



## Cover Memorandum/Staff Report

File #: 23-1613

Agenda Date: 12/5/2023

Item #: 8.D.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** December 5, 2023

ORDINANCE NO. 39-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 4, "ZONING REGULATIONS," OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT," SUBSECTION (F), "DEVELOPMENT STANDARDS," SUBSECTION (G), "SUPPLEMENTAL DISTRICT REGULATIONS," AND SUBSECTION (H), "SPECIAL REGULATIONS" TO PROVIDE REGULATIONS FOR THE FLO DELRAY OVERLAY DISTRICT; AMENDING ARTICLE 4.5, "OVERLAY AND ENVIRONMENTAL MANAGEMENT DISTRICTS," BY ENACTING A NEW SECTION 4.5.22, "THE FLO DELRAY OVERLAY DISTRICT;" AMENDING ARTICLE 4.7, "FAMILY/WORKFORCE HOUSING," SUBSECTIONS 4.7, "DEFINITIONS," 4.7.2, "APPLICABILITY," SUBSECTION (B), "WORKFORCE HOUSING INCENTIVE AREAS" TO ALLOW FOR APPLICABILITY OF WORKFORCE HOUSING INCENTIVES IN THE FLO DELRAY OVERLAY DISTRICT, AND AMENDING 4.7.4, "DENSITY BONUS AREAS" TO OUTLINE REQUIREMENTS FOR INCREASED DENSITY FOR THE FLO DELRAY OVERLAY DISTRICT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (SECOND READING/PUBLIC HEARING)

### **Recommended Action:**

Review and consider Ordinance No. 39-23, a privately-initiated amendment to the Land Development Regulations to adopt The Flo Delray Overlay District for the purpose of establishing a revitalization incentive density bonus of up to 24 dwelling units per acre at the property 5185 Atlantic Avenue, subject to the City of Delray Beach Land Development Regulations Section 2.4.7.

### **Background:**

The applicant has requested a privately-initiated amendment to the Land Development Regulations to adopt The Flo Delray Overlay District for the purpose of establishing a revitalization incentive density bonus of up to 24 dwelling units per acre at the subject property. The privately-initiated amendment is being reviewed concurrently with a petition for a voluntary annexation, a small-scale Land Use Map Amendment from Palm Beach County Residential High to City of Delray Beach Medium Density Residential, and a rezoning from Palm Beach County Agriculture Residential to City of Delray Beach Multiple Family Residential. The annexation request shall be considered prior to the land use designation and rezoning requests.

**LDR Section 2.4.7(A), Amendments to the Land Development Regulations, "amendments to the LDR may be initiated by the City Commission, City administration, or by a member of the public." The**

proposed amendment is privately initiated by Sandra J. Megrue of Urban Design Studio (agent) on behalf of Alice Clayton, LLC (property owner).

*Pursuant to **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 proposed Overlay establishes a maximum incentive density of 24 dwelling units per acre, provided that 20 percent of the total number of units are reserved as Workforce Housing units at the low and moderate income affordability level. The proposed LDR text amendment requires a mix of efficiencies/studios, one-bedroom, two-bedroom, and three-bedroom units allocated for workforce housing.

At the standard density, the 4.87-acre parcel could be developed with 58 dwelling units. At the maximum revitalization incentive density, proposed for the Overlay, 116 units could be developed; 24 of the 116 units would be restricted to in terms of affordability. It should be noted that these numbers are provided for discussion purposes only and are subject to change during the site plan approval process. The evaluation of the proposed density and all other detailed site plan requirements will be made by the reviewing body.

The adjacent plazas are within the Four Corners Overlay District, which was established to encourage mixed use developments including retail, office, restaurant, and residential uses. Each of the four corners adjacent to the intersection of West Atlantic Avenue and Military Trail contain long-established shopping plazas with a variety of retail and restaurant uses, none of which have undergone any significant redevelopment to take advantage of the revitalization incentives that allow up to 30 dwelling units per acre, in a mixed-use environment, with the inclusion of workforce housing. The Four Corners Overlay District was intended to increase the development mass at the corners and implement incentives to provide mixed-use development including workforce housing, while highlighting opportunities for a transit-oriented development and utilizing new urbanism design elements to distinguish the intersection from others along the Military Trail corridor.

However, it is important to consider whether this parcel, which relies upon substandard access via a 25-ft. easement, is the best location to offer a residential density bonus. Unlike the adjacent large shopping plaza, this parcel has no street frontage and, therefore, lacks pedestrian and bicycle routes to transit.

Based on projected population growth analyzed in both the Neighborhoods, Districts, and Corridors and Housing Elements, additional housing units in general are needed. Respondents to surveys during the Always Delray Comprehensive Plan update identified a desire to see more workforce housing, more market rate housing, housing for seniors; fewer respondents expressed an interest in seeing more luxury housing, and many expressed a desire for additional workforce housing, identifying it as "Important" or "Very Important." Generally, workforce housing units play an important role in the creation of a stable and equitable community, where all income levels in the workforce have the opportunity for such individuals to live close to employment opportunities within the city. However, it is important to consider whether this parcel, which relies upon substandard access via a 25-ft. easement, is a good location to offer a density bonus. Unlike the adjacent large shopping plaza, this parcel has no street frontage and, therefore, lacks pedestrian and bicycle routes to transit access.

Alternatively, if the ordinance is approved, the resolution of these mobility connections will be evaluated in the site plan review and approval process, which will require City Commission approval for any density increases. Pursuant to NDC Policy 1.1.7. *"The Revitalization/Incentive density is the maximum density that may be offered in the Land Development Regulations to achieve a certain community benefit in a specific area as part of an incentive program, or to implement the recommendations of an adopted redevelopment or neighborhood plan. **Standards in the Land Development Regulations, including those guiding compatibility and transitions, such as setbacks, height limitations, open space criteria, etc. may limit the actual density achievable on a specific site.**"*

A detailed review of required findings and relevant information for review is provided in the attached Planning and Zoning Board staff report.

The Planning and Zoning Board reviewed Ordinance No. 39-23 at the September 26, 2023 meeting and was recommended for approval as amended by a vote of 6 to 0 (Joy Howell absent). As the original amendment did not include the low income affordability level and did not include three-bedroom units in the workforce housing mix, the Board raised concerns with the lack of mix in income affordability levels and the non-inclusion of three-bedroom units for workforce housing. Therefore, the Board directed the applicant to amend to include the low and moderate income affordability levels and to include three-bedroom units in the workforce housing mix.

The City Commission voted 5 to 0 to approve Ordinance No. 39-23 on first reading at the November 14, 2023 meeting.

**City Attorney Review:**

Ordinance No. 39-23 was approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

Not applicable.

**Timing of Request:**

Ordinance No. 36-23 must be approved prior to approval of Ordinance No. 37-23, Ordinance No. 38-23, and Ordinance No. 39-23. Ordinance No. 39-23 will become effective immediately upon adoption.