



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD STAFF REPORT

Fifth Avenue Townhomes

Meeting	File No.	Application Type
March 17, 2025	2024-056-PMA-PZB	Final Plat
Applicant	Owner	Authorized Agent
Fifth Avenue Delray, LLC	Fifth Avenue Delray, LLC	Scott Elk, Scott A. Elk, P.A. and Thomas F. Carney, Jr., Carney Stanton P.L.

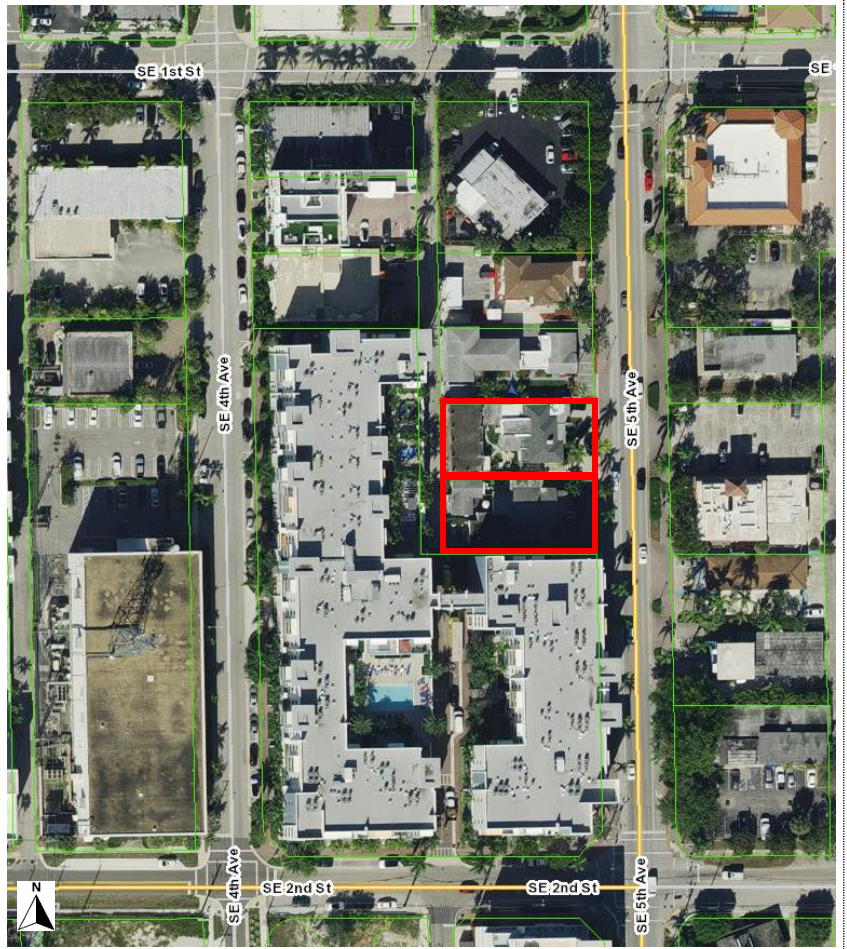
Request

Provide a recommendation to the City Commission for the certification of the Final Plat, "Fifth Avenue Townhomes", a replat of Lot 15, Less the East 10 feet thereof and Lot 16, Less the East 10 feet thereof, Block 102, Town of Delray, as recorded in Plat Book 1, Page 3 of the Public Records of Palm Beach County, associated with the construction a three-story, five-unit townhouse development located at 142 and 152 SE 5th Avenue.

Background Information

The development site is located on the west side of SE 5th Avenue (South Federal Highway) between SE 1st Street and SE 2nd Street, and is currently addressed as 142 and 152 SE 5th Avenue. The subject properties are zoned Central Business (CBD) District, Central Core Sub-district, and have a Land Use Map Designation (LUM) of Commercial Core (CC).

The original plat, Town of Delray (formerly known as Town of Linton), was platted in 1895. The survey, dated September 22, 2023, depicts the property as two 61.43-foot x 125.02-foot lots.



Project Planner:

Alexis Rosenberg, Senior Planner and
Susana Rodrigues, Senior Planner
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Attachments:

- Final Plat
- Survey
- Approved Level 2 Site Plan
- Approved Landscape Plan

Both properties were previously developed with commercial and residential buildings, which have since been demolished. On October 23, 2024, a Level 2 Site Plan, landscape waiver, and an internal adjustment to the side interior setbacks for swimming pools was approved for the construction of a three-story, five-unit townhouse development. The proposed plat establishes the new fee-simple lots for each new townhouse property (rendering below).



Plat Description

The proposed “Fifth Avenue Townhomes” plat creates five fee-simple townhouse lots to implement the approved site plan. The proposed lot dimensions are outlined in the table below and shown on the image in the following section.

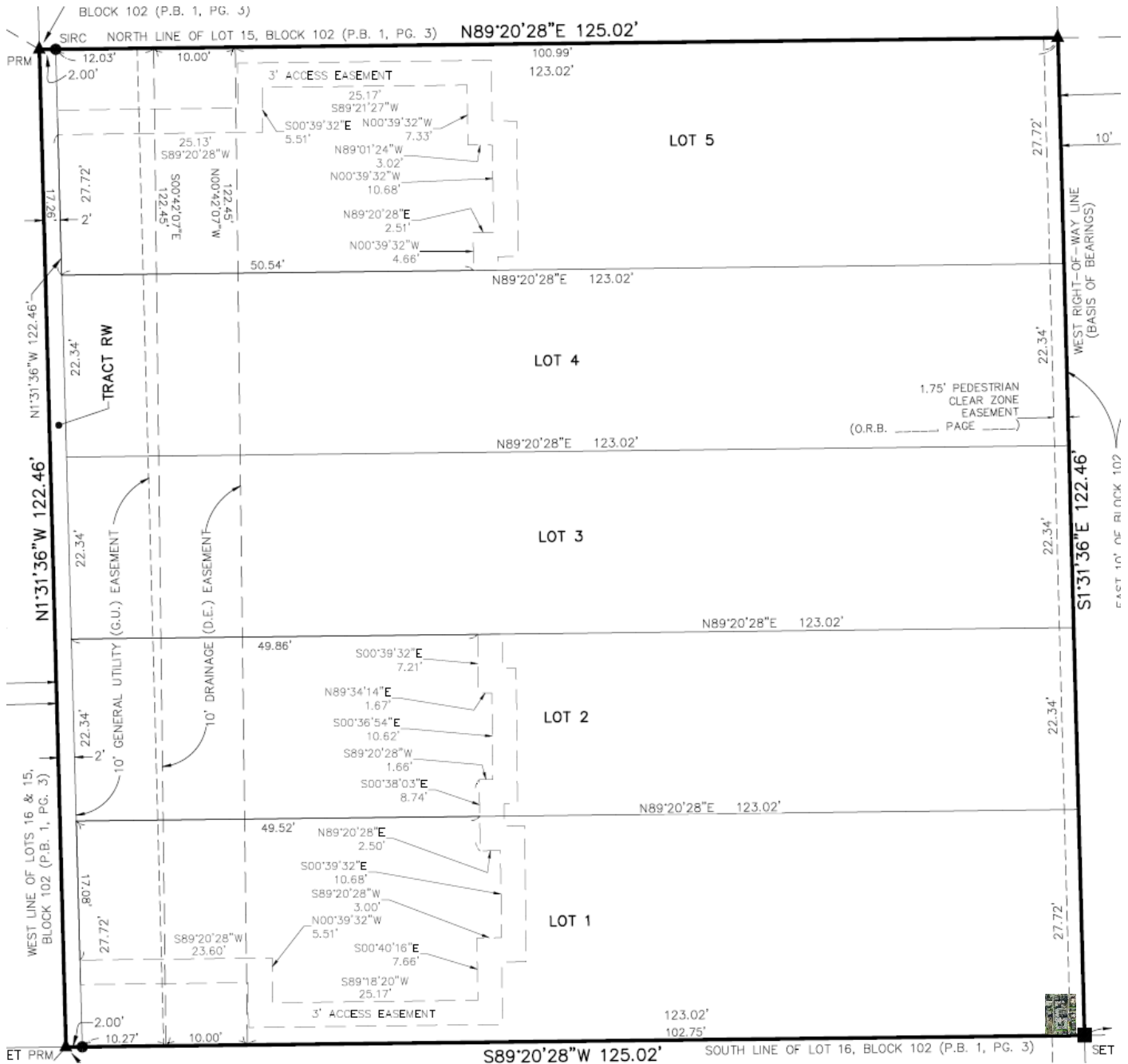
LOT	SQUARE FEET (2,000 required)	ACRES	LOT WIDTH (20 feet required)	LOT DEPTH (no min required)
Lot 1	3,410.1	0.08	27.72 feet	123.02 feet
Lot 2	2,748.3	0.06	22.34 feet	
Lot 3	2,748.3	0.06	22.34 feet	
Lot 4	2,748.3	0.06	22.34 feet	
Lot 5	3,410.1	0.08	27.72 feet	

Key elements of the plat include:

- Dedication of Tract RW to the City, containing 2,449.2 square feet for future widening of the alleyway (the alleyway is currently 18 feet wide);
- 10-foot general utility easement at rear of property for maintenance of public and private utilities (e.g. storm drainage, electrical power, gas service, telephone lines, and cable television);
- 10-foot drainage easement at rear of property, dedicated to each respective lot owner for the purpose of drainage maintenance; and

- 3-foot access easement to allow rear access to internal lots (Lots 2-4).

The proposed plat is shown below, and attached in full-size.



Review and Analysis

LDR Section 2.4.8(B)(1), Major subdivision (platting)

The major subdivision process, which generally involves the creation of more than three individual lots, shall involve both the Planning and Zoning Board and the City Commission. The City Commission shall be the final authority in the subdivision review process. The City Commission may approve or deny a plat.

As the proposed plat involves the creation of five fee-simple lots, the plat is being processed as a Major Subdivision.

LDR Section 3.1.1, Required Findings

Prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.

A complete review and analysis of the request based on the Required Findings of **LDR Section 3.1.1** is provided below.

LDR Section 3.1.1(A), Land Use Map

The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.

The subject property has a Land Use Map designation of CC and a zoning designation of CBD. Pursuant to **Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts**, of the Always Delray Comprehensive Plan, CBD is a preferred implementing zoning district of the CC land use designation. Pursuant to **LDR Table 4.4.13(A)**, multiple-family residential is a principal use within CBD, Central Core Sub-district. Therefore, the resulting use of land is compatible with the underlying land use. On October 23, 2024, a Level 2 Site Plan was approved for the property, establishing a density of 15 dwelling units per acre (five units), where the CBD, Central Core Sub-district allows a maximum density of 30 dwelling units per acre.

LDR Section 3.1.1(B), Concurrency

Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.

Water and Sewer. The residential development will be serviced through connection to an existing eight-inch sewer main in the alley and a 12-inch PVC watermain along SE 5th Avenue. No utility extensions are required as a result of this project.

Drainage. Drainage will be managed on site via inlet and yard drains that will be connected to an exfiltration trench on the west side of the property.

Transportation: A Traffic Performance Standards (TPS) letter and Traffic Statement indicate that the project will reduce the number of daily trips by one trip. Therefore, a total of 34 daily trips is anticipated, with two AM peak hour trips and three PM peak hour trips; the project meets Palm Beach County's requirements for traffic performance standards.

Parks and Open Space: As the site is less than 20,000 square feet, civic open space is not required. Pursuant to **LDR Section 5.3.2, Park land dedication**, park impact fees are assessed at \$500.00 per dwelling unit and collected prior to issuance of the building permit.

Solid Waste: Based on the Waste Generation Rates for Palm Beach County, the approved development will generate approximately 9.95 tons (1.99 tons x 5 units) of solid waste per year. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2054.

Schools: The applicant submitted a School Capacity Availability Determination (SCAD) application with the Palm Beach County School District. The School District stated there will be no negative impact on the School District of Palm Beach County public school system.

LDR Section 3.1.1(C), Consistency

A finding of overall consistency may be made even though the action may be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

- **LDR Section 3.2.3(A) – (K), Standards for Site Plan and/or Plat Actions**

The twelve different standards outlined in LDR Section 3.2.3 apply to both site plans and plats to help mitigate any potential negative impacts on the surrounding area. The approved site plan was reviewed against these criteria and deemed compliant. Further, the proposed plat, which implements the site plan, is also generally compliant with the standards for site plan and plat actions. There are no significant concerns identified relative to the overall consistency with Article 3.2.

- **LDR Section 3.2.4(A), Standards for specific areas or purposes, Wellfield protection zones**




Map AD-20 of the Always Delray Comprehensive Plan depicts designated wellfield protection zones within the City. As the subject site is located within Zone 4, prior to the issuance of a building permit, the property owner shall submit an Affidavit of Notification to the Palm Beach County Department of Environmental Resources Management.

- **LDR Section 3.2.1, Basis for Determining Consistency**

The performance standards set forth in this Article either reflect a policy from the adopted Comprehensive Plan or a principle of good planning practice. The performance standards set forth in the following sections as well as compliance with items specifically listed as required findings in appropriate portions of Section 2.4.5 shall be the basis upon which a finding of overall consistency [Section 3.1.1(C)] is to be made. However, exclusion from this Article shall not be a basis for not allowing consideration of other objectives and policies found in the adopted Comprehensive Plan in the making of a finding of overall consistency.

The following Objectives and Policies from the Always Delray Comprehensive Plan are applicable to the subject request.

Policy NDC 1.1.2 *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:*

-  *Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.*
-  *Uses that meet the daily needs of residents.*
-  *Public open spaces that are safe and attractive.*

Policy NDC 1.1.12 *Develop and redevelop remaining infill lots in residential neighborhoods using zoning that is identical or most similar to the zoning of adjacent properties or that results in same or less intense development.*

Policy NDC 1.1.14 *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

Objective NDC 1.3, Mixed-Use Land Use Designations *Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.*

Policy NDC 1.3.3: *Apply the density and intensity in mixed-use land use designations to encourage adaptive re-use, development, and redevelopment that advances strategic, policy-driven goals, such as diverse residential housing opportunities, sustainable building practices, historic preservation, public parking, civic open space, or economic development strategies.*

Policy NDC 1.3.5 *Use the Commercial Core land use designation to stimulate the vitality and economic growth of the city while simultaneously enhancing and preserving the cultural and historic downtown area.*

Policy NDC 1.3.7: *Implement the Commercial Core land use designation using form-based code to provide for adaptive-reuse, development, and redevelopment that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area continue to evolve into a traditional, self-sufficient downtown.*

Policy NDC 3.4.2 *Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation (See Table NDC-1).*

Policy HOU 3.1.4: *Encourage development of vacant or underdeveloped land for housing and mixed-uses and promote rehabilitation of underutilized housing into desirable places to live.*

Policy HOU 3.2.1: *Allow a variety of housing types to reflect the needs of all household types, including both rental and ownership opportunities for single people, couples, families, seniors, persons with disabilities and multi-generational families.*

Overall, the plat is consistent with the applicable Goals, Objectives, and Policies of the Always Delray Comprehensive Plan, particularly those of the Neighborhood, Districts, and Corridors Element, the Housing Element, and the Mobility Element. The site fronts SE 5th Avenue, designated as Primary Street, and pursuant to LDR Section 4.4.13(B)(1), the Primary Streets “...are intended to develop over time as superior pedestrian environments and, as such, are held to higher standards in the regulations regarding building placement, building frontage, and the location of parking and service uses.” The plat supports the approved development, which enhances the pedestrian realm with an active streetscape that encourages pedestrian activity along the Primary Street. The residential component expands the housing supply, although not the mixed unit type and sizes as encouraged by the Comprehensive Plan. However, the project establishes new residential units in an area of the city identified for higher density residential development. The approved use, density, height, and intensity is compatible with the surrounding areas, including the apartment units to the north, the Caspian Delray Beach Apartments to the west and south, and multi-family and offices to the east.

Policy MBL 2.6.1: *The City shall not abandon alley rights-of-way and recognizes the important functions alleys provide by dispersing traffic, diversifying access points to properties, providing for multimodal access, and facilitating local trips.*

Policy MBL 2.6.2: *The City shall maintain the existing network of alleys in the downtown, which provide multiple benefits that enhance the quality of the area:*

- *Providing access for sanitation collection*
- *Providing locations for utilities*
- *Minimizing commercial deliveries from occurring in the primary street network*
- *Reducing pedestrian-vehicular conflict points on the sidewalk*

The plat provides a 2-foot right-of-way dedication anticipating the future widening of the alleyway. As vehicular access to each townhouse is provided off the alleyway, the project disperses traffic off of South Federal Highway and provides an alternate access point to each unit from SE 1st Street and SE 2nd Street. Further, the use of the alleyway reduces pedestrian-vehicular conflict points on the sidewalk, as the sidewalk and pedestrian access to each unit is provided off of SE 5th Avenue.

LDR Section 3.1.1.(D), Compliance with LDR

Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulation.

On October 23, 2024, a Level 2 Site Plan, landscape waiver, and an internal adjustment to the side interior setbacks for swimming pools was approved for the construction of a three-story, five-unit townhouse development. The units range from 2,972 square feet to 3,024 square feet. Any modifications will be subject to further review by staff and may require board approval.

Options for Board Action

- Recommend **approval** to the City Commission for the certification of the Final Plat, “**Fifth Avenue Townhomes**”, associated with the creation of five fee-simple lots for the properties 142 and 152 SE 5th Avenue, finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations.
- Recommend **denial** to the City Commission for the certification of the Final Plat, “**Fifth Avenue Townhomes**”, associated with the creation of five fee-simple lots for the properties 142 and 152 SE 5th Avenue, finding that the request is inconsistent with the Comprehensive Plan and does not meet criteria set forth in the Land Development Regulations.
- Continue with direction.**

Public and Courtesy Notices

X Courtesy Notices were sent to the following Homeowner Associations:

- Osceola Park
- Marina Historic District

X Public Notice is not required for this request at Planning and Zoning Board.

Technical Review of Comments (TAC) Timeline

Review No.	Submittal Date	TAC Comments Transmitted
1	12-21-23 (Not deemed sufficient)	01-26-24
2	03-22-24	04-18-24
3	06-14-24	07-15-24
Resubmittal Extension Request	Issued 09-25-24	Extension until 11-12-24
Resubmittal Extension Request	Issued 12-04-24	Extension until 12-27-24
4	02-06-25	02-20-25