



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

100 NW 1<sup>ST</sup> AVENUE, DELRAY BEACH, FLORIDA 33444  
PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200

## Site Plan Review and Appearance Board

Meeting: November 20, 2019 | File No.: 2019-233-SPF-SPR-CLV (Waiver) | Application Name: PHG Delray

### General Data:

**Applicant:** PHG Delray Beach, LLC  
**Agent:** Covelli Design Associates, Inc.  
**Location:** 200 NE 5<sup>th</sup> Avenue  
**PCN:** 12-43-46-16-01-098-0010  
**Property Size:** 1.186 Acres  
**FLUM:** Commercial Core (CC)  
**Zoning:** Central Business District – Central Core (CBD)

### Adjacent Zoning:

- North: CBD
- East: CBD
- South: CBD
- West: CBD

**Existing Land Use:** Vacant/Commercial Building

**Proposed Land Use:** Hotel

**Floor Area Ratio:** 1.57

### Item before the Board:

A waiver request seeking relief from LDR Section 4.4.13(D)(2)(a) to allow for the proposed building to encroach 9' on the south, 8'-2.5" on the east side of the property into the 10' required front setback and 9.51' into the 10' required rear setback on the west side of the property.



### Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move to recommend approval of the waiver from LDR Section 4.4.13(D)(2)(a), which sets forth a minimum 10' building front setback where 1' is required along the south side of the property and 1' 7 1/2" is proposed along the east side of the property is proposed and a 10' rear setback along the west side of the property where 1.49' is proposed.
3. Move to recommend denial of the waiver from LDR Section 4.4.13(D)(2)(a), which sets forth a minimum 10' building front setback where 1' is required along the south side of the property and 1' 7 1/2" is proposed along the east side of the property is proposed and a 10' rear setback along the west side of the property where 1.49' is proposed.

### Project Description:

The project consists of a new 143 room hotel with 960 square feet of meeting space. The application includes a waiver request which requires City Commission action prior to consideration of the Class V Site Plan by SPRAB:

1. A waiver from LDR Section 4.4.13(D)(2)(a), which requires a minimum 10' front building setback, where a 1' setback is proposed along the south side of the property and 1' 7 1/2" setback is proposed along the south side of the property and a 10' rear setback along the west side of the property where 1.49' is proposed. It is noted that this waiver is associated with the subgrade parking facility.

Pursuant to LDR Section 4.4.13(K)(5)(a), "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

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#### Review Dates:

SPRAB Meeting Date:  
November 20, 2019

#### Attachments

1. Site Plans
2. Landscape Plans
3. Architecture Plans



reviewing applications that include waivers than 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."

**Background:**

The 1.186-acre parcel consists of portions of Block 98 of the LR Benjamins Subdivision and portions of Block 98 Town of Delray Subdivision. The eastern portion of the property is currently vacant. The western portion of the property contains a two-story 4,731 square foot office building that was constructed in 1941.

**Waiver Analysis:****Required Findings:**

Pursuant to LDR Section 2.4.7 (B)(5), 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.

**CBD Waiver Criteria:**

Pursuant to LDR Section 4.4.13 (K)(5)(b)(2), 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(8)(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 use 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.

**Applicant and Staff Assessment of the Required Findings and CBD Waiver Criteria per request:****Required Findings LDR Section 2.4.7 (B)(5):**

- a. Shall not adversely affect the neighboring area.

**Applicant Assessment:**

*"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."*

**Staff Assessment:**

LDR Section 4.4.13(K)(5)(a), indicates that the City Commission has the authority to grant waivers to decrease the minimum front setback as long as reduction does not reduce the 15' minimum required streetscape standard. The proposed waiver would not reduce the required 15' streetscape standard. In the areas of the requested front setback waiver (east and south sides of the property), the required curb zone and pedestrian clear zone is provided at grade (above ground) since the building above grade meets the required building setbacks. Since the setback reduction occurs underground, there will no visible impact to the neighboring area. The rear setback reduction along the west side of the property is only to the subgrade garage. That portion of the building that is located above ground has a 52.12' setback from the rear property line. Therefore, there will be no noticeable impact to the adjacent property to the west.



- b. Shall not significantly diminish the provision of public facilities.

**Applicant Assessment:**

*"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."*

**Staff Assessment:**

The Public Facilities Element in the Comprehensive Plan lists sewer facilities, portable water, and groundwater recharge facilities, solid waste management, drainage, street systems, and public buildings and facilities as public facilities. The sewer and water mains in the areas of the reduction are located in the Federal Highway and NE 2<sup>nd</sup> Street rights-of-way. The proposed setback reduction for the subgrade parking facility will have no impact on these facilities.

- c. Shall not create an unsafe situation.

**Applicant Assessment:**

*"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 2<sup>nd</sup> Street and NE 5<sup>th</sup> 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."*

**Staff Assessment:**

Since the setback reduction occurs subgrade, an unsafe situation will not be created to pedestrians, motorist, and bicyclists.

- 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.

**Applicant Assessment:**

*"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."*

**Staff Assessment:**

If approved, the proposed waiver request will not grant a special privilege that is not available to another property under the same circumstances. A similar waiver was approved for The Ray Hotel that is currently under construction at the northeast corner of Pineapple Grove Way and NE 2<sup>nd</sup> Street.

Required Findings LDR Section 4.4.13(K)(5)(b)(2)

- 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.

**Applicant Assessment:**

*"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.”

**Staff Assessment:**

The waiver is along NE 5<sup>th</sup> Avenue and NE 2<sup>nd</sup> Street, which are both designated as Primary Streets. The waiver does not result in the exposure of the subgrade parking garage or creation of large expansion of blank walls. The pedestrian experience along both streets is protected due to the adherence of the site plan to the Commercial Streetscape requirements (curb zone, pedestrian clear zone, and remaining front setback area).

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

**Applicant Assessment:**

*“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.”*

**Staff Assessment:**

The proposed waiver request does not create any incompatibilities with adjacent properties. The proposed reduction occurs subgrade and along NE 2<sup>nd</sup> Street and NE 5<sup>th</sup> Avenue. The location of the reduction along public streets and subgrade will cause no impacts to adjacent properties or uses.

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

**Applicant Assessment:**

*“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.”*

**Staff Assessment:**

The waiver is to the front setbacks of the subgrade parking area, which will have no impact to the adjacent streets and sidewalks or to the bicycle lane along NE 5<sup>th</sup> Avenue.

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

**Applicant Assessment:**

*“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.”*

**Staff Assessment:**

The required civic open space has been provided at the intersection of NE 5<sup>th</sup> Avenue and NE 2<sup>nd</sup> Street. Since the relief to the building setback occurs subgrade, there is no negative affect to the civic open space that is located at grade.