



City of Delray Beach

100 N.W. 1st Avenue
Delray Beach, FL 33444

Cover Memorandum/Staff Report

File #: 21-801

Agenda Date: 12/7/2021

Item #: 8.C.

TO: Mayor and Commissioners
FROM: Anthea Giannotes, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: December 7, 2021

ORDINANCE NO. 20-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH BY AMENDING CHAPTER 4, "ZONING REGULATIONS", ARTICLE 4.4, "BASE ZONING DISTRICT", SECTION 4.4.13. "CENTRAL BUSINESS DISTRICT (CBD)", SUBSECTION (A), "PURPOSE AND INTENT"; SUBSECTION (B), "REGULATING PLANS"; SUBSECTION (C), "ALLOWABLE USES"; SUBSECTION (D), "CONFIGURATION OF BUILDINGS"; SUBSECTION (E), "FRONTAGE STANDARDS"; SUBSECTION (F), "ARCHITECTURAL STANDARDS"; SUBSECTION (G), "CIVIC OPEN SPACES"; SUBSECTION (H), "INCENTIVE PROGRAM"; AND, SUBSECTION (I), "CBD PARKING STANDARDS"; TO CREATE THE "SOUTH PAIRS NEIGHBORHOOD SUB-DISTRICT" IN THE CBD AND INCLUDE REGULATIONS SPECIFIC TO THE NEW SUB-DISTRICT, INCLUDING BUT NOT LIMITED TO, ALLOWABLE USES, PARKING, BUILDING CONFIGURATION, FRONTAGE STANDARDS, ARCHITECTURAL STANDARDS, CIVIC OPEN SPACES, PROVIDING FOR NEW FIGURES, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES. (SECOND READING/PUBLIC HEARING)

Recommended Action:

Review and consider Ordinance No. 20-21 on Second Reading, amendments to the Land Development Regulations (LDR) Sections 4.4.13, Central Business District (CBD), associated with the expansion of the CBD to create a new Sub-district in the area on the north by SE 4th Street, on the south by SE 10th Street, on the east by SE 7th Street, and on the west by the alley between SE 4th Avenue and SE 5th Avenue, all of which are adjacent to either SE 5th Avenue or SE 6th Avenue.

Background:

On September 9, 2018, the City Commission approved Resolution No. 110-18, to enter into an Interlocal Agreement with the Treasure Coast Regional Planning Council (Consultants) for the provision of planning services to facilitate the expansion of the Central Business District (CBD) zoning designation boundary south, from SE 4th Street to SE 10th Street along SE 5th Avenue and SE 6th Avenue. The intent of the CBD expansion is to use the Land Development Regulations (LDR) to provide a higher level of design criteria for future development and encourage investment in the area, while providing compatible transitions between the commercial corridor and the adjoining residential neighborhoods.

This effort has had multiple meetings to gather community input:

1. On November 8, 2018, the concept of extending the CBD in this area was introduced to local stakeholders in a public workshop.
2. On January 10, 2019, a public workshop was held to gain public input on the proposed expansion of the CBD in the area.
3. On March 14, 2019, a public workshop was held focusing on the Osceola Park neighborhood, which included discussion on appropriate transitions between the neighborhood and commercial corridor.
4. On August 29, 2019 another public workshop was held; however, participation was limited by the approach of Hurricane Dorian. The consultants and City Staff met with individuals and small groups who could not attend the August workshop to gain further input.
5. On October 21, 2019, the Planning and Zoning Board reviewed the proposed LDR Amendments in a heavily attended meeting and recommended approval 7-0 with the recommendation that the City Commission consider further restricting certain uses such as adult gaming centers, astrologists, and temporary car lots. Please note that most of the current uses allowed in the GC zoning district were carried forward for the new Sub-district to maintain the properties' current land uses and to prevent the creation of non-conformities. The "Adult Gaming Center" use is not carried forward as an allowed use as no such established businesses with active Business Tax Receipts exist in the area. The Board discussed the use listed as, "Astrologist, clairvoyants, fortune tellers, palmists, phrenologists, psychic reads, spiritualists, numerologists, and mental healers" category; this use was carried forward as one established business is located along SE 5th Avenue with a valid Business Tax Receipt. Temporary Parking Lots are the subject of individual City Commission approval and, as such, are not prohibited via the allowable uses in this zoning district.
6. On February 11, 2020, the City Commission considered the subject request at a public hearing (as Ordinance No. 06-20) and voted 5 to 0 to approve on First Reading; however, further review and consideration was delayed due to restrictions resulting from the Covid-19 State of Emergency.
7. On July 6, 2021, First Reading of Ordinance Nos. 18-21 (Land Use Map Amendment), 19-21 (Rezoning), and 20-21 (LDR amendments) was held regarding the effort to expand the Central Business District (CBD) along SE 5th and 6th Avenues to SE 10th Street. The City Commission requested that the effort be presented at a workshop to provide a more focused and in-depth discussion of the proposed regulations.
8. On October 12, 2021, a City Commission workshop was held. The consultant provided an in depth presentation of the proposed LDRs for the new CBD Subdistrict. The discussion primarily focused on the concerns raised by different stakeholders and how they were addressed. For example, concerns about the "canyon effect" along the streets were universal and had been addressed through increased setbacks, requirements for public open space, and new streetscape standards - but employing any further provisions limiting scale would begin to affect development potential. The most significant issue discussed was the proposed incentive on the west side of SE 5th Avenue to allow an increase in density in exchange for voluntarily limiting building height to three stories. The City Commission directed staff to include the incentive, but to remove the provision for live-work in light of the new home based business legislation recently passed by the state.

There are currently four sub-districts of the CBD, each providing regulations that reflect the unique characteristics of each area: the Central Core Sub-district, the Beach Sub-district, the West Atlantic Neighborhood Sub-district, and the Railroad Corridor Sub-district. Some Sections of the CBD regulations, like Architectural Standards, apply to all districts, while other regulations, such as density and uses, vary slightly among the sub-districts.

To provide regulations that address the unique conditions of the area, the proposed LDR text amendments establish a fifth CBD Sub-district, the South Pairs Neighborhood Sub-district. This sub-district has specific regulations related to the area, including greater front setbacks along South Federal Highway than required in the downtown core, as well as standards related to the three identified conditions:

* Condition A reflects the area on the west side of southbound South Federal Highway (SE 5th Avenue); this area generally has an alley separating the commercial uses along SE 5th Avenue and the adjacent single-family neighborhood to the west.

* Condition B reflects the central block area located between the South Federal Highway pairs (SE 5th Avenue and SE 6th Avenue); this block does not adjoin a residential neighborhood. Each avenue of the South Federal Highway pairs accommodates multi-lane through traffic as well as local trips.

* Condition C reflects the area on the east side of northbound South Federal Highway, between SE 6th Avenue and SE 7th Avenue; this area has the fronts of houses on SE 7th Avenue facing the backs of the commercial uses facing SE 6th Avenue. To date, current LDR limit vehicular access to the commercial properties from the residential street, and landscaping in varying levels of condition provides a buffer for the neighborhood.

Pursuant to **LDR Section 1.1.6(A)**, *LDR text amendments require a recommendation from the Planning and Zoning Board.*

At the October 21, 2019 meeting, the Planning and Zoning Board reviewed the proposed LDR Amendments and recommended approval 7-0 with the recommendation that the City Commission consider further restricting certain uses such as adult gaming centers, astrologists, and temporary car lots. Please note that most of the current uses allowed in the GC zoning district were carried forward for the new Sub-district to maintain the properties' current land uses and to prevent the creation of non-conformities. The "Adult Gaming Center" use is not carried forward as an allowed use as no such established businesses with active Business Tax Receipts exist in the area. The Board discussed the use listed as, "Astrologist, clairvoyants, fortune tellers, palmists, phrenologists, psychic reads, spiritualists, numerologists, and mental healers" category; this use was carried forward as one established business is located along SE 5th Avenue with a valid Business Tax Receipt. Temporary Parking Lots are the subject of City Commission approval and, as such, are not prohibited via the allowable uses in this zoning district.

On February 11, 2020, the City Commission considered the subject request at a public hearing (as Ordinance No. 06-20) and voted 5 to 0 to approve on First Reading; however, further review and consideration was delayed due to restrictions resulting from the Covid-19 State of Emergency.

Pursuant to **LDR Section 2.4.5(M)(1)**, *amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.*

The proposed amendment is City-initiated at the direction of the City Commission.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, *in addition to LDR Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan.*

Neighborhoods, Districts, and Corridors Element

Policy NDC 1.3.2 *Apply the mixed-use land use designation that best maintains the scale, density, intensity, and enhances the character of the surrounding neighborhood, district, or corridor.*

Policy NDC 1.3.3 *Apply the density and intensity in mixed-use land use designations to encourage adaptive re-use, development, and redevelopment that advances strategic, policy-driven goals, such as diverse residential housing opportunities, sustainable building practices, historic preservation, public parking, civic open space, or economic development strategies.*

Policy NDC 2.6.1 *Create vibrant, attractive streetscapes on commercial corridors in mixed use land use designations using standards in the Land Development Regulations that define the amount of commercial and residential uses suitable for the first story and provide hardscape, landscape, and facade design criteria.*

Policy NDC 2.8.3 *Continue to utilize workforce housing programs and incentives, such as but not limited to, increased density and smaller lot sizes where appropriate and compatible in the Land Development Code to encourage the provision of workforce housing in the city.*

Policy NDC 3.5.3 *Continue to develop zoning districts and regulations that utilize or include form-based code concepts to improve predictability in the built environment.*

Housing Element

Policy HOU 3.1.6 Do not increase the net density within the Coastal High Hazard Area.

Coastal Management Element

Policy CME 2.2.3 Do not increase the net density within the Coastal High Hazard Area.

The proposed amendments are consistent with the Always Delray Comprehensive Plan and further many initiatives identified throughout many elements. More specifically, the Comprehensive Plan directs regular review of the LDR and the utilization of form-based code concepts, which are proposed. The current, award-winning, form-based CBD regulations that were adopted in 2015 provide the basis for the proposed South Pairs Neighborhood Sub-district. Additionally, the proposed regulations include provisions to encourage workforce housing at a higher density, while maintaining a lower development scale by providing 3-story townhouses to provide an appropriate transition for the Osceola Park neighborhood to the east.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

This Ordinance shall become effective concurrent with the effective date of Ordinance No. 19-21.