

Mr. Scott Pape, Principal Planner
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

October 2, 2019
Revised 11/13/19

Re: Building Setback Waiver Request

Dear Mr. Pape,

This letter is a waiver request pursuant to Section 2.4.7(B)(5) of the Delray Beach Land Development Regulations ("LDRs"). In addition, Section 2.4.7(B)(1)(b) authorizes the City Commission to waive certain other regulations that no other official or board have the authority to waive. Within the CBD, that authority of the City Commission is limited to certain situations. In this situation the following would apply:

b. **Front Setback Waivers:** Waivers to decrease the minimum front setback depth are not permitted if the reduction would result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2).

Within the CBD, the following standards shall be used by the City Commission 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.**

The building has been designed so as no portion of the underground parking structure protrudes above the finish grade. The building has varying horizontal and vertical planes as well as varying materials to avoid large blank walls. Sidewalks are being widened in various areas along the building to provide seating adjacent to the pedestrian clear zone. Sidewalks are being moved closer to the building to provide a visual and physical landscape barrier between the sidewalk and the vehicular traffic lanes.

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

The property is surrounded by public streets on the east, south, and west property lines. The proposed use is permitted within the CBD and is not within close proximity with any other structures on adjacent properties to create an incompatible situation.

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

The proposed configuration of the sidewalks enhances connectivity, provides for setting back of sidewalks separated by landscaping from the vehicular lanes, and provides bike racks at various points along the sidewalks.

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

The proposed civic space has been designed as per the requirements of the code with regards to location, dimensions and size, landscaping, hardscape, and street furniture.

In addition to the above, please accept this letter as a formal request involving the granting of relief from LDR Section 4.3.4(H)(4)– Building Setbacks.

LDR Section 2.4.7(B)(5) requires that the governing body make positive findings to support the granting of a waiver based on the following:

- (a) The waiver shall not adversely affect the neighboring area;
- (b) The waiver shall not significantly diminish the provision of public facilities;
- (c) The waiver shall not create an unsafe situation; and,
- (d) The waiver does not result in the granting of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

This waiver request will not adversely affect the neighboring area, significantly diminish the provision of public facilities, create an unsafe situation and/or result in the grant of a special privilege in that the same waiver would be and has been granted under similar circumstances on other property for another applicant or owner. Thus, this waiver request should be approved. Positive findings with respect to LDR Section 2.4.7(B)(5) Waiver Findings, can be made as follows:

The waiver shall not adversely affect the neighboring area.

The granting of the waiver will not adversely affect the neighborhood because the waiver request is applicable to only the portion of the building that is underground. The vertical construction above ground meets all setbacks as specified in the Land Development Regulations for structures in the Central Business District. Granting of the waiver will permit the construction of an underground parking garage that will take vehicles out of the view of the surrounding neighborhood and minimize pedestrian conflicts. This will permit the creation of a pedestrian friendly streetscape that will contribute to the quality of life for the future patrons of the project and the surrounding residents.

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

Out-dated utilities will be relocated and upgraded to service the proposed project as well as provide more efficient service for the surrounding neighborhood. Storm water facilities will be designed and installed to insure that no flooding occurs during storm conditions and all storm water is retained on site.

The waiver shall not create an unsafe situation.

Because the subject of the waiver is applicable to only the underground portion of the building no unsafe condition is created. Because of the location of the underground walls within the setbacks the at grade site design moves the landscaping towards the street and incorporates the creation of landscape zones between the vehicular travel lanes of NE 2nd Street and NE 5th Avenue. Both streets are Primary Streets. The curbing and landscape area will provide both a visual and physical barrier to protect pedestrians walking on sidewalks creating a safer situation than currently exists.

The waiver does not result in the granting of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

No special privilege will result from the granting of this waiver. The purpose of setbacks is to provide perimeter area to accommodate landscaping and pedestrian areas. All above ground

setbacks are unchanged and are in conformity with the applicable Land Development Regulations. The streetscape and civic area are designed to provide a pedestrian friendly design that could be introduced into any number of development projects within the city.

This project meets or exceeds the requirements of LDR Section 2.4.7(B)(5) and Section 2.4.7(B)(1)(b) for this waiver request. Therefore, positive findings with respect to LDR Section 2.4.7(B)(5) and Section 2.4.7(B)(1)(b), can be made and the request for the above waiver can be approved. By granting this waiver, a superior product will be achieved.

Please feel free to email or call if you have any questions.

Sincerely,
Covelli Design Associates, Inc.



Michael J. Covelli, ASLA/ AICP