



Legislation Text

File #: 22-753, Version: 1

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: August 9, 2022

RESOLUTION NO. 97-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(J)(1)(C) OF THE LAND DEVELOPMENT REGULATIONS, ALLOWING THE SUBMISSION OF A REQUEST TO ABANDON THE RIGHT-OF-WAY LOCATED IN THE 200 BLOCK OF SOUTHEAST SECOND AVENUE IN THE CENTRAL BUSINESS DISTRICT, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI JUDICIAL).

Recommended Action:

Review and consider Resolution No. 97-22.

Background:

The applicant has requested the partial abandonment of an unimproved "T" alley located on the eastern portion of the 200 block of SE 2nd Avenue, a City of Delray Beach Right-of-Way (ROW). The alley right-of-way is within the area zoned Central Business District (CBD) and is in the Railroad Corridor sub-district. The attached justification letter indicates the abandonment is requested to accommodate adaptive reuse of the property. However, prior abandonments within the CBD have been used to accomplish greater density (dwelling units per acre) and intensity (floor to area ratio, lot coverage) or to agglomerate lots. The abandonment was not submitted with a site plan.

If the requested waiver and abandonment are approved, a utility easement is necessary given the presence of utilities in the existing right-of-way.

Pursuant to The CBD Land Development Regulations (LDR) 4.4.13(J)(1)(c), Streets and Block: Streets and Alleys "*Streets and alleys may not be abandoned, vacated or closed to accommodate new development.*" Thus, the applicant is requesting a waiver to the LDR and seeks to incorporate the proposed abandonment area into the property for reuse of the area.

Pursuant to LDR Section 4.4.13 (K)(5)(a), "Section 2.4.7(B)(1)(a) authorizes the waiver of certain regulations irrespective of a property's zoning district. Those waivers may be considered within the Central Business District (CBD) in accordance with those specific provisions. When reviewing applications that include waivers that can only be granted by the City Commission, the Site Plan Review and Appearance Board (SPRAB) shall make formal recommendations to the City Commission regarding those waivers prior to site plan consideration."

Waivers within the CBD are subject to two sets of findings:

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.

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.

The attached SPRAB staff report provides a full analysis of the request and the findings. On May 25, 2022, the waiver request was presented to the SPRAB; the board offered the following comments:

The Board was not supportive of

- Assemblages of land which could occur because of the abandonment.

The Board was supportive of

- Redevelopment and adaptive re-use of the area.
- Requiring easements or relocation of utilities as a requirement of the abandonment.
- The abandonment's potential to provide more green space, albeit restrained by utility access easements required by the city.

The SPRAB Board voted 7-0 to recommended approval of the waiver request to the City Commission.

City Attorney Review:

Resolution No. 97-22 is approved as form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

If approved, the application for abandonment of the alley way can be processed and would require City Commission action for approval.