



Cover Memorandum/Staff Report

File #: 25-1543

Agenda Date: 12/8/2025

Item #: 7.C.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: December 8, 2025

RESOLUTION NO. 238-25: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER TO SECTION 4.4.13(F)(4)(b)2.OF THE 2013 LAND DEVELOPMENT REGULATIONS TO REDUCE THE FRONT SETBACK REQUIREMENT FROM FIVE FEET TO TWO FEET SIX INCHES, FOR THE PROJECT LOCATED AT 601 AND 777 EAST ATLANTIC AVENUE, ALSO KNOWN AS ATLANTIC CROSSING, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL)

Recommended Action:

Review and consider Resolution No. 238-25, approval of a waiver request to reduce the required front setback from five feet to two feet and six inches along a portion of Building IV-S adjacent to NE 7th Avenue, associated with a Level 1 Site Plan modification for Atlantic Crossing.

Background:

Atlantic Crossing, originally approved on January 21, 2014 by the City Commission, is a mixed-use development with retail, restaurants, offices, and 328 dwelling units. The project was also approved with a Conditional Use to increase the maximum building height for Building III and VI-S, as well as increase the overall site's density to 40 dwelling units per acre with the provision that the project provides workforce housing.

Four waivers were approved by City Commission on March 1, 2017. The waivers were as follows:

1. LDR Section 5.3.1(D)(2), to reduce the minimum right-of-way width from 60 feet for the new east/west road between NE 6th Avenue and NE 7th Avenue to 30 feet.
2. LDR Section 6.1.3(B)(1)(f), to reduce the minimum 8-foot-wide sidewalk to 6 feet along the north side of the new east/west road between NE 6th Avenue and NE 7th Avenue.
3. LDR Section 4.4.13(F)(4), to reduce the minimum and maximum building setbacks for the buildings and frontages along the new east/west road between NE 6th Avenue and NE 7th Avenue.
4. LDR Section 4.6.18(B)(14)(iv)(2), to reduce the minimum wall transparency of 75% on the ground floor to 37.5% for the building on the south side of the new east/west road between NE 6th Avenue and NE 7th Avenue.

On April 12, 2017, City Commission approved a settlement agreement with the Owner of the project. The settlement agreement specified that the applicable review criteria is from the LDR and Comprehensive Plan in effect at the time the application was submitted in 2013. Please note: the project was approved prior to the adoption of the current CBD form-based code in Section 4.4.13. As a result, the form-based CBD code that was adopted in 2015 via Ordinance No. 02-15 is not

applicable to the development. Staff has noted the subject LDR provision in the analysis below and a copy of the regulations is attached.

The applicant has submitted a Level 1 Site Plan modification for Building IV-S and the scope of work is limited to the following:

- Removal and modification of balconies
- Relocation of rooftop equipment and screening
- Addition of restroom cabana on the elevated pool deck
- Extension of the porte-cochere

Due to the modifications of the porte-cochere, the applicant is requesting relief from **(2013) LDR Section 4.4.13(F)(4)(a)2.**, to reduce the required minimum front setback from five feet to two feet and six inches. The proposed encroachment accommodates the porte-cochere, the structural pier that carries the load of the art installation (approved by SPRAB in 2019 and will span across NE 7th Avenue), and the rooftop pool deck on the third floor. The encroachment extends approximately eight linear feet on the ground floor, and cantilevers approximately 52 linear feet on the second floor. The approved streetscape along NE 7th Avenue adjacent to the request includes an eight-foot-wide sidewalk and a 10-foot-wide landscape area where bicycle racks are also provided.

Relief from **LDR Section 4.4.13(F)(4)(a)2.**, to reduce the required minimum front setback for buildings with nonresidential uses on the ground floor from five feet to two feet and six inches for Building IV-S along NE 7th Avenue within the Phase II plan for Atlantic Crossing. The attached PZB Staff report provides a full analysis of the request.

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; 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.*

Analysis:

The five-foot wide setback is mostly a landscaped area. The proposal will have a structural column within the setback area, and the second floor will extend to cover the encroachment area overhead. The reduced setback will not impact the 8-foot wide sidewalk, and is not anticipated to affect any public facility or create an unsafe situation. As the project adheres to the 2013 LDR, the Board should consider if the granting of the waiver aligns with the broader goals of the LDR, which supports a superior pedestrian environment and connected pedestrian network, and evaluate if the justification provided by the applicant supports this goal.

On November 17, 2025, the PZB voted 7 to 0 to recommend approval of the application. The overall Board comments supported the request noting the encroachment would not negatively affect the public sidewalk and pedestrian experience. Many of the Board members expressed excitement for the future installation of the art piece.

Once the City Commission has taken final action on the waiver, review of the full Level 1 Site Plan

Application will be finalized with final action under administrative purview, pending no other outstanding issues or concerns. Level 1 Site Plan applications are not listed on the Appealable Report, as they are limited to landscape and other minor modifications.

City Attorney Review:

Resolution is approved as to form and legal sufficiency.

Funding Source/Financial Impact:

Not applicable.

Timing of Request:

Approval of the Waiver is required prior to approval of the Level 1 Site Plan Modification.