



## Legislation Details (With Text)

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**Title:** RESOLUTION NO. 203-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE GRANTING OF A WAIVER REQUEST TO LDR SECTION 4.4.13 (E)(4)(e)1., a., TABLE 4.4.13 (I) "DIMENSIONAL REQUIREMENTS FOR STOREFRONTS", A, WHICH SETS FORTH A MINIMUM 10' SETBACK REQUIREMENT FOR STOREFRONTS IN THE CENTRAL BUSINESS DISTRICT, WHEREAS A 7'-10" FRONT SETBACK IS BEING PROPOSED FOR THE PIERRE DELRAY I BUILDING LOCATED AT 302 E. ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI-JUDICIAL HEARING).

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Pierre Delray I (Waiver) - Location Map, 3. Pierre Delray I (Waiver) - Resolution 203-19, 4. Pierre Delray I (Waiver) - Applicant Request Letter, 5. Pierre Delray I (Waiver) - Waiver Request and Justification, 6. Pierre Delray I (Waiver) - Site Exhibit, 7. Pierre Delray 1 (Waiver) - Architectural (Reference Only), 8. Pierre Delray I (Waiver) - CLIII Civil Plans (Reference Only), 9. Pierre Delray I (Waiver) - Staff Report (Reference Only)

Date	Ver.	Action By	Action	Result
12/10/2019	1	City Commission	approved	Pass

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** December 10, 2019

RESOLUTION NO. 203-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE GRANTING OF A WAIVER REQUEST TO LDR SECTION 4.4.13 (E)(4)(e)1., a., TABLE 4.4.13 (I) "DIMENSIONAL REQUIREMENTS FOR STOREFRONTS", A, WHICH SETS FORTH A MINIMUM 10' SETBACK REQUIREMENT FOR STOREFRONTS IN THE CENTRAL BUSINESS DISTRICT, WHEREAS A 7'-10" FRONT SETBACK IS BEING PROPOSED FOR THE PIERRE DELRAY I BUILDING LOCATED AT 302 E. ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI-JUDICIAL HEARING).

### Recommended Action:

Review and consider Resolution No. 203-19.

The subject property is zoned Central Business District (CBD) and is in the Central Core Sub-district. The 0.1809-acre site is located at 302 East Atlantic Avenue, which is at the southeast corner of the intersection of East Atlantic Avenue and SE 3<sup>rd</sup> Avenue. The property has a three-story 13,902 sq. ft. bank/office building that was constructed in 1929, commonly known as the "Sun

Trust Bank Building”.

On July 26, 2019, a Class III Site Plan modification application (2019-256) was submitted for the Pierre Delray I building (SunTrust Bank) associated with façade improvements, an increase to the first story floor area, a new roof, and utility improvements in the public right-of-way (ROW).

On October 25, 2019, a waiver request was submitted from LDR Section 4.4.13 (E)(4)(e)1. a., Table 4.4.13 (I) “Dimensional Requirement for Storefronts”, to allow a 7'-10" storefront setback along the north side of the building on East Atlantic Avenue in lieu of the required minimum 10' setback.

The existing building has an arcade along East Atlantic Avenue that is located wholly on private property and does not extend over the public right-of-way, as required by the current CBD land development regulations. The arcade had an ATM machine and has a handicap ramp providing access to the front door of the bank. The upper story extends over the arcaded area. The dimension between the existing column face and the back of the curb is 12'-7", which is less than the current streetscape minimum of 15 feet. The existing building facade is setback approximately 16 feet; the distance between the interior face of the arcade columns and façade wall is slightly less than 10 feet.

In 2015, the Central Business District (CBD) zoning district was updated, and new regulations focused on providing adequate streetscape area in the downtown area were added. Several of the updates are relevant to the requested waiver:

1. The front setback for commercial buildings was changed from a minimum of 5 feet to a minimum of 10 feet;
2. Regulations were added establishing a minimum overall streetscape width of 15 feet, with a minimum curb zone of four feet to accommodate signage, trees, etc. and a minimum pedestrian clear zone of six feet to ensure an unobstructed pedestrian route on downtown streets;
3. Frontage standards, including an arcade type and storefront type, were added; and
4. Additional criteria were added to evaluate waiver requests in the CBD.

The existing nonconforming arcade is a unique condition along the corridor. LDR Section 4.4.13 (E)(4)(f)1. a., states, “arcades shall extend over the sidewalk. A sidewalk should not run parallel to an arcade, allowing pedestrians to bypass storefront windows.” The existing arcade is parallel to the sidewalk, which is a non-conforming configuration. The current arcade requirements also require a minimum of 10 feet clear between the interior face of the column and the building façade; the current arcade depth is slightly less than 10 feet.

LDR Section 1.3.5 (B)(1), states, “enlargement or alteration of the structure in a way that complies with applicable dimensional standards and does not create any new nonconformity, or alteration of the structure in a way that decreases the degree of nonconformity, is permitted.” The proposed waiver request would remove the non-conforming arcade but would create a non-conforming front setback. It is important to note that the existing building currently has non-conforming side and rear setbacks.

### **Waiver Standards**

Within the CBD, the standards in LDR Section 4.4.13 (K)(5), 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). The applicant's justification statement is attached.

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.
- 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.

Required Findings LDR Section 2.4.7 (B)(5)

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.

LDR Section 4.4.13 (K)(5)(a), provides that the City Commission has the authority to grant waivers to decrease the minimum front setback as long as the reduction does not reduce the 15' minimum required streetscape standard. If the proposed waiver is granted, the required minimum streetscape width of 15 feet will be provided in the areas between the existing columns. The dimension from the faces of the existing columns to the back of curb measures approximately 12'-7", which is less than the minimum standard; however, the columns currently exist in this position.

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.

East Atlantic Avenue is a Primary Street. The waiver requested is for the reduction of the minimum required storefront setback from 10' to 7'-10". The reduction will allow for the expansion of the ground floor space into the existing arcade area with a new storefront design. It is also important to note, the plan proposes to connect the existing columns to new facade wall. The final encroachment connecting to the existing columns is up to 2'-8", as demonstrated on the submitted exhibit. The site plan provides a streetscape width of 15' between the columns and 12'-7" at the face of the existing columns.

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

The portion of the corridor where the building is located requires retail use on the ground floor. The buildings in this area include ground floor retail uses, such as shops, banks, cafés, and restaurants. The proposed uses are business office (bank) and retail use on the ground floor, which are compatible uses with the surrounding area. The location of buildings along this portion of the avenue have variations in setback, including an arcade over the public

right-of-way at the neighboring Urban Outfitters; the streetscape is generally approximately 13 feet wide.

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

If approved, the minimum 6' pedestrian clear zone will be maintained on Atlantic Avenue. Prior to SPRAB approval, Sheet A4 of the Architectural Set (attached) must be updated as the pedestrian clear zone at the corner of the building includes the corner column; a clear pedestrian zone of at least six feet must be demonstrated between the open corner doors and the corner column. The proposed waiver does not impact an adopted bicycle/pedestrian master plan.

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

Pursuant to LDR Section 4.4.13(G) sites smaller than 20,000 sq. ft. are not required to provide civic open space. The subject site is 7,880 sq. ft.

In addition to the CBD waiver standards, 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;

If granted, the location of the storefront would not be inconsistent with neighboring properties. The location of buildings and storefronts along this portion of the avenue have some variations in setback, including an arcade over the public right-of-way at the neighboring Urban Outfitters; the streetscape is generally approximately 13 feet on this side of East Atlantic Avenue.

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

The Public Facilities Element of the Comprehensive Plan lists sewer facilities, potable water, solid waste management, drainage, street systems, and public buildings as public facilities. If the waiver is granted, the current streetscape is reduced however, the sidewalk area of the public right-of-way will not be diminished. Granting the waiver does not appear to affect other public facilities.

- c. Shall not create an unsafe situation;

If granted, the resulting streetscape will have the minimum 4' curb zone and the minimum 6' pedestrian clear zone.

- 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.

The existing nonconforming arcade is a unique condition along the corridor.

On November 13, 2019, the Site Plan Review and Appearance Board (SPRAB) voted 6 to 0 (Andrea

Sherman was absent) to recommend approval to the City Commission for the waiver from LDR Section 4.4.13 (E)(4)(e)1.,a., Table 4.4.13(l) "Dimensional Requirement for Storefronts", Line A, to allow a seven-foot, ten-inch (7'-10") storefront setback at the north side of the building in lieu of the ten-foot (10') minimum required setback for the proposed site plan modification for the Pierre Delray I building (SunTrust Bank) located at 302 E. Atlantic Avenue.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A