section 2.4.7(B)(5).

**Background:**

The subject property, located at 302 SE 5th Street (PCN:12-43-46-21-01-005-0010) on the southeast corner of SE 3<sup>rd</sup> Avenue and SE 5<sup>th</sup> Street, is a combination of two platted, Lots of Record described as Lot 1 and 2, Block 5, Osceola Park, (Plat Book 3, Page 2 of the Palm Beach County Public Records). The combined lots measure 130.20 feet deep with a frontage and width of 93.70 feet; 0.28 acres (12,300 sq. ft). The subject property is located in the Osceola Park Neighborhood and is zoned R-1-A (Single Family Residential). The combined lots currently contain a 980 sq. ft., one-story residence built in 1948. The combined lots are two platted, Lots of Record, each with frontage less than 50 feet wide. Currently, these two lots can be developed with a workforce housing unit on each lot. The requested waiver is to allow these lots to be developed with market rate units.

The Osceola Park Neighborhood is characterized as a mixture of small lots located adjacent to larger lots. A majority of the existing residential structures in this area were constructed before 1956. Prior to 1990, the development of lots was permitted by right as long as the lot qualified as a lot of record and complied with all other requirements of that zoning district regardless of the lot width. In 1990, with the adoption of Land Development Regulations (LDR) Section 4.1.4(B), the construction of a residential structure on any lot, within a residential zoning district, was restricted to lots with a minimum frontage of 50 feet. In 2006, the LDRs were amended to encourage the development of Lots of Record having at least 40 feet of frontage in R-1-A, RL (Multiple Family Residential - Low Density), and RM (Multiple Family Residential) zoning districts as long as the units were workforce housing. This rule was intended to encourage the development of smaller lots, increase the inventory of workforce housing, and to assure that the design of a structure on narrow lots would contribute positively to the streetscape of the area.

**Waiver Analysis:**

Pursuant to Land Development Regulations (LDR) Section 4.1.4(B), a residential structure shall not

be constructed on any lot, within a residential zoning district, which has frontage of less than 50 feet. Pursuant to LDR Section 4.1.4(D), lots of record having at least 40 feet of frontage may be used for Workforce Housing, as long as the workforce housing unit meets the typical designs represented by the sketches set forth in the LDRs, the lot is a minimum of 4,000 square feet, and the unit conforms to setbacks. The original platted lot frontage (46.9 feet) of each lot of record is less than 50 feet which currently would only allow for the construction of a workforce housing unit on each lot. The request is to maintain the property in its original platted configuration as two individual lots of record for the construction of a market rate residential unit on each lot.

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 applicant's justification letter is included as an attachment.

In reviewing the required findings, this waiver request will not affect the neighboring area and the existing streetscape pattern. The Osceola Park neighborhood consists of single-family residences with a variety of architectural styles constructed on lots of record (or combinations of lots of record) ranging from 45 feet to 100 feet wide. The properties on the two adjacent blocks to the south and north of the subject properties were platted with a lot frontage of 46.9 (same as the subject properties). Presently, some of these properties have been combined or reoriented which enlarged the frontage dimension, however, approximately one half of the lots remain with the same platted frontage of 46.9 feet. Moreover, one of the visions included in the adopted 2004 Osceola Park Neighborhood Redevelopment Plan is to improve the physical appearance of the neighborhood through enhanced police activity, code enforcement and beautification. The subject proposal will replace the aged residential structure with two market rate, conforming residential structures, and it will allow for a quality development without limiting the architectural design. Therefore, the grant of this request will be consistent with the existing lot frontage pattern and will contribute to the beautification of the existing neighborhood streetscape.

Provisions of public facilities would not be affected, and unsafe situations would not be created by permitting residential structures on lots which have frontage of less than 50 feet.

Moreover, due to the rising cost of land in Delray Beach, the design and unit type restrictions imposed by the requirement of workforce housing on lots of record having at least 40 feet of frontage, but less than 50 feet, hinders the development of smaller, infill lots with market rate units. The requirement for workforce housing on lots of record between 40 and 50 feet wide [LDR Section 4.1.4 (D)] is intended to support the provision of workforce housing units, but it limits the enhancement and beautification of neighborhoods with these lots such as Osceola Park. Allowing these smaller, infill lots to be developed with market rate or workforce housing units will eliminate vacant lots, improve the streetscape, and increase values within the respective neighborhoods. The development of these smaller, infill lots as market rate, rather than workforce housing, still meets one of the key goals of the Housing Element of the Comprehensive Plan "To ensure that an adequate supply of quality new

housing is available in a range of types and cost levels to meet the needs of the City's future population". Therefore, the granting of the waiver would not be considered a special privilege, and the same waiver request would be granted to allow infill development of lots of record, beautification of an existing streetscape, and to preserve the character of an established neighborhood.

A public notice was provided to all property owners located within 500 ft. of the perimeter of the subject property [Section 4.1.4(C) and 2.4.2(B)(1)(n)].

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A