



## Legislation Text

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File #: 22-1775, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence Moore, City Manager  
**DATE:** January 17, 2023

RESOLUTION NO. 23-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING WAIVER REQUESTS TO SECTION 4.1.4(B) AND SECTION 4.1.4(D) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING THE CONSTRUCTION OF A SINGLE-FAMILY NON-WORKFORCE HOUSING STRUCTURE FOR THE PROPERTY LOCATED AT 318 SE 5TH STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Review and consider Resolution No. 23-23, waiver requests to Land Development Regulations (LDR) Section 4.1.4(B) and 4.1.4(D) to allow for the construction of a non-workforce housing residential structure on a lot with a frontage of less than 50 feet.

### **Background:**

The subject property located at 318 SE 5<sup>th</sup> Street, is a lot of record described as Lot 5, Block 5, "OSCEOLA PARK", according to Plat Book 3, Page 2, as recorded in the office of the Clerk of the Circuit Court and for Palm Beach County. The property is located in the Osceola Park Neighborhood and has a zoning designation of Single Family Residential (R-1-A) with Land Use Map designation of Low-Density (LD). The property currently contains a 653 sq. ft., one-story residential home built in 1930.

The original plat of Osceola Park was recorded on January 17, 1913 and established one of Delray Beach's first planned neighborhoods. Approximately one-half of all buildings within the neighborhood were constructed before 1956, and the core of the neighborhood has maintained single-family residences. Most of the existing lots have remained in the original plat configuration from 1913; however, there are several lots that have been combined.

Based on the original plat, the neighborhood demonstrates a mix of parcels ranging from 43 feet to 70 feet in width. Specifically, the subject property (Lot 5, Block 5) was platted at 46.80 feet in width by 130.20 feet long. The development standards for the R-1-A zoning district requires a minimum lot frontage of 60 feet in width. However, pursuant to LDR Section 1.3.2, "any lot or parcel which qualifies as a lot of record may be used only as allowed in Section 4.1.4".

Pursuant to 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.*" LDR Section 4.1.4(D), adjusts this regulation for legal lots of record with at least 40 feet of frontage in the R-1-A, RL, and RM zoning districts for the express purpose of workforce housing. The lot is 46.80 feet wide and therefore, if the

existing home is demolished, the provision requiring workforce housing would be applied to new construction.

The request is for a waiver to allow the construction of a new residential home on a lot less than 50 feet in width and without requiring it to be a workforce housing unit, which requires a deed restriction limiting the purchaser/renter's income level and requiring specific architectural design criteria in the Land Development Regulations.

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 to allow the construction of a new market-rate single-family residence is included as an attachment.

While new construction of a single-family residence will likely not have an adverse effect on the neighboring area, the need for workforce housing in the City continues to grow, and is supported by the Always Delray Comprehensive Plan. The requirement for workforce housing on lots less than 50 feet wide was implemented in 2006 to support the need for affordable housing in Delray Beach. Prior to that time, there was not an avenue for construction on small lots, even if they were legal lots of record. It is important to note, the regulation was intended to be an incentive - providing an avenue of development that was not otherwise available for vacant parcels, while meeting a growing need for workforce housing in the City.

It is important to note, that for the middle-class families, homeownership is a main source of wealth. Limiting the value when established homes age and require redevelopment or significant investment, may be an un-intended consequence of the regulation. If the lot was vacant or part of a larger property consisting of assembled lots of record, granting the request might be considered a special privilege; however, in this case, the property has retained the original single-family residence since 1930, as a non-workforce housing unit. The applicant has owned the home since 1992, and according to data available on the Palm Beach Property Appraiser website, the property has had a Homestead exemption for *at least* the past 10 years (older tax records are not available online).

Granting the waiver would not affect the provisions of public facilities as the use remains the same. Unsafe situations would not be created by allowing a market-rate home to be constructed on the lot with less than 50 feet of frontage; the condition is common throughout the neighborhood and all new construction would be required to meet current building code requirements..

The Housing Element in Always Comprehensive Plan established a "Residential Neighborhood Stabilization Map" identifying Osceola Park in the "Needing Revitalization" category. Policy NDC 2.7.18 requires the assessing of any development application to the vision and strategies in the Osceola Park Redevelopment Plan Update (2019).

Thee adopted 2019 Osceola Park Neighborhood Redevelopment Plan includes recommendations to develop conditions that increase homeownership, address energy efficient home improvements, and

preserve the community's character. The Osceola Park Redevelopment Plan intends to maintain the aesthetics of the early and mid-20th century neighborhood - and smaller lots contribute to the character of the area. A link between homeownership and both improved property maintenance and longer lengths of tenure were also identified in the Neighborhood Plan.

The purpose of the Housing Element in Always Delray Comprehensive Plan is to “*analyze local housing and neighborhood conditions, local housing trends and housing issues, identify existing and projected deficits in the supply of housing to meet the needs of the city's population, and develop policies to improve the livability of neighborhoods, provide a range of housing choices, improve the equity of the housing market and increase efficiency of the housing delivery system.*” The provision of workforce housing is a high priority for the City and is supported by numerous comprehensive plan policies. Conversely, lots smaller than the current zoning district regulations anticipate exist throughout the eastern area of the City and requests for waivers to allow for redevelopment without workforce housing requirements have increased as the housing stock ages. In March of 2019, similar waivers were granted to 302 SE 5<sup>th</sup> Street in Osceola Park, allowing for a property comprised of two legal lots of record to split back into two properties, without being subject to a workforce housing requirement. In November of 2020, similar waivers were granted to 822 N Lake Avenue in the La Hacienda neighborhood to allow for the demolition and reconstruction of a house, without a workforce housing requirement. Another similar waiver request was also denied, when the request was made post demolition of the original home.

**City Attorney Review:**

City Attorney has reviewed for form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Construction of a non-workforce housing unit is dependent on the approval of the waiver.