



# 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: April 28, 2021

File No: 2020-133-SPF-SPR-CLV | Application Name: Delray Beach CRA Development

### General Data:

**Applicant:** Delray Beach CRA

**Agent:** Tara Toto, Redevelopment Manager

**Location:** 95 SW 5<sup>th</sup> Avenue

**PCN:** 12-43-46-17-06-029-0280

**Property Size:** 0.1771 acres

**FLUM:** Commercial Core (CC)

**Zoning:** Central Business District (CBD) – West Atlantic Neighborhood Sub-District

### Adjacent Zoning:

- **North:** CBD
- **East:** Community Facility (CF)
- **South:** CBD
- **West:** CBD

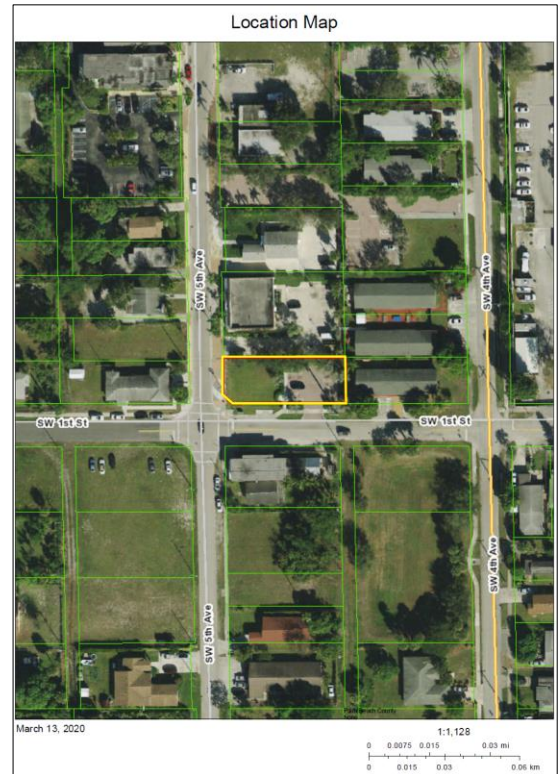
**Existing Land Use:** Surface Parking Lot

**Proposed Land Use:** Office/Retail building

**Floor Area Ratio:** 1.37

### Item before the Board:

1. A waiver request seeking relief from the minimum ten-foot front setback requirements per LDR Sections 4.4.13 (D)(2)(a)1., and Table 4.4.13 (C).



### Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move to recommend approval of a waiver to the City Commission from LDR Sections 4.4.13 (D)(2)(a)1., and Table 4.4.13 (C), which sets forth a minimum ten-foot and a maximum fifteen-foot front setback; whereas a minimum six-foot-six-inch front setback is proposed on the ground floor and a zero-foot-zero-inch front setback is proposed for the second floor, only at the southwest corner of the property for the Delray Beach CRA Development located at 95 SW 5<sup>th</sup> Avenue.
3. Move to recommend denial of a waiver to the City Commission from LDR Sections 4.4.13 (D)(2)(a)1., and Table 4.4.13 (C), which sets forth a minimum ten-foot and a maximum fifteen-foot front setback; whereas a minimum six-foot-six-inch front setback is proposed on the ground floor and a zero-foot-zero-inch front setback is proposed for the second floor, only at the southwest corner of the property for the Delray Beach CRA Development located at 95 SW 5<sup>th</sup> Avenue.

### Project Description:

The Delray Beach CRA Development Class V Site Plan application is associated with the addition of a 9,981 gross square foot two-story office/retail building over an existing surface parking lot located at 95 SW 5<sup>th</sup> Avenue. The ground floor will include 1,282 sf of leasable tenant space and a covered parking area. The second floor will consist of 5,089 sq. ft. of office space. The development proposal includes the following waiver request:

- a) Waiver seeking relief from LDR Sections 4.4.13 (D)(2)(a)1., and Table 4.4.13 (C), which sets forth a minimum ten-foot and a maximum fifteen-foot front setback; whereas a minimum six-foot-six-inch front setback is proposed on the ground floor

#### Project Planner:

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#### Review Dates:

SPRAB Board:  
April 28, 2021

#### Attachments

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



and a zero-foot-zero-inch front setback is proposed for the second floor, only at the southwest corner of the property for the Delray Beach CRA Development located at 95 SW 5th Avenue.

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 Central Business District (CBD) in accordance with those specific provisions. When reviewing applications that include waivers that can only be granted by the City Commission, the Site Plan Review and Appearance Board (SPRAB) shall make formal recommendations to the City Commission regarding those waivers prior to site plan consideration."

**Background:**

The 0.1771-acre subject site consists of Lots 28 and 29 of the Re-Subdivision of Blocks 29 and 27, Delray, according to the Plat thereof recorded in Plat Book 9, Page 66, of the Public Records of Palm Beach County, Florida. Currently situated on the site is a surface public parking lot. The following is a list of events involving the site:

- On July 25, 1991, permit 91-11836 was issued to demolish the previous home on the property.
- In April 2008, the CRA took ownership of the subject site according to Palm Beach County Property Appraiser (Property Appraiser) records.
- On March 24, 2010, a Class V Site Plan application (2010-085) was approved by the SPRAB for the construction of a 7-space public parking lot with an open space area (existing site conditions).

**Waiver Analysis:**

**Required Findings:**

Pursuant to LDR Section 2.4.7 (B)(5), prior to granting a waiver, the granting body shall make findings on subsections a through d (contained within this report) prior to the granting of a waiver.

**CBD Waiver Criteria:**

Pursuant to LDR Section 4.4.13 (K)(5)(b)2., within the CBD, the following standards (subsections a through d contained within this report) 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).

**Restrictions:**

Pursuant to LDR Section 4.4.13 (K)(5)(b)1., within the CBD, the City Commission has the authority to grant waivers subject to the following restrictions:

- a) Building Height Waivers. Waivers to increase the number of stories or maximum height of a building are not permitted.
- b) Front Setback Waivers. Waivers to decrease the minimum front setback depth are permitted if the reduction would not result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2).
- c) Sidewalk Width Waivers. Waivers to decrease the minimum sidewalk width are not permitted in the CBD.

**Staff Assessment of the Required Findings and CBD Waiver Criteria per request:**

**Required Findings LDR Section 2.4.7 (B)(5):**

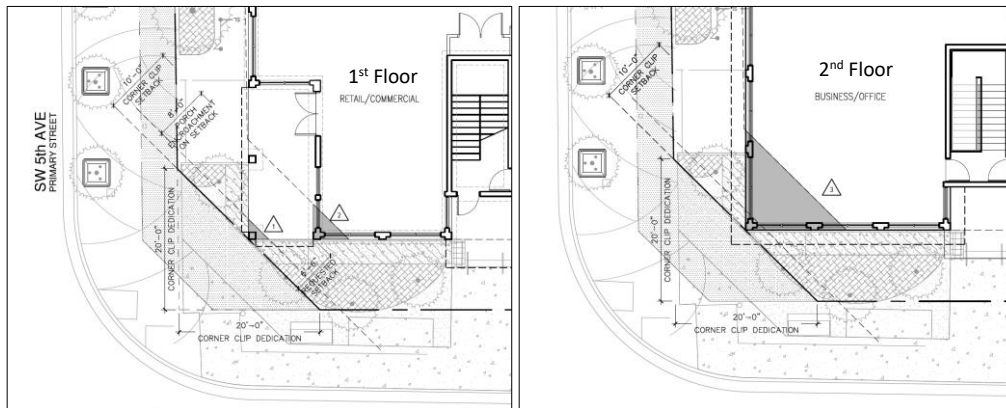
**a. *Shall not adversely affect the neighboring area.***

Pursuant to LDR Section 5.3.1 (A)(5), a 20 ft by 20ft "corner clip" right-of-way dedication is required at all intersections in the Central Business District. Dedications are an exaction of a portion of private property for public purposes. The plans provided show the right-of-way dedication at the southwest corner of the property adjacent to the northeast corner of the SW 5<sup>th</sup> Avenue and SW 1<sup>st</sup> Avenue intersection. The dedicated area contributes to the minimum 15 ft required streetscape area. Streetscape is composed of a minimum 4 ft curb zone, 6 ft pedestrian clear zone (sidewalk), and remaining front setback area. The plans show the corner clip composed of a public sidewalk width and landscape area which contribute to a minimum 21 feet of streetscape width in this area.



The dedicated area creates a reconfigured property line which creates a “chamfer.” Pursuant to LDR Section 4.4.13 (D)(2)(a)1., and Table 4.4.13 (C), a minimum 10 ft to a maximum 15 ft front setback is required for properties in the CBD. Side lot lines facing streets (SW 1<sup>st</sup> Avenue) are regulated by front setback requirement. The plans show a minimum 10 ft front setback provided at the front of the property adjacent to SW 5<sup>th</sup> Avenue and SW 1<sup>st</sup> Street, but not at the southwest corner of the property which is being dedicated.

If granted, the waiver would not adversely affect the neighboring areas since the relief would not result in any reduction of the minimum required streetscape or diminish the building’s appearance as compared to the surrounding structures. The waiver requests to reduce the minimum 10 ft front setback on the ground floor to 6 ft-6in and 0 ft-0in on the second floor will be located at the southwest corner of the property adjacent to the corner clip dedication area only. The waiver would allow the building to have right angles and maximize the development space while maintaining the minimum 10 ft required front setbacks along SW 5<sup>th</sup> Avenue and SW 1<sup>st</sup> Street for the remaining portions of the building. If granted, the waiver would allow the porch to be built to the property line, resulting in a 6ft-6in encroachment which is less than the maximum 8ft allowed for porches in LDR Table 4.4.13 (E). If granted, the waiver would also allow the 2<sup>nd</sup> story to be built on top of the porch which would have a 0ft-0in front setback.



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

If granted, the waiver to reduce the building setback (in the area specified would not diminish public facilities such as public utilities (water, sewer, electric) or right-of-way. Since the corner clip dedication contributes to increasing the sidewalk and landscape area; the public right-of-way would be improved. To note, all other areas of the building meet the minimum required front, side, and rear setbacks. If the waiver is not granted, the building would need to provide a minimum 10 ft front setback at the southwest corner of the property and the porch could only encroach a maximum of 8 ft into the front setback.

**c. *Shall not create an unsafe situation;***

If granted, the waiver will not create an unsafe situation. Specifically, the building encroachments will not obstruct sightline visibility triangles, diminish the minimum 15 ft required streetscape (up to 21 ft provided), or displace public infrastructure. The fire hydrant, bus stop, and stop sign are all outside the corner clip setback area where the waivers are proposed.

**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.***

If granted, the waiver would not grant a special privilege that in a similar situation would not be able to be granted to another owner or applicant. The 20 ft x 20 ft corner clip right-of-way dedication is required at intersections in the CBD to allow for adequate sidewalk widths, curb zones and front setback areas. Like any other dedication, property lines are reconfigured, but setback requirements remain. Corner clip dedications create chamfered property corners which often produce chamfered building corners when setbacks are applied unless the building is redesigned, or relief is granted. The granting of the waiver would allow the building to have a right-angle corner while still adhering to the minimum required setbacks for all other areas of the building. To note, a similar setback waiver (Res. #84-20) was granted by the City Commission for the second and third floors for the Pierre Delray II project (2019-266) located at 298 E. Atlantic Avenue in the CBD on October 6, 2020.

**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.***

If granted, the waiver to reduce front setbacks at the southwest corner of the property would not result in an inferior pedestrian experience along a primary road or expose a parking garage or create a blank wall. Specifically, the 20 ft x 20 ft dedication provides additional area to the public right-of-way for increased sidewalk width and green space which enhances the pedestrian experience along SW 5<sup>th</sup> Avenue (Primary Street) and SW 1<sup>st</sup> Avenue (Secondary Street). The garage located on the southeast corner of the property will not be exposed resulting from the waivers, and the façades composed of windows, doors, and synthetic wood paneling would not be blank.



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

If granted, the waiver will not create incompatibilities with nearby buildings or uses of land. The waiver to allow a reduced setback for the ground and 2<sup>nd</sup> floors would allow the building to provide 90-degree right angle corners. If the waiver is not granted the building could be designed smaller and maintain the same right angles and comply with all the required setbacks post dedication or create a chamfer in the façade at the southwest corner to adhere to the setback requirement. The building is located adjacent to a church (west), a vacant property (southwest), and multi-family buildings to the south and east. The adjacent buildings at the intersection all contain right angled corners and would be subject to corner clip dedications and reconfigured setbacks if they were to ever be redeveloped.



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

If granted, the waiver to reduce front setback on the first and second floors at the southwest corner of the site will not erode the connectivity of the street or sidewalk. Furthermore, the property is not located within the boundaries of any adopted bicycle or pedestrian master plans. The plans provided show streetscapes larger than the minimum 15 ft required (up to 24ft-6in). The site plan design includes paved walkway connections from the building to the sidewalks for pedestrian interaction.

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

Pursuant to LDR Section 4.4.13 (G)(1)(a), "Sites smaller than 20,000 square feet have no civic open space requirement. The first 20,000 square feet of sites larger than 20,000 square feet are not used in the computation of required civic open spaces." Since the subject site is 7,713 sq. ft, no civic open space is required, and none is provided.