

306 NE 2nd Street – The Maxwell
Waiver Request Justification Statement – Southeast Corner Setback

306 NE 2ND STREET, LLC (“Applicant”) is the proposed developer of the +/- 0.86-acre parcel located at 306 NE 2nd Street (PCN: 12434616010900250) (“Property”), which is generally located on the north and south sides of NE 2nd Street, immediately east of the FEC Railroad Tracks in the City of Delray Beach (“City”). The Property has a future land use designation of Commercial Core (CC) and a zoning designation of Central Business District (“CBD”). The Property is located within the Central Core Subdistrict of the CBD. The Property is currently developed with a 2-story commercial building. Applicant is proposing to redevelop the Property with a 4-story condominium building with twenty three (23) units (“Project”). The Project seeks to redevelop this underutilized lot with a vibrant and art deco style multifamily community that will add to the City’s much needed housing supply and further enhance the appearance of the City’s downtown area with an attractive and desirable product. The proposed Project is compatible with the surrounding area, with similar multi-family communities located to the south and east of the Property. The additional housing units will provide an exciting new residential option within the City’s CBD, located just two blocks north of Atlantic Avenue.

In order to develop the Project, Applicant is seeking a waiver from Table 4.4.13(C) of the City’s Land Development Regulations (“LDR”) to reduce the front setback at the corner of NE 4th Avenue and Railroad Street from ten (10) feet to zero (0) inches. The proposed waiver will only affect the SE corner of the Property where a corner chord dedication is being required. Although the Project would comply with the setback based on the original parcel boundary, with the additional corner chord dedication, the parcel boundary will be pushed further into the property in an angled manner. The remaining setbacks along NE 4th Avenue and Railroad Street continue to meet the required setbacks for the CBD. The required ten (10) foot front setback has been provided in all other areas along NE 4th Avenue, NE 2nd Street, and Railroad Street on the ground floor and the required increased setback of twenty (20) feet has been provided on the fourth floor. Further, the Applicant has positioned the civic open space component at the main intersection of NE 4th Avenue and NE 2nd Street, which creates a significant relief from the perceived mass of the building along both street frontages and creates a more open feel for vehicles traveling along the adjacent roadways, as well as pedestrians at the street level. The waiver will allow for this civic open space to remain along a main intersection of the City rather than shifting building areas and open spaces to address the minor setback encroachment resulting in a less desirable and impactful civic space. Considering the foregoing, Applicant is seeking the following waivers:

Waiver from Table 4.4.13(C) to reduce the front setback at the corner of NE 4th Avenue and Railroad Street from ten (10) feet to zero (0) inches.

In accordance with the above outlined request, Applicant will demonstrate that the waiver meets the following criteria enumerated in Section 2.4.7(B)(5): 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. Further, the Applicant will demonstrate that the waiver complies with the CBD waiver criteria enumerated in Section 4.4.13(K)(5)(b)2., as follows: (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 uses 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; and (d) the waiver shall not reduce the quality of the civic open spaces provided under this code.

Section 2.4.7(B)(5) Waiver Criteria:

(a) The waiver shall not adversely affect the neighboring area.

The waiver will not adversely affect the neighboring area. The southeast corner of the Project at NE 4th Avenue and Railroad Street is unique because a corner chord is being dedicated to the City in accordance with Section 5.3.1(5) of the LDR. The corner chord is a right-of-way dedication that is required at all intersections to ensure adequate right-of-way for the safe movement of pedestrians in the CBD. As such, a 20' x 20' corner chord was dedicated to the City at both corners along NE 4th Avenue. Applicant has provided the ten (10) foot required setback in all other areas along NE 4th Avenue on the ground floor of the Project. As such, the waiver will not impact the front setback or streetscape at the street level and will not adversely impact pedestrian walkways or the safe movement of pedestrians in the area. The proposed waiver will only impact the corner of NE 4th Avenue and Railroad Street where the corner chord is being dedicated. Due to the triangular orientation of the corner chord, the required ten (10) foot setback area at the corner of NE 4th Avenue and Railroad Street is angled. Applicant would have complied with the ten (10) foot minimum front setback area if the corner chord dedication had not been required. The waiver will result in a more uniform appearance of the building and will not be impactful from a visual standpoint as it provides for uniformity in the building and in the streetscape at the pedestrian level. Further, it will allow for the desirable location of the civic space along a prominent intersection as contemplated by the City's Code. As such, the waiver will maintain the pedestrian experience and will not adversely affect the neighboring area. The Project complies with all other required setbacks, including the increased setback for the fourth floor.

(b) The waiver shall not significantly diminish the provision of public facilities.

The waiver will not significantly diminish the provision of public facilities. As mentioned, Applicant has provided the required ten (10) foot setback in all other areas along the public streets. As such, the waiver will not impact the provision of public facilities.

(c) The waiver shall not create an unsafe situation.

The waiver will not create an unsafe situation. As mentioned, the Project complies with the required ten (10) foot front setbacks along the street frontage in all other areas of the Project. Despite the corner chord dedication and reduced corner setback that follows, the pedestrian streetscape will maintain its uniformity at the ground level with street trees and pedestrian walkways that flow and follow a consistent path along NE 4th Avenue. As such, the waiver will not impact the street level or the safe movement of pedestrians. Additionally, the waiver will not impede the line of sight for drivers along NE 4th Avenue because the required setback has been provided in all other areas along this frontage, with the exception of where the southeast corner chord has been dedicated. The entire remainder of the building is adequately setback from NE 4th Avenue, NE 2nd Street, and Railroad Street. As such, there will be a safe distance between the building, the pedestrian sidewalk, and the rights-of-way. Considering the foregoing, the waiver shall not create an unsafe situation.

(d) The waiver 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 waiver 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. As mentioned, Applicant would have complied with the required ten (10) foot front setback at the corner of NE 4th Avenue and Railroad Street if not for the required corner chord dedication. The corner chord dedication is 20' by 20' and the required front setback is measured at an angle from the edge of the triangular dedication area. This has resulted in a setback at the southeast corner of Property that does not align with the required setbacks along the adjacent streets. Furthermore, the effected area of the waiver is small, only affecting the southeast corner of the building whereas the remainder of the Project is in compliance with the setback requirements. Similar waivers for setbacks where corner chords have been dedicated have been granted in numerous other instances in the City. Considering the unique circumstances of the corner chord and the Project's otherwise compliance with the required setbacks and the City's history in granting this same waiver request for other Projects, the waiver does not result in the grant of a special privilege.

Section 4.4.13(K)(5)(b)2. Waiver Criteria

(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.

The waiver does not result in an inferior pedestrian experience along the primary street. Both NE 4th Avenue and NE 2nd Street meet or exceed the minimum four (4) foot curb zone, six (6) foot pedestrian zone and five (5) foot remaining setback in accordance with the required streetscapes along the primary street frontages. These streetscapes are further improved by the sizable civic open space area at the corner of this prominent intersection. Additional plantings and green areas are provided along NE 4th Street and adjacent to the intersection Railroad Street to further soften the appearance of the building by

providing some attractive landscape plantings at the ground level. The building also provides articulation throughout and a variety of materials to further create a visual interest and eliminate any appearance of blank walls. The garage structure is tucked in the rear adjacent to the FEC Railroad and not along a primary street frontage. Although the setback is reduced at the southeast corner due to the required corner chord dedication, the streetscape is maintained in a uniform matter as prescribed by the City's form based code and as a result, does not impact the pedestrian experience.

(b) The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.

The waiver will not create significant incompatibilities with nearby buildings or uses of land. The Project seeks to redevelop this underutilized lot with a vibrant and architecturally modern multifamily community that will add to the City's much needed housing supply and further enhance the appearance of the City's downtown area with an attractive and desirable product. It will provide an attractive, mixed-use development that is compatible with the surrounding area, with similar multi-family communities located to the south and east of the Property. The relief at the southeast corner of the Property where the corner chord dedication would otherwise require the building to be angled to meet the triangular dedication area would differ significantly from other buildings existing in the surrounding areas of the CBD that have uniform appearances throughout, including those where a similar waiver has been granted due to the corner chord dedication. As such, the waiver will not create incompatibilities with nearby buildings or uses 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.

The waiver does not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle or pedestrian master plan. As previously discussed, both NE 4th Avenue and NE 2nd Street meet or exceeds the minimum four (4) foot curb zone, six (6) foot pedestrian zone and five (5) foot remaining setback in accordance with the required streetscapes along the primary street frontages. These streetscapes are further improved by the sizable civic open space area at the corner of this prominent intersection. Additional plantings and green areas are provided along NE 4th Street and adjacent to the Railroad Street intersection to further soften the appearance of the building by providing some attractive landscape plantings at the ground level. Although the setback is reduced at the corner due to the required corner chord dedication, the streetscape and sidewalks along the primary streets are maintained in a uniform matter as prescribed by the City's form based code and as a result, does not impact the pedestrian experience.

(d) The waiver shall not reduce the quality of the civic open spaces provided under this code.

The waiver will not reduce the quality of the civic open space. The Applicant has positioned the civic open space component at the main intersection of NE 4th Avenue and NE 2nd Street, which creates a significant relief from the perceived mass of the building along both street frontages and creates a more open feel for vehicles traveling along the adjacent roadways, as well as pedestrians at the street level. The waiver

will allow the civic open space to be positioned at this prominent corner and be particularly impactful to the Project, as intended by the City's Code, rather than shifting the building areas and corresponding open space to address the minor setback encroachment, resulting in a less desirable and impactful civic space. The civic open space has also been designed with curved landscape areas and planting beds which create visual interest and movement. Concrete benches are also provided to complement the curvature of these landscape areas and provide seating and gathering opportunities to residents and visitors in the area. Water fountains and pet drinking fountains are also placed within the civic open space to provide relief for both pedestrians and their pets. This attractive and functional civic open space can be maintained in its full scale and at such a prominent intersection because the waiver would allow for the building encroachment into the setback at the corner chord, which would otherwise cause a shift in the building, and towards NE 2nd Street in order to provide adequate dimensions for the units at this corner. As such, the waiver will not reduce the quality of civic open space.

RAILROAD STREET

20'x20' CORNER
CLIP

0' SETBACK
UPPER FLOORS

10'-0"
MINIMUM
SETBACK

PROPOSED
BUILDING

9" SETBACK
GROUND FLOOR

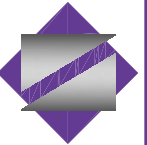
OH

CIVIC SPACE
868 sf

EXISTING PARKING SPACES

N.E. 4th AVENUE

THE MAXWELL
306 NE 2nd STREET DELRAY BEACH, FL



NETTARCHITECTS

SETBACK WAIVER REQUEST
7/10/2024

SB-1