



## Cover Memorandum/Staff Report

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**File #:** 23-1135

**Agenda Date:** 9/18/2023

**Item #:** 9.E.

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** September 18, 2023

ORDINANCE NO. 31-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, CHAPTER 2, "ADMINISTRATIVE PROVISIONS," BY REPEALING THE ADOPTED CHAPTER 2 AND REPLACING IT IN ITS ENTIRETY TO UPDATE THE EXISTING REGULATIONS TO REMOVE DUPLICATIVE PROVISIONS; TO PROVIDE A MORE EFFICIENT DEVELOPMENT APPROVAL PROCESS BY ESTABLISHING REVIEW THRESHOLDS FOR SITE PLAN REVIEW; TO UPDATE THE RESPONSIBILITIES OF REVIEWING OFFICIALS AND AUTHORITIES TO BE CONSISTENT WITH THE REVIEW THRESHOLDS FOR THE SITE PLAN REVIEW PROCESS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

### **Recommended Action:**

Review and consider Ordinance No. 31-23, a City-initiated amendment to the Land Development Regulations (LDR), repealing and replacing Chapter 2, "Administrative Provisions" to amend development review procedures.

### **Background:**

The proposed amendments in Ordinance No. 31-23 are limited to Chapter 2, "Administrative Provisions" of the LDR. The intent of the amendments is to adopt policy changes to development review to provide for a more holistic, streamlined process at the direction of the City Commission. In addition, proposed changes reorganize the content to make it more intuitive and to clarify language. As a result, the ordinance is in the form of repealing and replacing Chapter 2 in its entirety. Additional revisions are included in companion ordinances (Ord. Nos. 32-33 and 33-33), as the current regulations in Chapter 2 are frequently duplicated in multiple code sections.

Site plans are currently divided into five classifications. Class I-Class V; nearly all requests go before a Board for review, including simple items like new awnings or updates to landscaping. The proposed review thresholds allow for more development requests to be reviewed and approved administratively. Other changes consolidate processes when a relief request (waiver) or a conditional use is needed to allow for a more holistic board review. These changes eliminate the current bifurcation of certain requests (i.e. Planning and Zoning Board and City Commission deciding a conditional use for increased density, with Site Plan Review and Appearance Board reviewing the Site Plan after the conditional use request is decided).

The proposed amendment shifts site plans to Levels 1 - 4. Levels 1 and 2 Site Plan applications provide for administrative approval, when no relief is required. Level 1 are minor exterior

modifications. Level 2 are development up to 15,000sf or 5 dwelling units. If a Level 1 or Level 2 Site Plan application requires relief, the entire application will be acted on by the Site Plan Review and Appearance Board (SPRAB).

A Level 3 Site Plan application is development comprised of more than 15,000sf or more than 5 dwelling units. A Level 3 Site Plan application will require Planning and Zoning Board (or Historic Preservation Board) approval. Any application that requires an action by the City Commission will be classified as a Level 4 Site Plan, and the review will include the complete development in one action, including the site plan, any relief, conditional use, or other associated request(s). Level 4 Site Plan applications will be reviewed by either the Planning and Zoning Board or the Historic Preservation Board (HPB) prior to the City Commission consideration. If a commercial, mixed-use, or multi-family residential site plan application includes a variance, the application will be a Level 3 and considered by the Planning and Zoning Board or the HPB, as applicable. The Board of Adjustment (BOA) currently reviews all variances that are not subject to review by the Historic Preservation Board (HPB). Given the addition of site plan review to the Planning and Zoning Board, the Board composition will change to require five specific professionals, with two lay persons, whereas the current requirement is four specific professionals and three lay persons.

The proposed amendments include a new process to allow for the City Commission to consideration the revocation of an approved Conditional Use. In addition, the current process to obtain a density or height increase through the Conditional Use process will be eliminated; the process will not be part of the site plan review process and approved by the City Commission.

A complete outline and overview of the LDR Amendments within Ordinance No. 31-23 is provided within the Planning and Zoning Board Staff Report (attached).

The Planning and Zoning Board reviewed the proposed LDR amendments at the meeting of August 21, 2023; a motion to recommend approval was provided on a vote of 7 to 0.

LDR Section 2.4.5(M)(5), Findings, says that *"the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan."*

The proposed amendments are consistent with and assist in furthering the Goals, Objectives, and Policies (GOPs) of the adopted Comprehensive Plan.

**City Attorney Review:**

Ordinance No. 31-23 is approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

Not applicable.

**Timing of Request:**

Ordinance No. 31-23 will become effective immediately upon adoption at second reading, anticipated for October 10, 2023.