



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

SITE PLAN REVIEW AND APPEARANCE BOARD STAFF REPORT

Pierre Delray II

Meeting	File No.	Application Type
September 28, 2022	2022-080-SPM-SPR-CLIV	Class IV Site Plan
Property Owner		Agent
Pierre Delray Two LLC		Dunay, Miskel, Backman LLP

Request

Provide a recommendation to the City Commission regarding two requested waivers in association with a Class IV Site Plan Modification to expand the previously approved three-story mixed-use building and parking garage.

Site Data & Information

Location: 298 E Atlantic Avenue

PCN: 12-43-46-16-01-085-0040;
12-43-46-16-01-085-0050

Property Size: 0.53 acres

LUM: Commercial Core (CC)

Zoning: Central Business District (CBD) - Central Core Sub-district

Adjacent Zoning:

- **North, South, East, & West:** CBD - Central Core Sub-district

Existing Land Use: Commercial Parking Lot

Proposed Land Use: Mixed-Use (office and restaurant)

Floor Area Ratio:

- **Existing:** NA
- **Proposed:** 2.63

Density:

- **Existing:** NA
- **Proposed:** NA

CBD Central Core Sub-district

- **East Atlantic Avenue:**
 - Primary Street
 - Required Retail Frontage
 - Atlantic Avenue Limited Height Area
 - Atlantic Avenue Parking District





Background

The property consists of two parcels that functioned as a private parking lot for many years. Both parcels were zoned Community Facility (CF) until recently when they were individually rezoned to CBD. The parcel to the north was under separate ownership from the one to the south and was rezoned in 2017, while the parcel to the south was rezoned in 2021 subsequent to being acquired by the owner of the north parcel.

In 2020, a Class V site plan application was approved for the north parcel for a three-story mixed-use building with offices, retail and restaurant space, and a parking garage. The 2020 approval also included the granting of waivers to:

- allow an additional story above the arcade, whereas arcades are limited to two stories;
- reduce the side interior setback along the west property line from a minimum of five feet to two feet, 2 inches; and
- allow a 10-inch setback for the 2nd and 3rd floors at the corner of the building (adjacent to the intersection of East Atlantic Avenue and SE 3rd Avenue), whereas a minimum of 10 feet is required.

As both parcels are now under common ownership, a Class IV Site Plan Modification has been submitted to include the newly acquired property into the project area. As such, the project scope has expanded beyond the original approval by extending the proposed building footprint into the south parcel and increasing the overall floor area of the mixed-use building. The current proposal is for a three-story, approximate 62,000 sq. ft. mixed-use building and parking garage. The proposed use mix includes restaurant on the ground floor and offices on the second and third floors. The architectural design of the project is in the Masonry Modern style, which is consistent with the 2020 Class V Site Plan approval. The project requires 93 parking spaces with 80 being provided on site, and the rest being accounted for via a request for payment in lieu of parking.



Description of Proposal

The Applicant requests consideration of three waivers to LDR Section 4.4.13, CBD. Specifically, relief is sought from the following code sections:

- 4.4.13(D)(1)(b)(2)(b) – requesting a reduced west setback of 2 feet, 3 inches wherein 5 feet is required.
- 4.4.13(E)(4)(f)(1)(f) – requesting the ability to extend an arcade frontage type vertically above the second story to include a third story.



Following the Board's recommendations, the waiver requests will be scheduled for City Commission consideration and final action. The Class IV Site Plan, Landscape Plan, and Architectural Elevation, which are dependent on the outcome of the waiver requests, will then require final approval by SPRAB.

Review & Analysis: Waivers

LDR Section 4.4.13(K)(5)(a), Waivers

Section 2.4.7(B)(1)(a) authorizes the waiver of certain regulations irrespective of a property's zoning district. Those waivers may be considered within the CBD in accordance with those specific provisions. When reviewing applications that include waivers that can only be granted by the City Commission, the SPRAB and the HPB shall make formal recommendations to the City Commission regarding those waivers prior to site plan consideration.

Waiver Criteria

LDR Section 2.4.7(B)(5), Waiver: 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; 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.

LDR Section 4.4.13(K)(5)(b)(2), CBD review and approval process: Waivers

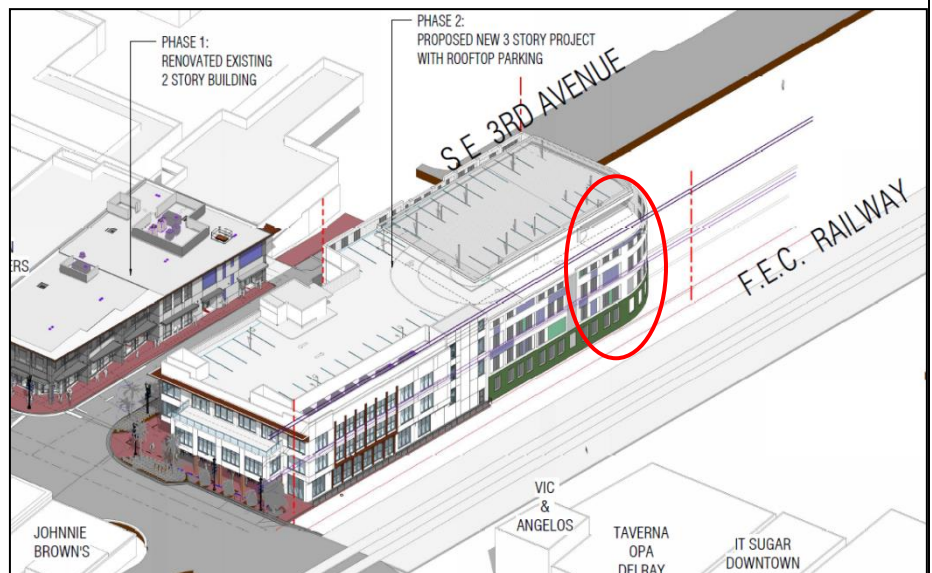
Within the CBD, the following standards shall be used by the City Commission, SPRAB or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5).

- 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

Waiver #1, Side Interior (West) Setback Reduction

Pursuant to **LDR Section 4.4.13(D)(1)(b)(2)(b)**, Buildings with openings, including doors, windows, and glass wall materials, facing an interior side property line must setback a minimum of five feet from the property line.

The applicant has requested a side setback of 2 feet, 3 inches from the west interior property line (see area circled in red). This waiver had been previously granted for the initial Class V Site Plan application. However, with the revision proposed per the Class IV Site Plan Modification, the reduced setback will occur within the southern parcel that was not originally included within the scope of work, and as such, the previous waiver approval does not apply to the newly acquired parcel. Therefore, the applicant is requesting the waiver so that the building setback for the portion of the structure that will be located within the southern parcel is consistent with the setback as approved for the portion of the building included within the original parcel to the north.



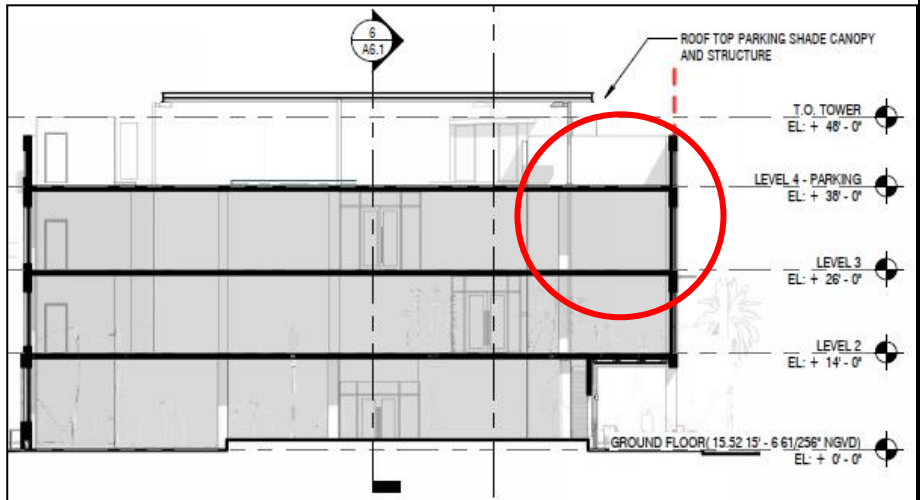


The impact of the reduction is minimal given that the area to the west of the property is occupied by the FEC railway line. As such, no building will be constructed within the adjacent property to the west and the need for increased clearance between buildings with openings on abutting parcels is therefore not applicable to this site. Further, facades without openings are permitted at a zero-foot setback. The waiver appears to meet the intent of the applicable criteria and is not anticipated to produce any adverse impacts.

Waiver #2, Additional Story above Arcade

Pursuant to **LDR Section 4.4.13(E)(4)(f)(1)(f)**, *The arcade extending over the public right-of-way may contain a second story or incorporate roof terraces; additional stories are not permitted.*

The applicant has requested the ability to extend the arcade beyond the second story to provide an additional (third) story, which extends over the ground floor setback area and encroaches approximately 18 inches into the right-of-way. A similar waiver was previously granted for the arcades associated with the initial Class V Site Plan application. However, with the revision proposed per the Class IV Site Plan modification, the additional story above the arcade along SE 3rd Avenue extends into the parcel to the south. As such, the previously approved waiver does not automatically apply to the additional portion of the development and the request must be reconsidered.



The third-floor addition above the arcade includes portions of the extended parking garage. The inclusion of the usable area on the second floor for both habitable space and parking is permitted by right, however the extension above the second floor to include the third floor requires a waiver. It would not be feasible to provide the requisite internal circulation for a parking structure given the limited lot width dimension without taking advantage of the area that extends over the arcade.

The requisite design criteria per the CBD standards is met, and the provision of the third-floor arcade does not compromise the CBD design guidelines with respect to the pedestrian environment. The applicant is not benefiting from the request by way of increasing the leasable square footage of the building. Instead, the request is intended to help provide needed parking, which is an amenity for future customers and ensures feasible operations. The waiver appears to meet the intent of all applicable criteria and is not anticipated to produce any adverse impacts.

Review by Others

The **Downtown Development Authority (DDA)** reviewed the Class IV Site Plan Modification and the associated waivers at the meeting held on August 8th and a recommendation of approval was provided on a 4-2 vote. The DDA review memo is provided as an attachment.

The **Community Redevelopment Agency (CRA)** was notified of the proposed project in the March 18th CRA development projects memo.

Optional Board Motions

Waiver to 4.4.13(D)(1)(b)(2)(b), West (Side-Interior) Setback

- A. Move a **recommendation of approval** of the waiver request to LDR Section 4.4.13(D)(1)(b)(2)(b) to reduce the west setback to 2 feet, 3 inches wherein 5 feet is required, associated with a Class IV Site Plan Modification (2022-080) for the property located at **298 East Atlantic Avenue**, by finding that the request meets the criteria in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2).
- B. Move a **recommendation of denial** of the waiver request to LDR Section 4.4.13(D)(1)(b)(2)(b) to reduce the west setback to 2 feet, 3 inches wherein 5 feet is required, associated with a Class IV Site Plan Modification (2022-080) for the property located at



298 East Atlantic Avenue, by finding that the request does not meet the criteria in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2).

C. Move to **continue with direction**.

Waiver to 4.4.13(E)(4)(f)(1)(f), Third Story on Arcade

A. Move a **recommendation of approval** of the waiver request to LDR Section 4.4.13(E)(4)(f)(1)(f) to allow a third story above the arcade, whereas arcades are limited to two-stories when located within the right-of-way, associated with a Class IV Site Plan Modification (2022-080) for the property located at **298 East Atlantic Avenue**, by finding that the request meets the criteria in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2).

B. Move a **recommendation of denial** of the waiver request to LDR Section 4.4.13(E)(4)(f)(1)(f) to allow a third story above the arcade, whereas arcades are limited to two-stories when located within the right-of-way, associated with a Class IV Site Plan Modification (2022-080) for the property located at **298 East Atlantic Avenue**, by finding that the request does not meet the criteria in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2).

C. Move to **continue with direction**.