

**Waiver Justification - Awnings**  
**220 NE 1<sup>st</sup> Street**

Delray Trio LLC (“Petitioner”) is the owner of the +/- 2.5 acre site that consists of Lots 1-3, Onnen Subdivision, which is within the original Block 84, Town of Delray, and which is generally located on the southeast corner of NE 2<sup>nd</sup> Avenue and NE 1<sup>st</sup> Street (“Property”) in the City of Delray Beach (“City”). The Property was formerly known as Ocean City Lumber Company, and contains five (5) commercial buildings with a total leasable area of 47,306 square feet. The Property has a land use designation of Commercial Core and is zoned Central Business District (“CBD”). More specifically, it is located within the Pineapple Grove Main Street Area. The Property is currently developed with +/- 47,206 square feet of buildings occupied with a variety of commercial, restaurant and personal service uses, including a +/- 10,000 square foot gym. At this time, Petitioner is seeking to make façade modifications in order to provide for a restaurant use within the existing +/- 9,960 square foot building (Building 100) located at the northwest corner of the Property (“Site Plan”). As part of the Site Plan, Petitioner is proposing to significantly modify the appearance of the Property in order to create a more vibrant and inviting restaurant space that will help activate this prominent intersection with the downtown. More specifically, Petitioner is proposing to modify the façade of the existing structure in the Main Street Vernacular style with a simple structure consisting of large doors that will transform the appearance of this old brick office building and open it up to a sidewalk café with attractive awnings (“Project”). The architectural style will flow seamlessly with the neighboring PurLife fitness center building to the south and activate this prominent corner of the Pineapple Grove district that is currently dark due to the vacant office space. Rather, the proposed restaurant will create life at this prominent intersection and help transition pedestrian activity from Atlantic Avenue to the Pineapple Grove area.

In order to create the necessary vibrancy and support the restaurant use in this location, having a functional and covered outdoor seating and sidewalk café component is crucial. However, pursuant to the City’s Land Development Regulation (“LDR”) Section 4.4.13(D)(1)(b)1.b., *Building Placement*, awnings may encroach into the setback a maximum of four feet. However, the LDRs also encourage storefronts shaded by awnings and arcades and LDR Section 4.4.13 (E)(4)(e) notes an awning must project a minimum of five feet (5’) and sloped 15 to 35 degrees. In this instance, the building is an existing structure that is situated only ten feet (10’) from the property line. As such, the maximum canopy permitted by the City’s LDRs is the minimum five foot (5’) awning prescribed by the City’s LDRs. Such an awning does not provide sufficient coverage for pedestrians walking by or those sitting outside to enjoy a meal. Instead, Petitioner is proposing a horizontal canopy that extends to the property line in order to make functional use of the outdoor areas and provide adequate coverage for pedestrians and patrons.

In order to do so, Petitioner is respectfully requesting the following waiver:

*Waiver from LDR Section 4.4.13(D)(1)(b)1.b to allow an awning that extends to the property line  
 (“Waiver”)*

In support of the Waiver, the Applicant will demonstrate compliance with LDR Section 2.4.11. Pursuant to LDR Section 2.4.11, the Applicant will demonstrate that the waiver a) will not adversely affect the neighboring area; b) will not significantly diminish the provision of public facilities; c) will not create an unsafe situation; d) will 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; and e) within the CBD, that the waiver 1. will not result in an inferior pedestrian experience along a primary street, such as exposing parking garages or large expanses of blank walls; 2. will not allow the creation of significant incompatibilities with nearby buildings or uses of land; 3. will not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan; and 4. will not reduce the quality of civic open spaces provided under the LDR.

*Section 2.4.11 Waiver Criteria:*

*a) The waiver will not adversely affect the neighboring area.*

The Waiver will not adversely affect the neighboring area. As noted above, the City's LDRs encourage the use of awnings, canopies and arcades to cover pedestrians who are utilizing the outdoor spaces adjacent to buildings. Such covered areas provide shade, protection from the elements and opportunities to enjoy meals outside within a sidewalk café area while being protected from the sun or rain. Pursuant to the City's Architectural Design Guidelines, storefronts in particular should be designed to accommodate shade for pedestrians. The Petitioner is proposing to revitalize an old and vacant building and bring new life to this important corner within the downtown area that connects Atlantic Avenue to Pineapple Grove. As noted above, in order to successfully do so, the covered outdoor area is incredibly important to the success of any new business in this location. Petitioner has designed a unique and attractive covered area that responds to this unique location in the City and will create vibrancy and help ensure the success of this business. Allowing a canopy that extends further into the setback and out to the property line will not adversely affect the neighboring area, but rather allow this vacant building to be revitalized with a use that will successfully connect Atlantic Avenue with the Pineapple Grove subdistrict. As such, it will not adversely affect the neighboring area.

*b) The waiver will not significantly diminish the provision of public facilities.*

The Applicant's request for a Waiver will not impact the provision of public facilities. The Waiver request is unrelated to the provision of public facilities. Further, necessary lighting, signage, and utilities have been accommodated through the current design to serve the Project and neighboring areas. As a result, the Waiver will not diminish the provision of public facilities.

*c) The waiver will not create an unsafe situation.*

The Applicant's request for a Waiver will not create an unsafe situation. As noted above, LDRs encourage the use of awnings, canopies and arcades to cover pedestrians who are utilizing the outdoor spaces adjacent to buildings. Such covered areas provide shade, protection from the elements and opportunities to enjoy meals outside within a sidewalk café area while being protected from the sun or rain. Pursuant

to the City's Architectural Design Guidelines, storefronts in particular should be designed to accommodate shade for pedestrians. The Petitioner is proposing to revitalize an old and vacant building and bring new life to this important corner within the downtown area that connects Atlantic Avenue to Pineapple Grove. Pedestrians will still be able to safely travel along the pedestrian clear zone without interference and may have the opportunity to seek some shade. As a result, the Waiver will not create an unsafe situation.

*d) The waiver will 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.*

Approval of the Waiver does not result in the grant of a special privilege. As noted above, the City's LDRs encourage the use of awnings, canopies and arcades to cover pedestrians who are utilizing the outdoor spaces adjacent to buildings. Such covered areas provide shade, protection from the elements and opportunities to enjoy meals outside within a sidewalk café area while being protected from the sun or rain. Pursuant to the City's Architectural Design Guidelines, storefronts in particular should be designed to accommodate shade for pedestrians. The Petitioner is proposing to revitalize an old and vacant building and bring new life to this important corner within the downtown area that connects Atlantic Avenue to Pineapple Grove. As noted above, in order to successfully do so, the covered outdoor area is incredibly important to the success of any new business in this location. Petitioner has designed a unique and attractive covered area that responds to this unique location in the City and will create vibrancy and help ensure the success of this business. Allowing a canopy that extends further into the setback and out to the property line will not adversely affect the neighboring area, but rather allow this vacant building to be revitalized with a use that will successfully connect Atlantic Avenue with the Pineapple Grove subdistrict. Certain waivers have been approved for other awnings and arcades that extend further into the setback areas to allow for greater shade and pedestrian coverage. As such, the Waiver will not result in the grant of a special privilege.

*e) Within the CBD, the following additional findings apply:*

*1. The waiver will not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.*

The Waiver will not result in an inferior pedestrian experience along a Primary Street. Rather, the waiver will allow for additional shade, protection from the elements and coverage for pedestrians and patrons of the proposed restaurants. Pursuant to the City's LDRs and Architectural Design Guidelines, storefronts in particular should be designed to accommodate such shade for pedestrians. The Petitioner is proposing to revitalize an old and vacant building and bring new life to this important corner within the downtown area that connects Atlantic Avenue to Pineapple Grove. As noted above, in order to successfully do so, the covered outdoor area is incredibly important to the success of any new business in this location. Petitioner has designed an attractive covered area that responds to this unique location in the City and will create vibrancy and help ensure the success of this business. Allowing a canopy that extends further into the setback and out to the property line will not result in an inferior pedestrian experience, but will create opportunities for pedestrians in this area.

Further, the Project is proposing to revitalize a dark corner that provides the entrance to the Pineapple Grove community. Currently, with the parking garage to the west, office uses on the ground level to the north and this vacant and dated office space, this prominent intersection is lacking vitality, especially in the evening hours. Petitioner is proposing to revitalize this dated and lifeless building structure in the Main Street Vernacular style with a simple structure consisting of large doors that will transform the appearance of this old brick office building and open it up to a sidewalk café with attractive awnings. The architectural style will flow seamlessly with the neighboring PurLife fitness center building to the south and activate this prominent corner of the Pineapple Grove district that is currently dark due to the vacant office space. As a result, the proposed restaurant will create life at this prominent intersection and help transition pedestrian activity from Atlantic Avenue to the Pineapple Grove area and enhance the pedestrian experience from what exists today.

*2. The waiver will not allow the creation of significant incompatibilities with nearby buildings or uses of land.*

The requested Waiver will not result in incompatibilities with nearby buildings or uses of land. The Project is located adjacent to the PurLife Fitness to the south, ground floor office and upper floor residential to the north, and the City's parking garage to the west. With this vacant structure, there is currently a dead space in terms of the vibrancy of the entranceway into the Pineapple Grove community. While Petitioner is seeking to deviate from the maximum encroachment into the setback, the Waiver will provide for a design that provides more coverage for pedestrians and patrons of the proposed restaurant. The architectural style will flow effortlessly with the neighboring PurLife fitness center building to the south and activate this prominent corner of the Pineapple Grove district that is currently dark due to the vacant office space. As a result, the proposed restaurant will create life at this prominent intersection and help transition pedestrian activity from Atlantic Avenue to the Pineapple Grove area and enhance the pedestrian experience from what exists today.

*3. The waiver will not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan*

The requested Waiver will not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle or pedestrian master plan. The Project continues to provide for a minimum six foot (6') pedestrian path along NE 2<sup>nd</sup> Avenue that lines up with the existing brick and concrete path that continues along this roadway and a minimum seven foot ten inch (7'10") pedestrian path along NE 1<sup>st</sup> Street that continue in line with the existing pathway traveling east and will not impact the pedestrian or bicycle network.

*4. The waiver will not reduce the quality of civic open spaces provided under this code.*

The requested Waiver does not negatively impact the quality of civic open spaces. The Property was previously approved with a +/- 4,355 square foot civic space along NE 2<sup>nd</sup> Avenue and between buildings 45 and 114, as identified on the site plan (the PurLife fitness center and Raman Lab Eatery buildings). The Project will have no impacts to this civic open space plaza.