



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## SITE PLAN REVIEW AND APPEARANCE BOARD STAFF REPORT

Pierre Delray II

Meeting	File No.	Application Type
January 25, 2022	2022-080-SPM-SPR-CLIV	Class IV Site Plan
Property Owner		Agent
Pierre Delray Two LLC		Dunay, Miskel, Backman LLP

### Request

Consideration of a Class IV Site Plan Modification to expand the previously approved three-story mixed-use building with parking garage at 298 East Atlantic Avenue to incorporate the parcel to the south.

### 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
- Maximum Allowed: 3.0

#### 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



#### Project Planner:

Julian Gdaniec, Senior Planner; [gdaniec@mydelraybeach.com](mailto:gdaniec@mydelraybeach.com)  
561-243-7365

#### Attachments

- Site Plan, Architectural Plans, Landscape Plan, Survey
- Applicant Justification Statement



## 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 parcel to the south and was rezoned first 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, restaurant space, and a parking garage. The 2020 approval also included the granting of waivers to:

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

## Description of Proposal

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 specific changes entail the addition of commercial square footage (office on second and third stories; restaurant on ground floor) as well as the expansion of the parking garage to accommodate additional parking. 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 an approved In lieu of parking request. Furthermore, civic open space has been incorporated into the site plan, wherein it was not previously required, and has been provided as a forecourt at the primary lobby entry along NE 3<sup>rd</sup> Avenue.



Associated with the subject request are two waivers to the CBD requirements, which were approved on a vote of 5-0 by the City Commission on January 10, 2023. The waivers are limited to the portion of the building that is located within the newly acquired southern parcel and match those approved under the original Class V application and are as follows:

- 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;

At the same meeting the City Commission also voted 4-1 to approve the request for payment in lieu of parking for 13 parking spaces.

**Review & Analysis: Site Plan and Zoning****LDR Section 2.4.5(F)(5), Class V Site Plan**

*A Class V Site Plan is an application for new development of vacant land, and which requires full review of Performance Standards found in Section 3.1.1. In addition to provisions of Chapter 3, the approving body must make a finding that development of the property as represented by the Class V site plan or MDP will be compatible and harmonious with adjacent and nearby properties and the City as a whole, so as not to cause substantial depreciation of property values.*

**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, written materials submitted by the applicant, 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 are provided throughout the following report sections.

**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, which is the preferred zoning district to implement the CC land use designation. Pursuant to LDR Table 4.4.13(A), restaurant and office is a permitted use in the Central Core Sub-district of the CBD.

**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.*

Potable Water and Sewer: Water and sewer services will be connected to adjacent available networks pursuant to approval of the utilities plan reviewer. Pursuant to the Comprehensive Plan, treatment capacity is available at the City's Water Treatment Plant and the South-Central County Wastewater Treatment Plant for the City at build-out.

Drainage: Drainage and water run-off will be addressed through on-site retention, which should not impact the level of service standard.

Transportation: A Traffic Performance Standards (TPS) letter has been provided by Palm Beach County indicating the project is located within the Delray Beach Traffic Concurrency Exception Area (TCEA). As such, the proposed project meets the requirements of traffic concurrency.

Parks and Open Space: A park impact fee is not applicable for projects that do not include a residential use component.

Solid Waste: The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2054.

Schools: School Capacity is not relevant for projects that do not include a residential use component.





### 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.

The applicable subsections of Article 3.2, Performance Standards, are Section 3.2.1, which requires a determination of consistency with the Comprehensive Plan, and Section 3.2.3, which provides standards for site plan actions.

### Section 3.2.3, Standards for site plan and/or plat actions

The proposed development generally meets the applicable standards. There are no identified areas of concern with regard to impacts from the overall site configuration and building design on the surrounding area. Pedestrian and mobility connectivity has been addressed through the provision of requisite bicycle racks, and adequate sidewalks and pedestrian clear zone have been provided in compliance with all aspects of the CBD regulations for streetscape improvements and frontage type standards. The scale of the project is of an appropriate intensity pursuant to LDR and Comprehensive Plan requirements given that the provided FAR of 2.63 is less than the maximum allowed of 3.0.

### Comprehensive Plan

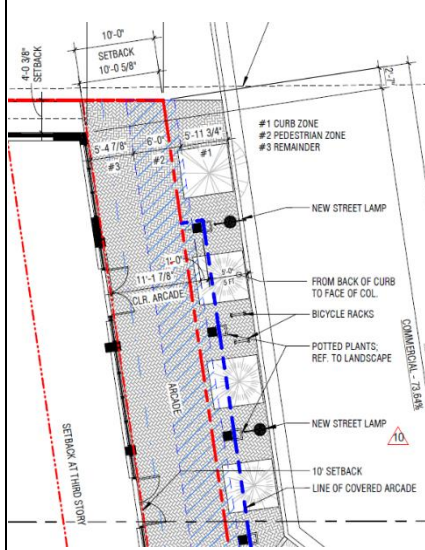
Overall, the proposed modifications are consistent with any applicable Goals, Objectives, or Policies of the Comprehensive Plan, particularly those of the Neighborhood, Districts, and Corridors Element. The Proposal includes the redevelopment of a vacant lot within the parameters of the CBD form-based regulations that encourage development at a scale consistent with the development pattern found throughout the adjacent area.

**Policy NDC 1.3.7** Implement the Commercial Core land use designation using form-based code to provide for adaptive-reuse, development... 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...

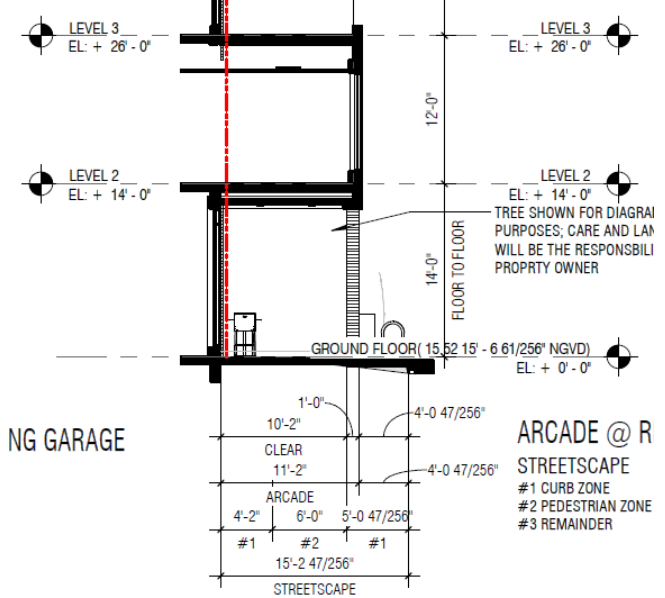

### 3.1.1(D), Compliance with the LDRs

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 regulations.

### Section 4.4.13, Central Business District

Standard/Regulation	Review
<b>Height</b> Table 4.4.13(C)	Maximum: 54 feet, 4 stories; 38 feet, 3 stories (portions of building within Atlantic Avenue limited height area) Proposed: 38 feet, 3 stories; 48 feet to highest vertical projection (roof parapet and elevator tower)
<b>Streetscape Standards</b> 4.4.13(E)(2)	<p><b>Required:</b> 15 feet  <b>Curb Zone:</b> 4 feet (min.)  <b>Ped. Clear Zone:</b> 6 feet (min.)  <b>Front Setback Area:</b> up to 15 feet</p> <p><b>Provided:</b> 16 feet (Atlantic); 22 feet (NE 3<sup>rd</sup>)  <b>Curb Zone:</b> 6 feet (Atlantic); 12 feet (NE 3<sup>rd</sup>)  <b>Ped. Clear Zone:</b> 6 feet  <b>Front Setback Area:</b> 5 feet 5 inches (Atlantic); 10 feet 2 inches (NE 3<sup>rd</sup> Avenue)</p> <p>The pedestrian clear zone wraps the entirety of the project along both frontages, and the remaining front setback area is intended to be programmed as sidewalk seating adjacent to the restaurant area. The majority of the streetscape is located under the proposed arcade, which extends from building wall into the right of way, consistent with the requirements of CBD frontage regulations.</p> 



<p><b>Frontage Type: Arcade</b> 4.4.13(E)(4)(f)</p>	<p><b>Required:</b> An Arcade is a covered, unglazed, linear hallway attached to the front of a building, supported by columns or pillars. The arcade extends into the public right-of-way, over the streetscape area, creating a shaded environment ideal for pedestrians. This frontage type is typically associated with commercial uses. The arcade shall have a minimum depth and height of 10 feet. The distance from column to curb shall be a minimum of 2 feet and shall not exceed 5 feet.</p> <p><b>Proposed:</b> The arcade complies with the dimensional requirements with a height of 12 feet, a depth greater than 10 feet, and a column to curb dimension ranging from 5 feet to 3 feet, 9 inches.</p>  <p>NG GARAGE</p> <p>ARCANE @ R STREETSCAPE #1 CURB ZONE #2 PEDESTRIAN ZONE #3 REMAINDER</p>
<p><b>Architectural Elevations</b> 4.4.13(F)</p>	<p>A review of the CBD architectural requirements has been conducted as part of the technical review process. The project has been deemed to comply with all aspects of the CBD design guidelines including architectural style and composition.</p> 
<p><b>Civic Open Space</b> LDR Section 4.4.13(G)</p>	<p><b>Required:</b> 189 sq. ft. <b>Provided:</b> 297 sq. ft.</p> <p>The project provides the requisite civic open space in the form of a forecourt located at the primary lobby entrance off of NE 3<sup>rd</sup> Avenue. The forecourt includes a green wall with built-in bench seating, a shade tree, and bicycle rack. The civic space also introduces a break in the massing of the structure along NE 3<sup>rd</sup> Avenue, which helps facilitate a more interesting structural composition.</p>



Other Requirements	
Standard/Regulation	Review
<b>Lighting (Photometric Plan)</b> 4.6.8(A)(3), Illumination Standards: Table 2	Illumination spillover is limited to the maximum degree feasible given the minimum illumination requirements for street lighting, off-street parking illumination, and lighting at the building entrance.
<b>Off-Street Parking</b>	The project requires the provision of 93 Spaces when calculated using a shared parking analysis; 80 parking spaces are provided on site within the parking garage and 13 spaces are approved to be provided via an in-lieu of parking fee payment.
<b>Bicycle Parking</b> LDR Table 4.4.13(M)	Required bicycle parking is interspersed around the perimeter of the building along the streetscape and within the civic space.

### Review & Analysis: Landscape Plan

#### LDR Section 2.4.5(H)(5), Findings

*At the time of action on a landscape plan, the approving body shall make finding with respect to the proposed plan's relationship to the following:*

- (a) Objectives of landscaping regulations Section 4.6.16.;*
- (b) Site and landscape design standards pursuant to Section 4.6.16.*

*An overall determination of consistency with respect to the above items is required in order for a landscaping plan to be approved.*

The Landscape Plan has been reviewed for technical compliance by the Landscape Plan Reviewer and the scope of work has been deemed to comply with all applicable regulations. Palms, shade trees, and shrubs are dispersed throughout the length of both frontages in combination with the arcade structure to facilitate a pleasant pedestrian experience along the street. An in-lieu fee payment totaling \$47,475 shall be paid at time of building permit to mitigate for those required trees that are not provided on site as well as existing trees that qualify for mitigation removed to accommodate new construction.

### Review & Analysis: Architectural Elevations and Aesthetics

#### LDR Section 2.4.5(I)(5), Architectural (Appearance) Elevations: Findings

*At the time of action on architectural elevations the approving Board shall make findings with respect to the objectives and standards as contained in the architectural regulations, Section 4.6.18. An overall determination of consistency with respect to the above is required in order for an architectural plan to be approved.*

#### 4.6.18, Architectural Elevations and Aesthetics

##### (A), Minimum Requirements

1. *The requirements contained in this Section are minimum aesthetic standards for all site development, buildings, structures, or alterations except for single family development.*
2. *it is required that all site development, structures, buildings, or alterations to same, show proper design concepts, express honest design construction, and be appropriate to surroundings.*

Consideration of the minimum requirements is provided throughout the review below.

##### (E), Criteria for board action

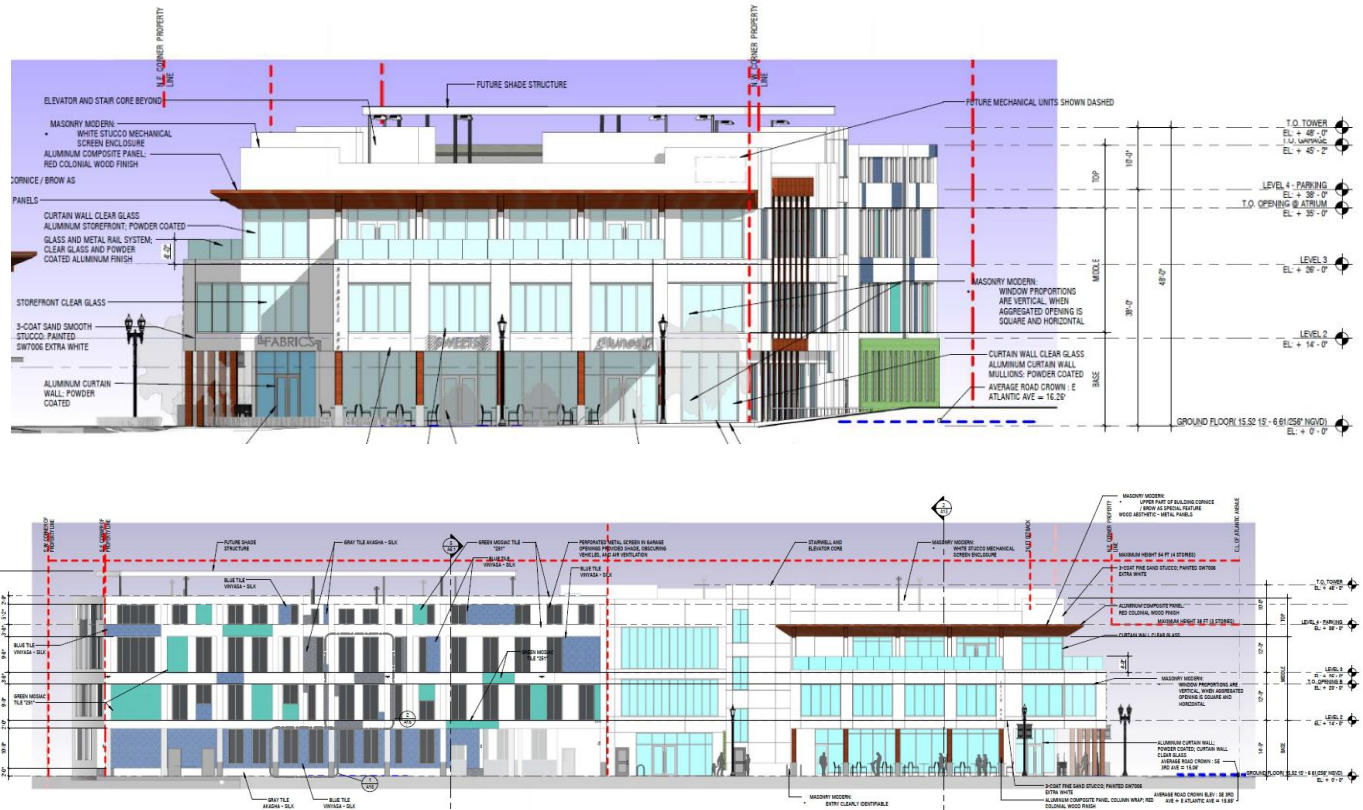
*The following criteria shall be considered, by the Site Plan Review and Appearance Board or Historic Preservation Board, in the review of plans for building permits. If the following criteria are not met, the application shall be disapproved.*

1. *The plan or the proposed structure, is in conformity with good taste, good design, and in general contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas, and high quality.*
2. *The proposed structure, or project, is in its exterior design and appearance of quality such as not to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.*
3. *The proposed structure, or project, is in harmony with the proposed developments in the general area, with the Comprehensive Plan, and with the supplemental criteria which may be set forth for the Board from time to time.*



The proposed frontage elevations provided below have been reviewed for compliance with both Section 4.6.18(E), above, and the architectural standards in 4.4.13(F).

The overall architectural design language, which is consistent with what was approved as part of the original Class V site plan approval, is found to be consistent with all applicable aspects of the Design Guidelines with respect to architectural style, materials, treatments, proportions, and composition. The applicant is proposing a masonry modern architectural style that utilizes stucco, large glass panel window openings, wood treatments, and mosaic decorative tile; and incorporates shifts and recesses in the massing to deliver a composition that is consistent and compatible with the surrounding area and enhances the quality of the pedestrian realm. Staff does not find any conflict between the criteria listed above and the proposed design.



### Technical Notes

- A 5' right of way dedication shall be conveyed to the city prior to site plan certification.
- A landscape and street maintenance agreement shall be executed between applicant and City for portions of arcade and landscaping that extend into the right of way prior to the issuance of a building permit.
- A landscape in-lieu fee payment shall be made totaling \$47,475 at time of building permit.

### 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 8, 2022, 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 18, 2022, CRA development projects memo.





### Optional Board Motions

- A. Move **approval** of the Class IV Site Plan Modification (2022-080) for the property located at **298 East Atlantic Avenue**, by finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations.
- B. Move **approval, as amended**, of the Class IV Site Plan Modification (2022-080) for the property located at **298 East Atlantic Avenue**, by finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations.
- C. Move **denial** of the Class IV Site Plan Modification (2022-080) for the property located at **298 East Atlantic Avenue**, by finding that the request is not consistent with the Comprehensive Plan and does not meet criteria set forth in the Land Development Regulations.
- D. Move to **continue with direction**.