

306 NE 2nd Street – The Maxwell
Waiver Request Justification Statement – Civic Space 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 Section 4.4.13(G)(1)(d) of the City’s Land Development Regulations (“LDR”) which does not allow for areas used to meet the minimum setback to count towards fulfilling the required open space. Rather, Petitioner is requesting that the minimum setback area be included only where the corner chord dedication is required, so that the civic open space can continue to exist at the prominent intersection of NE 4th Avenue and NE 2nd Street, as intended by the LDRs. More specifically, Figure 4.4.13-G-3

of the City’s LDRs demonstrates the desired location of the civic open space areas, many of which show the location at intersections, without regard to the corner chord dedications that are typically required. The LDRs speak to the requirement for the civic open spaces to adjoin a street front property line and to be configured in a square or rectangular manner. Further, Figure 4.4.13-G-4 depicts the configuration for open space at a parcel corner, which again, does not contemplate or reflect the parcel boundaries with required corner chord dedications. Applicant is seeking to provide a civic open space that is consistent with the graphics depicted in the LDRs.

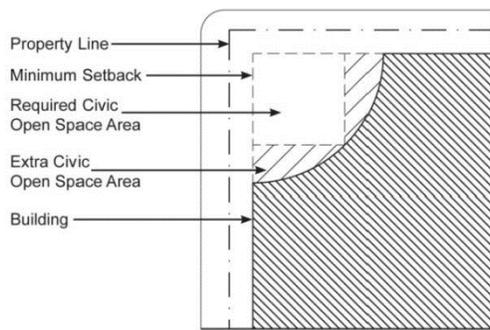
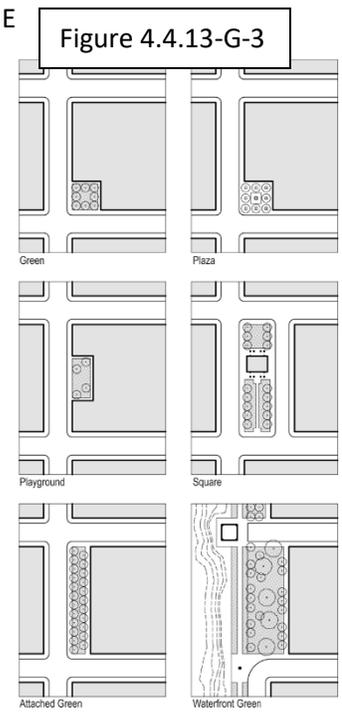


Figure 4.4.13-G-



The proposed waiver will only affect the corner of the civic space, immediately adjacent to where a corner chord dedication is being required. The civic open space area and calculations otherwise comply with this requirement for the required setbacks along NE 4th Avenue and NE 2nd Street if not for the required corner chord dedication, which created an angle at the northeast corner of the Property. It is also important to note, that the actual building is setback much further than the ten (10) foot minimum requirement. Although the civic open space setback would comply based on the original parcel boundary, with the additional corner chord dedication, the parcel boundary will be pushed further into the property to avoid being configured in an angled manner, which is contrary to the graphical depictions for where the civic open space should be located. The additional ten (10) foot setback would then push the civic open space area further into the site and away from this prominent corner, contrary to the intent of the LDRs. 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 additional setback at northeast corner resulting from a required corner chord dedication. Considering the foregoing, Applicant is seeking the following waivers:

Waiver from Table 4.4.13(G)(1)(d) to allow the minimum setback area resulting from the corner chord dedication to be counted towards fulfilling the required civic open space.

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 northeast corner of the Property 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. However,

Section 4.4.13(G)(1)(d) of the City's LDRs does not allow for areas used to meet the minimum setback to count towards fulfilling the required open space. However, the LDRs do not necessarily contemplate the required corner chord dedication at most, if not all, intersections within the CBD. More specifically, Figure 4.4.13-G-3 of the City's LDRs demonstrates the desired location of the civic open space areas, many of which show the location at intersections, without regard to the corner chord dedications that are typically required. The LDRs speak to the requirement for the civic open spaces to adjoin a street front property line and to be configured in a square or rectangular manner. Further, Figure 4.4.13-G-4 depicts the configuration for open space at a parcel corner, which again, does not contemplate or reflect the parcel boundaries with required corner chord dedications. Applicant is seeking to provide a civic open space that is consistent with the graphics depicted in the LDRs and is requesting that the minimum setback area be included only where the corner chord dedication is required, so that the civic open space can continue to exist at the prominent intersection of NE 4th Avenue and NE 2nd Street, as intended by the LDRs. The proposed waiver will only affect the corner of the civic space, immediately adjacent to where a corner chord dedication is being required. The civic open space area and calculations otherwise comply with this requirement for the required setbacks along NE 4th Avenue and NE 2nd Street if not for the required corner chord dedication, which created an angle at the northeast corner of the Property. It is also important to note, that the actual building is setback much further than the ten (10) foot minimum requirement. Although the civic open space setback would comply based on the original parcel boundary, with the additional corner chord dedication, the parcel boundary will be pushed further into the property to avoid being configured in an angled manner, which is contrary to the graphical depictions for where the civic open space should be located. The additional ten (10) foot setback would then push the civic open space area further into the site and away from this prominent corner, contrary to the intent of the LDRs. 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 additional setback at northeast corner resulting from a required corner chord dedication. As such, the waiver will not adversely affect the neighboring areas.

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

The waiver shall 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 above, a 20'x20' 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. However, Section 4.4.13(G)(1)(d) of the City's LDRs does not allow for areas used to meet the minimum setback to count towards fulfilling the required open space. However, the LDRs do not necessarily contemplate the required corner chord dedication at most, if not all, intersections within the CBD. More specifically, Figure 4.4.13-G-3 of the City's LDRs demonstrates the desired location of the civic open space areas, many of which show the location at intersections, without regard to the corner chord dedications that are typically required. The LDRs speak to the requirement for the civic open spaces to adjoin a street front property line and to be configured in a square or rectangular manner. Further, Figure 4.4.13-G-4 depicts the configuration for open space at a parcel corner, which again, does not contemplate or reflect the parcel boundaries with required corner chord dedications. Applicant is seeking to provide a civic open space that is consistent with the graphics depicted in the LDRs and is requesting that the minimum setback area be included only where the corner chord dedication is required, so that the civic open space can continue to exist at the prominent intersection of NE 4th Avenue and NE 2nd Street, as intended by the LDRs. The proposed waiver will only affect the corner of the civic space, immediately adjacent to where a corner chord dedication is being required. The actual building is much further set back at this prominent corner creating relief from the building mass and an attractive and functional civic open space. As such, the waiver will 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 above, the Applicant is required to dedicate a 20'x20' corner chord at the intersection of NE 4th Avenue and NE 2nd Street. As a result, the property line becomes angled at the corner and the setback continues at this same angle, and the setback at the corner does not align with the required setbacks along adjacent streets. The proposed waiver only affects the specific area where the corner chord is being dedicated, and is not proposing to use minimum setback areas along the adjacent rights-of-way. Setback waivers for corners where such 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 and within the corner chord, to the extent permitted, 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 waiver would allow for the minimum setback area at the northeast corner to be included in the civic space calculations, it will not detract from the quality of the civic open space, but rather provide the civic open space in the location and configuration contemplated by the LDRs. The streetscape will continue to be maintained in a uniform manner 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 northeast corners of the Property where the corner chord dedication would otherwise require the civic open space to be set significantly further into the Property and away from the intersection, contrary to the graphical depictions of the civic open space locations and configurations contemplated within the City's LDRs. Rather, the proposed location of the civic open space, which would include use of the resulting minimum setback area following the corner chord dedication, will allow the civic open space to be highlighted at this prominent corner in the City, as intended by the LDRs. As such, the waiver will not create incompatibilities with nearby buildings or uses of land.

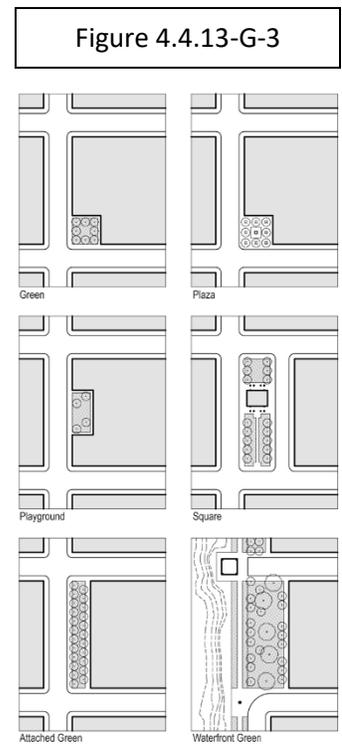
(c) The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan.

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 streets. 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, and the civic open space will be prominently displayed at the

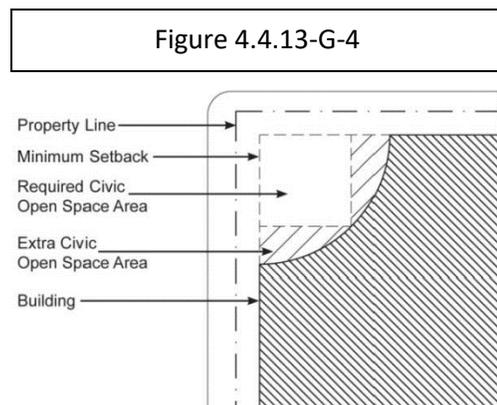
northeast corner of the site rather than being setback away from the corner. Although the waiver would allow for the use of the minimum setback area resulting from the corner chord dedication to be included as civic open space, the streetscape and sidewalks along the primary streets will be maintained in a uniform matter as prescribed by the City’s form based code and as a result, does not impact the pedestrian experience. Rather, the waiver will allow for the civic open space in the location and configuration contemplated by the City’s LDRs.

(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. As previously noted, in order to develop the Project, Applicant is seeking a waiver from Section 4.4.13(G)(1)(d) of the City’s LDRs, which does not allow for areas used to meet the minimum setback to count towards fulfilling the required open space. Rather, Petitioner is requesting that the minimum setback area be included only where the corner chord dedication is required, so that the civic open space can continue to exist at the prominent intersection of NE 4th Avenue and NE 2nd Street, as intended by the LDRs. More specifically, Figure 4.4.13-G-3 of the City’s LDRs demonstrates the desired location of the civic open space areas, many of which show the location at intersections, without regard to the corner chord dedications that are typically required. The LDRs speak to the requirement for the civic open spaces to adjoin a street front property line and to be configured in a square or rectangular manner. Further, Figure 4.4.13-G-4 depicts the configuration for open space at a parcel corner, which again, does not contemplate or reflect the parcel boundaries with required corner chord dedications. Applicant is seeking to provide a civic open space that is consistent with the graphics depicted in the LDRs.

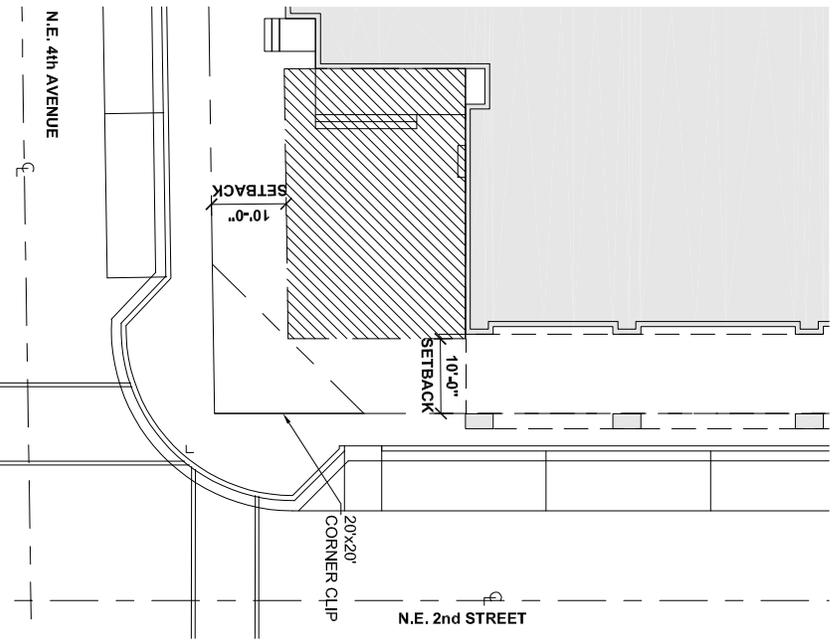


The proposed waiver will only affect the corner of the civic space, immediately adjacent to where a corner chord dedication is being required. The civic open space area and calculations otherwise comply with this requirement for the required setbacks along NE 4th Avenue and NE 2nd Street if not for the required corner chord dedication, which created an angle at the northeast corner of the Property. It is also important to note, that the actual building is setback much further than the ten (10) foot minimum requirement. Although the civic open space setback would comply based on the original parcel boundary, with the additional corner chord dedication, the parcel boundary will be pushed

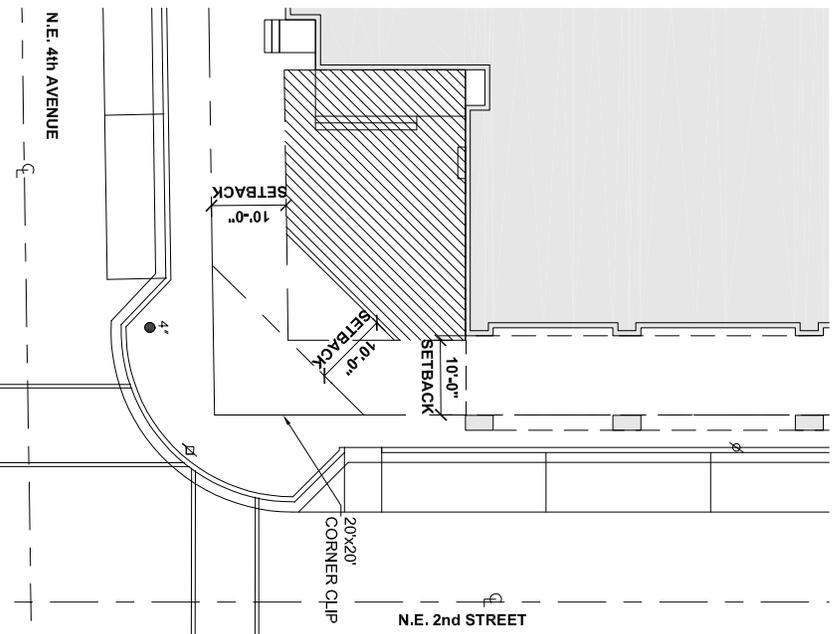


further into the property to avoid being configured in an angled manner, which is contrary to the graphical depictions for where the civic open space should be located. The additional ten (10) foot setback would then push the civic open space area further into the site and away from this prominent corner, contrary to the intent of the LDRs. 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 additional setback at northeast corner resulting from a required corner chord dedication.

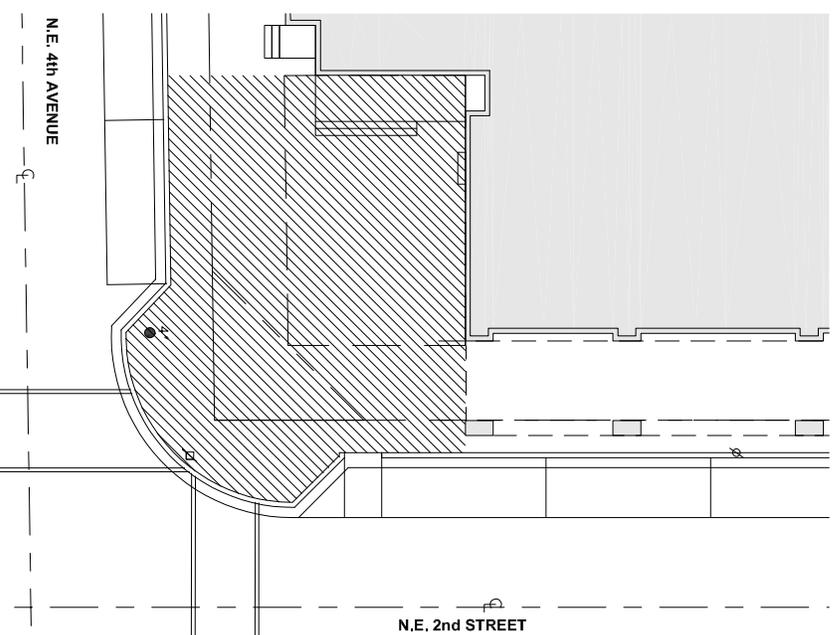
The civic open space has also been designed with curved landscape areas and planting beds which create visual interest and movement. Concrete benches are also provided to complement the curvature of these landscape areas and provide seating and gathering opportunities to residents and visitors in the 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 proposed location at the northeast corner of the Property. As such, the waiver will not reduce the quality of civic open space.



**REQUIRED
PROPOSED CIVIC SPACE 878 SF**

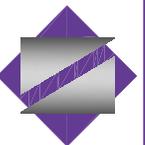


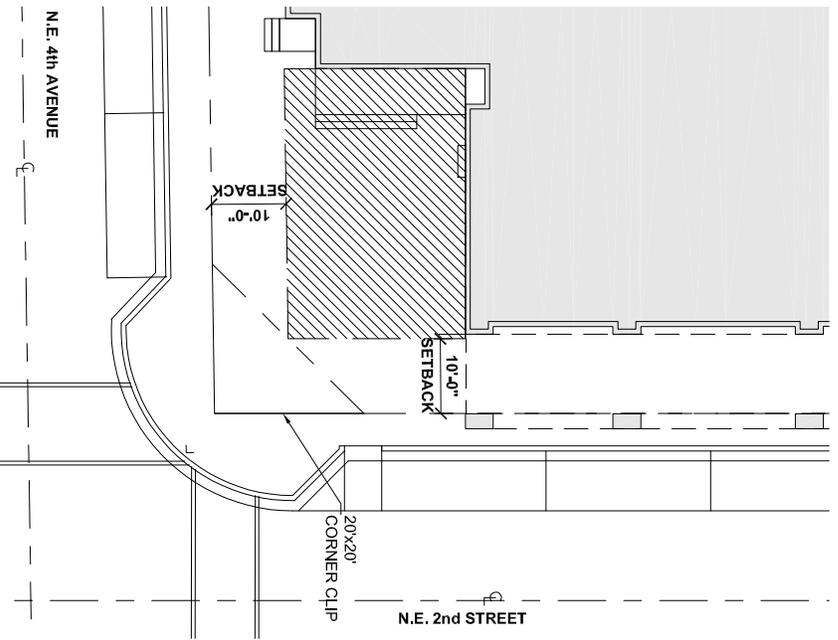
**REQUIRED
CIVIC SPACE REDUCED 778 SF**



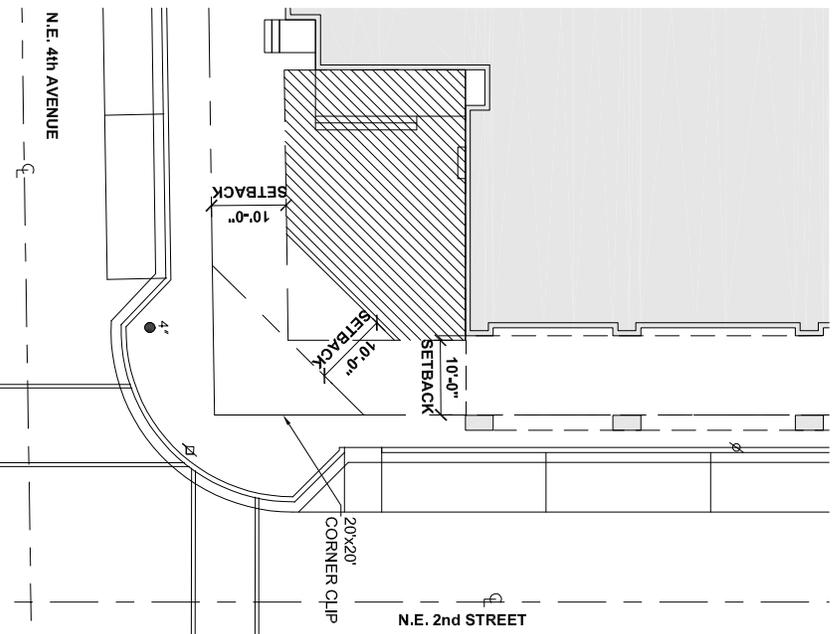
**PROVIDED
ENTIRE CIVIC SPACE 2,176 SF**

MIN. REQUIRED CIVIC SPACE AREA 841 SF

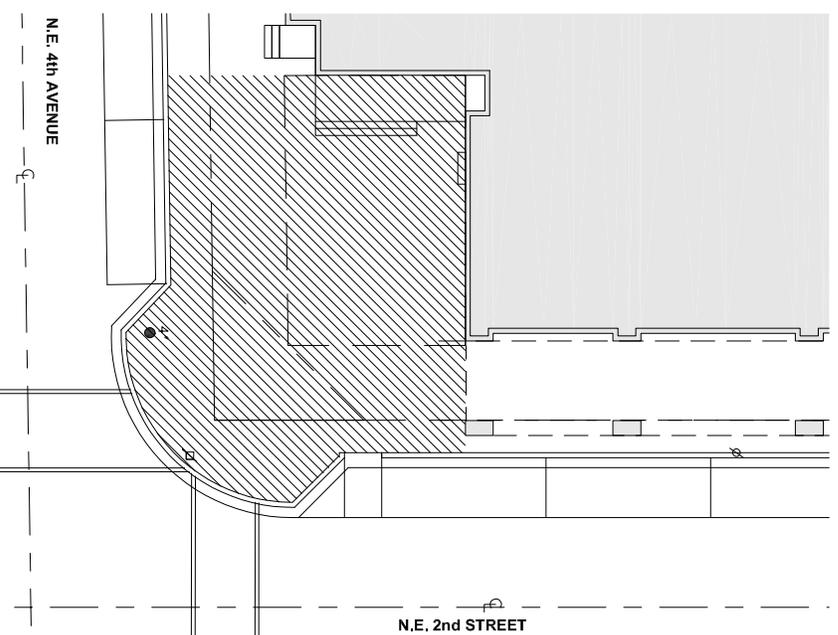




**REQUIRED
PROPOSED CIVIC SPACE 878 SF**



**REQUIRED
CIVIC SPACE REDUCED 778 SF**



**PROVIDED
ENTIRE CIVIC SPACE 2,176 SF**

MIN. REQUIRED CIVIC SPACE AREA 841 SF

