



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### In-Lieu of Parking Fee

|               |          |   |
|---------------|----------|---|
| Meeting       | File No. | Application Type                              |
| June 15, 2024 | 2024-078 | Amendment to the Land Development Regulations |

**Applicant**  
City of Delray Beach

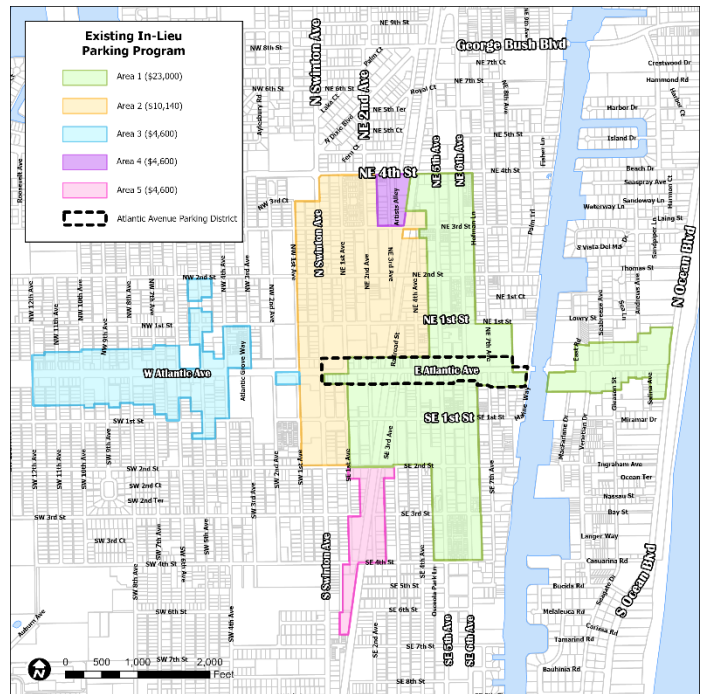
**Request**  
Provide a recommendation to the City Commission on Ordinance No. 14-24, a City-initiated amendment to Section 2.4.11, "Relief," Section 4.4.13, "Central Business (CBD) District," and Section 4.6.9, "Off-street parking regulations" of the Land Development Regulations (LDR) to modify the in-lieu of parking fee and to eliminate the public parking fee.

### Background Information

#### Overview of Fee In-Lieu of Parking Program

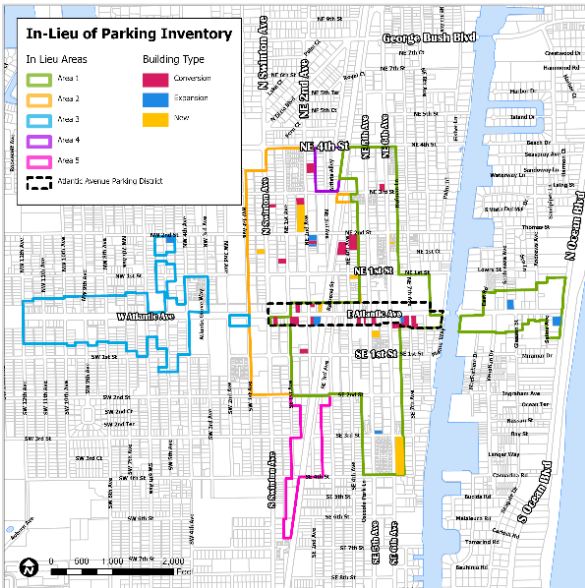
The in-lieu parking fee has existed in various iterations since the 1970s. The program is limited to properties within the Central Business District (CBD) and Old School Square Historic Arts District (OSSHAD) zoning districts. The in-lieu of parking fee allows *new development, use conversion to existing buildings, building additions and/or renovations, that result in the requirement to provide new parking or additional parking, have the option of requesting some of the parking spaces to be approved by the City Commission through the payment in-lieu of parking program (LDR Section 4.6.9(E)(3)).* It is important to note that the following limitations apply to the in-lieu of parking fee program:

- **Not Eligible:** Exclusively residential development, or the residential components of mixed-use developments
- **CBD properties within 750 feet of public parking garage or planned Tri-rail Coastal Link Station:** Limited to no more than 50 percent of the required amount of required off-street parking; restaurants and lounges limited to 30 percent.
- **CBD properties not within 750 feet of public parking garage or planned Tri-rail Coastal Link Station and OSSHAD properties:** Limited to 30 percent for new development, additions, and expansion of use area that result in the requirement to provide new parking or additional parking.
- **CBD and OSSHAD properties:** No maximum to the amount allowed to be requested for use conversions.



There are currently five distinct in-lieu of parking areas with different fees associated with each area (map above). The fee structure was established to encourage and support redevelopment and adaptive reuse, particularly in areas of the City that have not economically prospered from the downtown's continued revitalization. It is also important to note that as properties are rezoned to CBD, the in-lieu of parking areas have not been expanded to encompass the newest CBD zoned properties; as a result, any use changes and/or redevelopment on those properties require that the minimum amount of off-street parking be provided.

Since the adoption of the fee in-lieu of parking program, 42 requests have been approved; 24 use conversions, 9 expansions, and 9 new builds. The location of the approved requests is shown on the map below.

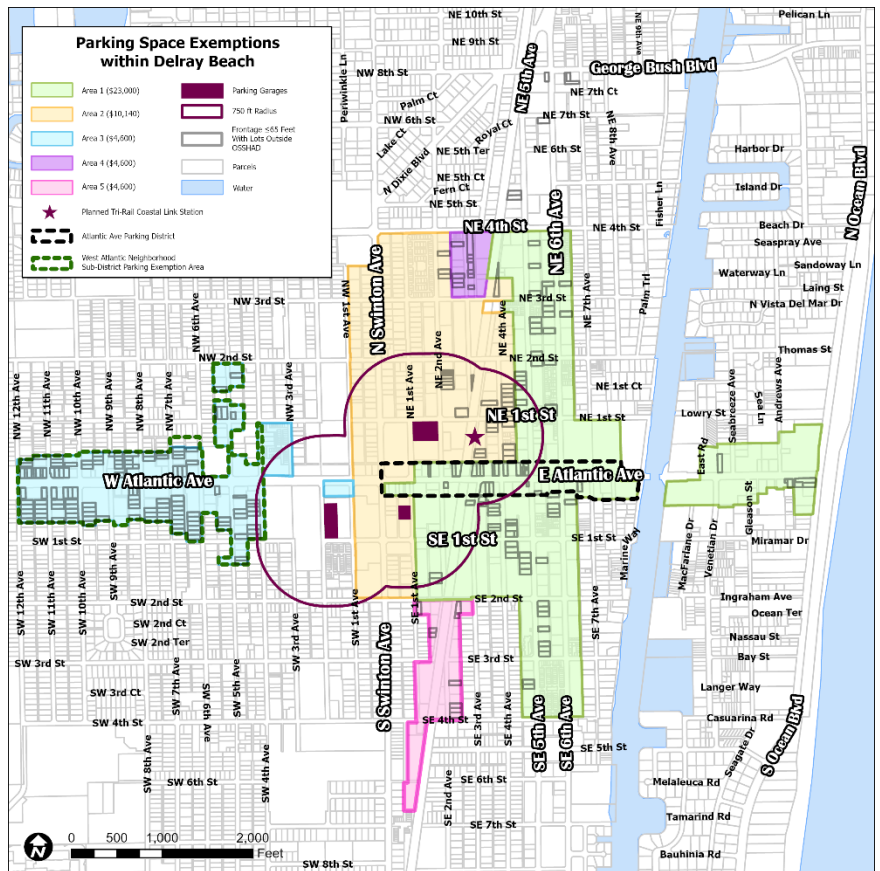


On May 2, 2023, a “zoning in progress” relative to the in-lieu parking program was adopted by the City Commission via Resolution No. 102-23, and extended to October 17, 2024 via Resolution 196-23 and Resolution No. 84-24. The Resolutions recognize “zoning in progress” with respect to the preparation and review of proposed amendments to the City’s Land Development Regulations (LDR) for in lieu of parking requests. The Resolutions adopt the pending ordinance doctrine and Florida law as applied to City’s review of its zoning regulations relating to in lieu of parking requests. During the zoning in progress period, the City is deferring the acceptance and processing of applications for these requests.

**Other Available Parking Relief**

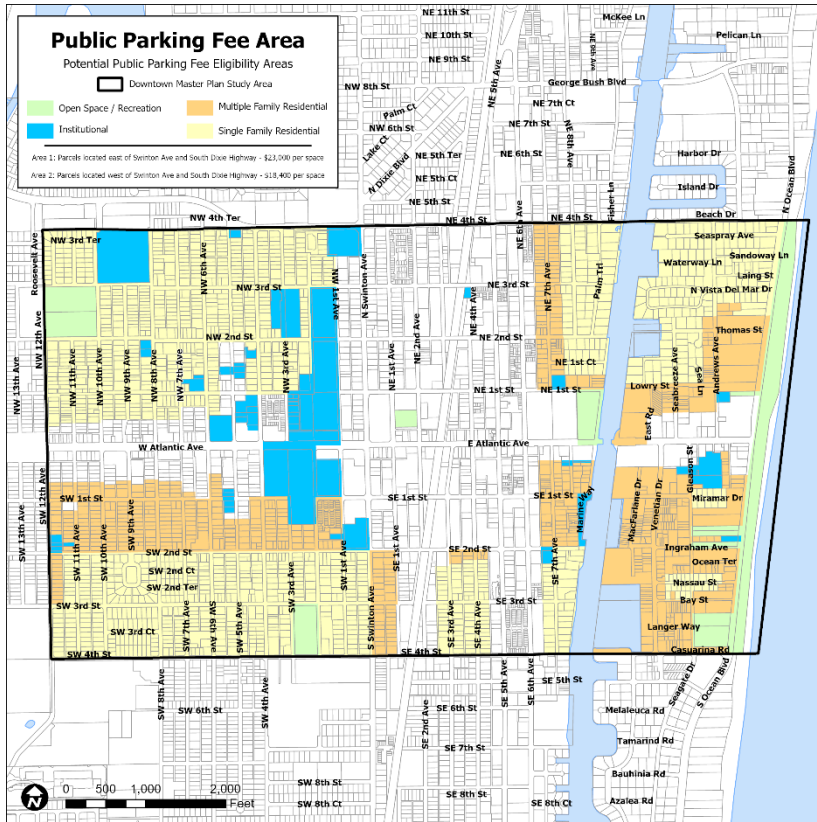
Within the Central Business (CBD) District, there are multiple scenarios other than the in-lieu parking program in which a business would not have to provide on-site parking, pursuant to **LDR Section 4.4.13(I)**. The location of the following reduction and / or relief areas (where geographic limitations apply) is shown on the map below.

- Properties less than 65 feet in width with a building no more than two stories in height are not required to provide off-street parking, except for restaurant and lounge uses. Properties less than 65 feet in width with a building more than two stories in height shall provide the full parking requirement for all uses in all stories.
- Within the West Atlantic Neighborhood Subdistrict, existing commercial buildings and existing commercial buildings with an outdoor use area, are exempt from providing additional on-site parking, through December 31, 2026. The exemption was adopted in 2017 and extended multiple times, most recently through Ordinance No. 04-24.
- Business and Professional Office uses located within 750 feet of a public parking garage or the Planned Tri-Rail Coastal Link Station have lower parking requirements.
- Properties located within 750 feet of a public parking garage or the Planned Tri-Rail Coastal Link station are not required to provide additional parking resulting from a change in use, except for new restaurant and lounge uses within an existing building if additional floor area is not created.
- When the parking requirements are applied to new development or expansion of an existing use, which results in the requirement of only one new parking space, a one space exemption shall be allowed. This exemption may only occur once per property.
- Restaurants, Cocktail Lounges, Hotels, and Residential Type Inns may provide their required vehicular parking as valet parking.



- Off-site parking and off-site parking agreements.

The location of these reduction and / or relief areas (where geographic limitations apply) is shown on the map above. The Atlantic Avenue Parking District (dashed line area on the map above) has a parking requirement of 12 spaces / 1,000 are required; outside of the Atlantic Avenue Parking District, 6 spaces / 1,000 square feet of restaurant are required. This was adopted to control the frequency of restaurants on Atlantic Avenue.



### Other Available Parking Relief

Outside of the CBD (map at left), the **public parking fee** offers an additional opportunity for providing relief from off-site parking requirements. This provision was adopted in 2006 via Ordinance No. 79-05, as a result of a private request. The public parking fee program allows a development within 750 feet of a Programmed Parking Facility to provide up to 25 percent of the total required parking (not to exceed ten percent of the total number of parking spaces associated with a Programmed Public Parking Facility, and no more than 25 percent of the spaces in the garage), by paying the adopted fee (\$23,400.00 per space east of Swinton Avenue and South Dixie Highway, and \$18,400.00 per space for parcels located west of the Swinton Avenue and South Dixie Highway). The intent of the adopted program was to maximize shared parking opportunities, provide an avenue for private development to fund public parking infrastructure, and minimize surface parking. It is important to note that the public parking fee would be applied within 750 feet of a *programmed* public parking garage, and that there are no parking garages programmed in the City's 5-year Capital Improvements Program, and there is no documented history of any

projects utilizing the public parking fee.

In addition to the public parking fee, the LDR allows for a parking reduction based on “**special documentation.**” This reduction is applicable City-wide. Pursuant to **LDR Section 4.6.9(F)(1), Special Provisions: Reduction allowed, when, upon receipt and acceptance of special documentation, it is conclusively demonstrated that a reduced number of parking spaces will accommodate a specific use, the body which acts on the attendant site plan may reduce the parking requirements accordingly.** It is noted that there are instances where this regulation has been utilized, most recently to support properties within historic districts.

### Description of Proposal

The intent of the proposed update is to provide objective standards for approving in-lieu of parking requests, and to adapt to the conditions in the downtown that have changed since the in-lieu parking fee was adopted. Since 1989, the City's Comprehensive Plans have focused on maintaining and enhancing a stable community while emphasizing the City's highly regarded renaissance, “a revival in both economic and social terms, based on its unique history and culture.” Given this success, the downtown area would now benefit from a shift in policy that encourages any type of redevelopment through readily available relief options from providing off-street parking, to an approach that prioritizes the specific policy-driven goals of historic preservation, investment in an existing building, or investment in the West Atlantic Neighborhood Sub-district. The following changes are proposed to the in-lieu of parking program:

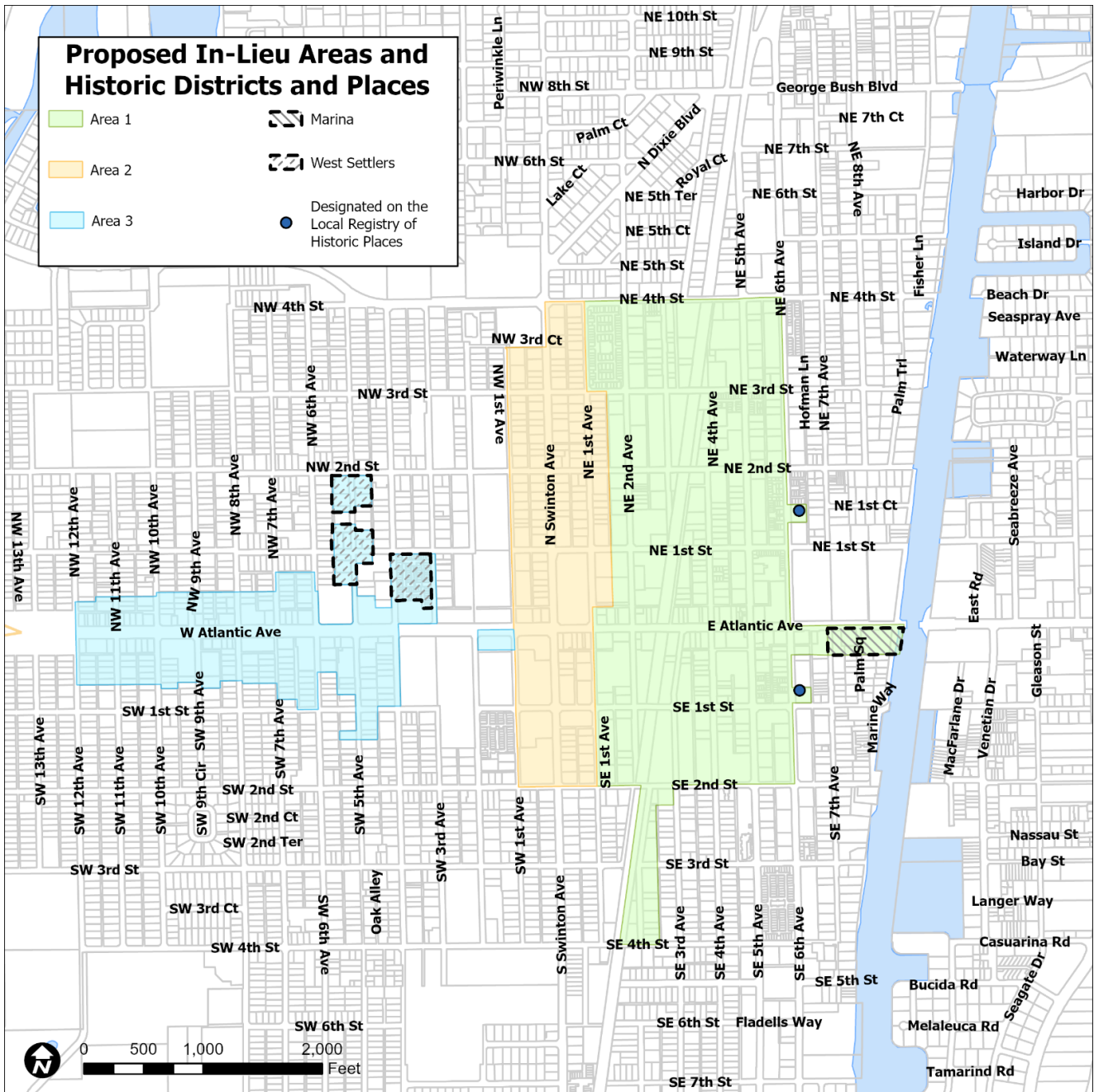
### LDR Section 4.6.9, “Off-Street Parking”

- In-lieu of parking regulations are currently a subsection of LDR Section 4.6.9(E) “Location of Parking Spaces.” The in-lieu of parking regulations are relocated to a new Subsection (G), “In-lieu of Parking Fee.”



- The existing in-lieu of parking fee areas are collapsed from five to three. Most of the CBD has experienced a redevelopment boom, and the lower fees associated with certain areas are no longer necessary.
  - Generally, in-lieu Areas 4 and 5 are combined with Area 1, as shown on the map below. Areas 4 and 5 generally represent the north and south Railroad Corridor Sub-districts of the CBD, with some limitations applied, based on neighborhood characteristics. Currently a part of Area 1, the Beach Sub-District of the CBD is eliminated as an in-lieu eligibility area, because policy dictates that development should be directed away from the Coastal High Hazard Area.
  - Area 2 is modified to cover only the areas within OSSHAD; the remainder of the old Area 2 is collapsed into Area 1.

A map of the proposed in-lieu fee areas is provided below. It should be noted that these areas do not establish eligibility; they apply to the application of fees. Resolution No. 80-24, which amends the fees and fee areas, is provided as an attachment for reference; the City Commission will review concurrent with Ordinance No. 14-24.



- **Approved fee in-lieu requests shall carry over to subsequent applicants.** This has been the de facto policy; the addition codifies the standard operating procedure.
- **Elimination of the Public Parking Fee is proposed.** Since 2006, no public parking fee requests have been submitted or approved, and there are no public garages planned in the City's Capital Improvement Plan.

#### **LDR Section 2.4.11, "Relief"**

This section is substantially updated to absorb procedures that are relocated out of LDR Section 4.6.9, consistent with the way other ways to obtain relief from the requirements of the LDR are structured.

#### In-lieu of Parking Findings

LDR Section 2.4.11(F), "In-Lieu of Parking and public parking fee request," currently has required findings, but the findings are very limited and generally pertain to the proof of adequacy of available public parking. The proposed amendment adds the following findings that the Commission must make to approve an in-lieu of parking request, and expands upon the requirements for determining the adequacy of public parking facilities:

- (a) Adequate public parking options are available within 750 feet of the subject site, as determined by considering utilization data for on-street parking, public parking lots, and public parking garages within the last year. Utilization rates higher than 80% for public parking options are not considered to be available. Historic properties are exempt from this finding.
- (b) The approval of the in-lieu of parking fee request will support at least one of the following City policy-driven goals:
  1. Preservation of a historic structure by allowing for its use, re-use, or expansion and/or maintenance of the character of a historic district by avoiding excessive use of historic properties and/or properties located in historic districts for parking; or
  2. Investment in the West Atlantic Neighborhood Sub-district; or
  3. Adaptive reuse of an existing building.
- (c) The approval of the in-lieu of parking fee request will not facilitate development that will demolish a contributing historic structure or a non-contributing structure that is at least 35 years old that has been identified for potential designation through a resource survey.

#### **LDR Section 4.4.13(I), "CBD parking standards"**

This section is updated for consistency with the changes proposed in LDR Section 4.6.9; no policy changes are proposed.

The proposed draft Ordinance No. 14-24 is provided as an attachment. The draft Resolution No. 80-24, modifying the in-lieu of parking fee schedule, is attached as reference only. A base in-lieu rate will be established for each area, and a reduction will be applied to areas where development should still be incentivized. Final approval of the fee schedule will be concurrent with the second reading of Ordinance No. 14-24.

### **Review and Analysis**

#### **LDR Section 1.1.6, Amendments**

*The text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

**LDR Section 2.4.7(A), Amendments to the Land Development Regulations, amendments to the LDR may be initiated by the City Commission, Planning and Zoning Board, or City Administration, or by a member of the public.**

The proposed amendment is directed by the City Commission.

### **LDR Section 2.4.7(A)(5), Findings**

*For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.*

The following Objectives and Policies of the adopted Comprehensive Plan are applicable to the proposed amendment.

### **Neighborhoods, Districts, and Corridors Element**

Objective NDC 2.2 Downtown and Surrounding Neighborhoods *Protect and enhance the “Village by the Sea” character of the downtown and neighborhoods located east of I-95.*

Policy NDC 2.2.3 *Encourage the adaptive reuse of existing structures located within mixed-use and commercial land use designations, particularly those that were originally established as single family homes or are over 50 years old, by providing incentives, such as relief in the Land Development Regulations, grants to facilitate retrofitting or rehabilitation, etc.*

Policy NDC 2.2.4 *Provide incentives in the Land Development Regulations that encourage the long-term viability, adaptive reuse, and redevelopment of small properties located within mixed-use and commercial land use designations to maintain the historic development pattern over time.*

The CBD and surrounding neighborhoods, including the West Settlers Historic District and the nationally recognized Old School Square and Marina Historic Districts, represent the essence of Delray Beach - the "Village by the Sea". The continued revitalization of the downtown area is essential to achieving the overall theme of the Always Delray Comprehensive Plan by managing growth and preserving the charm and historic scale of downtown. The proposed amendment is designed to continue to support local investment and incentivizes the continued revitalization of the CBD while also preserving the “character of downtown and the neighborhoods east of I-95” through the adaptive reuse of existing structures.

Policy NDC 2.2.6 *Accommodate automobile access through innovative approaches, including creating district-wide parking programs, strategically locating public garages and lots to maximize access without conflicting with pedestrian activity, providing on-street parking, designating ride-share drop off and pick-up locations, and developing “park once” areas that facilitate walking among multiple destinations in a safe, attractive environment.*

Objective NDC 3.5, Update the Land Development Regulations *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*

Policy NDC 3.5.5 *Continue to develop new land use and zoning incentives for eligible and historic resources within the Land Development Regulations, such as encouraging the adaptive reuse of historic structures within mixed-use zoning districts and providing parking relief strategies.*

### **Economic Development Element**

Policy ECP 6.3.2. *Encourage predictability and consistency in the City’s Land Development Regulations, while also allowing for flexibility and creativity in the site development process.*

### **Mobility Element**

Policy MBL 3.4.1 *Regularly analyze, assess, and update parking requirements in the Land Development Regulations to reflect actual parking trends and needs. Parking requirements may be customized for various parts of the City (e.g. Downtown, West of Congress Avenue).*

### **Historic Preservation Element**

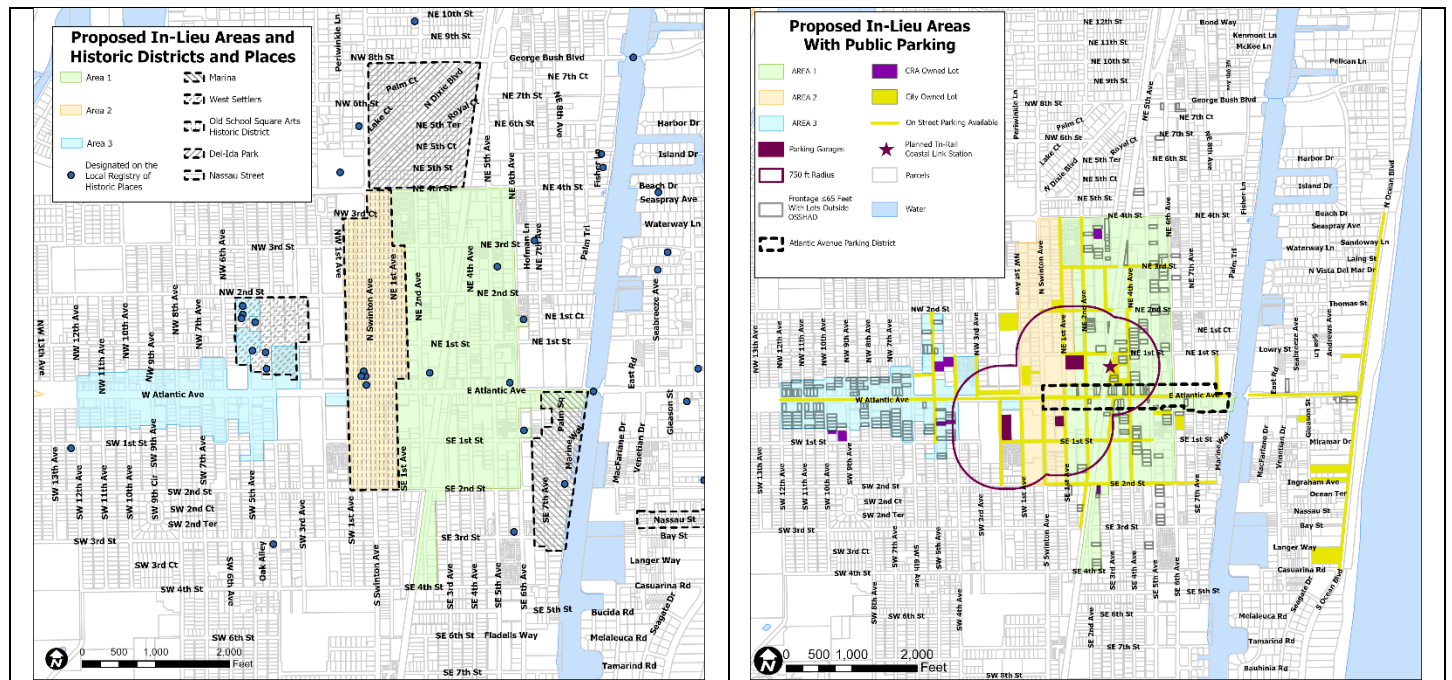
Policy HPE 2.2.3 *Continue to develop new land use and zoning incentives for eligible and historic resources within the Land Development Regulations, such as encouraging the adaptive reuse of historic structures within mixed-use zoning districts and providing parking relief strategies.*

It is not uncommon to customize off-street parking requirements to specific areas to meet certain objectives and policies. For example, the CBD has a lower parking requirement, except for restaurants within the Atlantic Avenue Parking District, to maintain the character and nature of a walkable, compact downtown area. Innovative parking strategies are also encouraged in support of historic properties.

In-lieu of parking is at its core, an innovative planning approach to accommodating automobile access in the downtown. City staff has analyzed past development approvals and trends to assess the needs of parking within the areas where in-lieu of parking or the public parking fee would apply. It has been determined that incentives such as parking relief strategies like the in-lieu program could continue to be offered through the LDR, and that such could be streamlined and fine-tuned to continue to protect the historic integrity and scale of the downtown and surrounding areas.

The proposed amendment maintains consistency with these Comprehensive Plan objectives and policies by continuing an innovative means to attract redevelopment to existing structures while addressing parking needs through existing off-street parking, on-street parking, and parking lots near the area. The maps below show parking infrastructure and historic resources that support the implementation and policy goals of the modifications to the in-lieu parking program.

Although only small portions of the Marina and West Settlers Historic Districts overlap with the in-lieu of parking areas, the decision to exclude certain portions of these historic districts from in-lieu of parking eligibility relates to the general residential character of the excluded portions of the districts.



**Reviewing Boards**

**Parking Management Advisory Board.** PMAB reviewed the proposed amendment on May 28, 2024 and recommended approval.

**Downtown Development Authority.** DDA reviewed the proposed amendment on June 10, 2024 and recommended approval.

**Historic Preservation Board.** HPB reviewed the proposed amendment on July 3, 2024 and recommended approval 6-0.

**Planning and Zoning Board.** PZB will review the proposed amendment on July 15, 2024.

**City Commission.** First and second reading of Ordinance No. 14-24 is anticipated to be scheduled for City Commission review in September 2024.



Options for Board Action

- A. Recommend **approval** to the City Commission on Ordinance No. 14-24, a City-initiated amendment to Section 2.4.11, "Relief," Section 4.4.13, "Central Business (CBD) District," and Section 4.6.9, "Off-street parking regulations" of the Land Development Regulations (LDR) to modify the in-lieu of parking fee program and to eliminate the public parking fee, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 14-24, **as amended**, a City-initiated amendment to Section 2.4.11, "Relief," Section 4.4.13, "Central Business (CBD) District," and Section 4.6.9, "Off-street parking regulations" of the Land Development Regulations (LDR) to modify the in-lieu of parking fee program and to eliminate the public parking fee, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 14-24, on Ordinance No. 14-24, a City-initiated amendment to Section 2.4.11, "Relief," Section 4.4.13, "Central Business (CBD) District," and Section 4.6.9, "Off-street parking regulations" of the Land Development Regulations (LDR) to modify the in-lieu of parking fee program and to eliminate the public parking fee, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.
- D. Continue with direction.

Public and Courtesy Notices

Courtesy Notices are not required.

Public Notices are not required for this request.