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July 19, 2022

Ms. Anthea Gianniotis, AICP, Director  
Development Services Department  
City of Delray Beach  
100 NW 1<sup>st</sup> Avenue  
Delray Beach, FL 33444

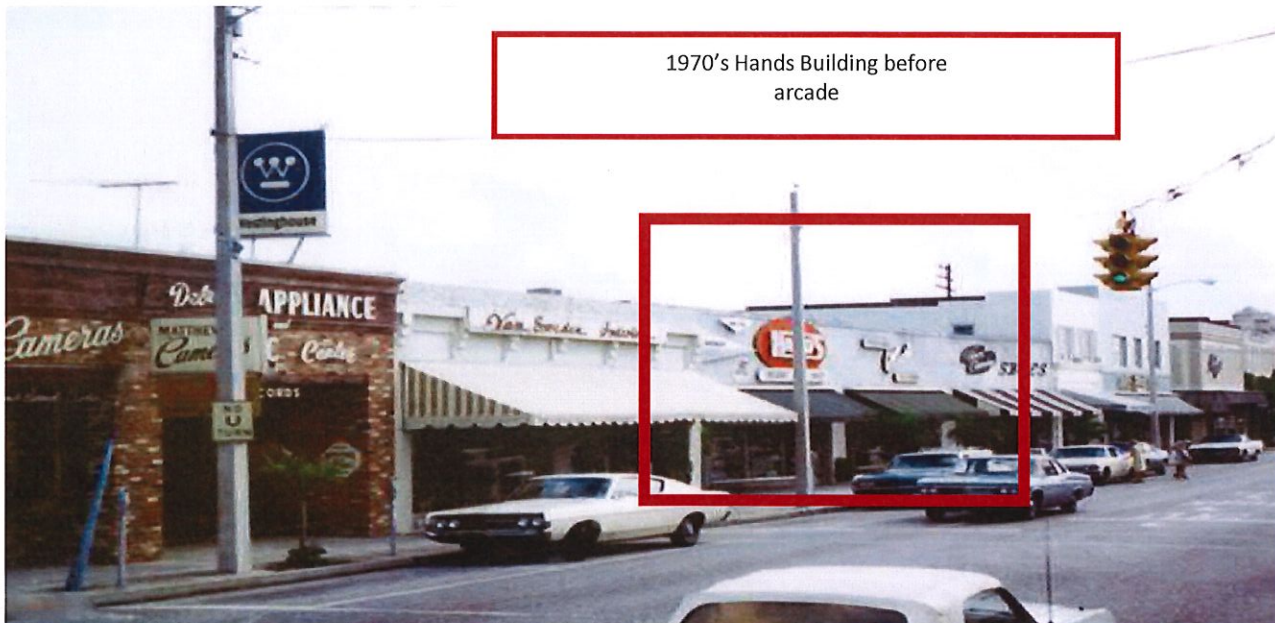
**RE: 325 E. Atlantic Avenue – Waiver Request Narrative/Justification Letter**

Dear Ms. Gianniotis:

This Narrative Letter associated with the Waiver Application is respectfully submitted on behalf of 325 East Atlantic Avenue, LLC for the property located at 325 E. Atlantic Avenue (PCN: 12-43-46-16-01-092-0022).

**Background:**

Existing property consists of 0.31 acres (13,760 sq. ft.) with an existing one story (3) bay vacant retail building with approximately 10,688 sq. ft., which was originally built in 1934. There were two additions and renovations in 1958 (rear addition) and 1974 front arcade addition. See below original façade prior to arcade addition.



The subject property has an underlying Land Use Map designation of CC (Commercial Core) and is zoned CBD (Central Business District).

The CBD zoning has the following required setbacks:

Front setback: 10'-0" to 15'-0" (along Atlantic Avenue)

Side interior setback: 0'-0"

Rear setback: 10'-0" (Arkie's Alley)

### **Waiver Request:**

**Item #1:** Request for a front setback waiver from the required minimum 10'-0" / maximum 15'-0" as per LDR Section 4.4.13(C). Along the front of the building is an existing arcade that extends 7'-2" into the public right of way. Our proposed design is to remove the arcade and take the frontage back to the original 1974 front façade. The existing (3) retail bays all extend into the front setback 6'-8" and the most eastern bay currently extends into the public right of way by 7 ½". The city is requesting an additional 2'-0" dedicated right-of-way, which will project our proposed decorative pilaster a total of 2'-9 ½" into the public right of way (we are proposing decorative wood cladding for an additional 2"). The balance of the existing structure (bays) will have decorative pilasters that will extend into the front setback between 7'-8" and 9'-9".

**Item #2:** Request for a front setback waiver from the required minimum 10'-0" / maximum 15'-0" as per LDR Section 4.4.13(C). Our proposed design is to remove the original nonconforming angled storefront windows and allow the proposed storefront glass to extend out to the existing concrete columns and concrete beams, which currently create the existing openings into all the bays. All the nonconforming bay openings currently extend into the front setbacks ranging from 7'-8" to 11'-5".

### **We feel this is justified for the following reason:**

This is an existing nonconforming structure, and all three bays already extend into the front setbacks, with one portion extending into the public right of way. We are proposing to relocate the storefront glass out towards the existing building façade, which still falls within the existing building footprint. Alterations to an existing nonconformity shall not create a new nonconformity, which typically means increasing the building's footprint – which is not what we are proposing.

The only elements we are proposing to project beyond the existing façade are decorative elements to break up the proposed facades visually. It's quite common to allow decorative elements to extend into a setback, such as chimneys, balconies, etc.

Even with the additional 2'-0" dedication of public R.O.W., the existing building is still maintaining the required min. 4'-0" curb zone and 6'-0" wide pedestrian clear zone.



***Waiver Analysis/Findings:***

Pursuant to LDR Section 2.4.7(B)(5) **Findings**. Prior to granting a waiver, the granting body shall make findings 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;
- (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.

Pursuant to LDR Section 4.4.13(K)(5)(b)(2) **CBD Waiver Standards**. Within the CBD, the following standards shall be used by the City Commission, SPRAB or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5):

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

**Conclusion/Positive Findings:**

The waiver to LDR Section 2.4.7(B)(5) will not adversely affect the surrounding neighborhood and the proposed changes will have no bearing on the neighboring structures. The removal of the existing arcade will actually provide more visibility for the adjacent stores. Relocating the existing storefront glass will not diminish the provision of public facilities and will not create an unsafe situation. We are not proposing to change the existing building footprint with the new storefront location, and we are still maintaining the curb zone and pedestrian clear zone. The waiver will not grant any special privilege in that a similar waiver may be granted under similar circumstances on other properties for another applicant or owner.

As to the waiver to LDR Section 4.4.13(K)(5)(b)(2), the proposed design is compatible with the surrounding retail stores with various 5'-0" deep decorative awnings and recessed vestibules for entrances, therefore not resulting in an inferior pedestrian experience. As to the use, we are promoting a balanced use of all retail bays to offset all of the existing bars / restaurants and at the same time maintaining a historic moderate scale. The proposed design actually opens up this portion of the sidewalk by removing the existing arcade and allowing the pedestrians to move more freely in this section of Atlantic Avenue. There are no civic open spaces in this area.

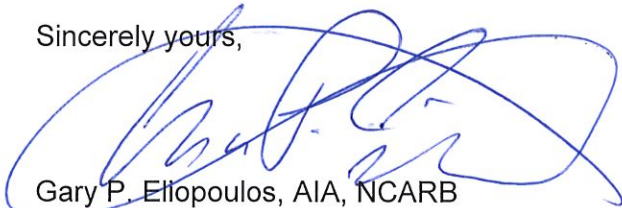
Positive findings can be made with both LDR Section 2.4.7(B)(5), and LDR Section 4.4.13(K)(5)(b)(2).

As to the above, requested waivers are for an existing nonconforming building and the proposed changes are only being proposed within the existing building footprint. As to the streetscape, it's all existing and along the east of the subject property, the curb zone does get reduced in depth from the required 4'-0" however, it is not a result of these waivers, but rather the physical existing conditions of the existing building and sidewalk, and that portion does not meet the minimum requirements of Section 4.4.13(E)(2).

Please see the attached survey, existing and proposed site plan, exterior elevation and photos.

Should you have any questions, please feel free to contact me at our office (561) 276-6011.

Sincerely yours,



Gary P. Eliopoulos, AIA, NCARB  
President