

PLANNING AND ZONING BOARD

CITY OF DELRAY BEACH

STAFF REPORT

MEETING DATE: March 21, 2016

ITEM: Privately initiated amendment to Land Development Regulations (LDR) Section 4.6.5, Walls, Fences, and Hedges, to permit electrified fences in certain zoning districts and provide associated regulations.

RECOMMENDATION: Recommend approval to the City Commission.

GENERAL DATA:

Applicant: Electric Guard Dog, LLC; Donald McClellan

Location: Industrial (I) and Special Activities District (SAD)

Proposed Use: Electrified fences.

ITEM BEFORE THE BOARD

The item before the Board is that of making a recommendation to the City Commission regarding an amendment to Land Development Regulations (LDR) Section 4.6.5, Walls, Fences, and Hedges, to permit "electrified fences" in certain zoning districts and provide associated regulations, pursuant to LDR Section 2.2.6(D)(6).

PROPOSED AMENDMENT

The amendment to the Land Development Regulations (LDR) is privately-initiated and seeks to permit the installation of "electrified fences" with additional regulatory measures, as well. The LDRs presently state that no fence may be electrically charged, thereby not permitting any electrified fencing to be installed within the City.

The applicant, Electric Guard Dog, submitted an electrical permit application for a low voltage burglar alarm in October 2015 for the property located at 14045 South Military Trail. The permit was subsequently issued and received a final inspection. The application did not indicate that a new fence would be installed, thereby not requiring any additional review other than following the City's procedures for review of electrical connections associated with a burglar alarm. In January 2016, the Fire Department was at the site to inspect the removal of a water tank and noticed the installation of an electrified fence had occurred on site. The matter was subsequently reported to the Building Division and Code Enforcement, which has resulted in the subject request.

The proposed revision to LDR Section 4.6.5, Walls, Fences, and Hedges are as follows:

- LDR Section 4.6.5(B), Dangerous Features: Revised to specify that electrically charged fences are permitted pursuant to Subsection (H).

Further revisions included the addition of Subsection (H), Electrified Fences, as follows:

- LDR Section 4.6.5(H)(1), Electrified Fences, Location: Electrified fences may be permitted in the Industrial (I) zoning district if outdoor storage is approved as an accessory use, or on Special Activities District (SAD) properties when on-site storage is specified in the approved Ordinance for the SAD.
- LDR Section 4.6.5(H)(2), Electrified Fences, Electrification: Provisions to specify the electrification of the fence.
- LDR Section 4.6.5(H)(3), Electrified Fences, Installation Requirements: No electrified fence is permitted within the front or side street setback areas; electrified fences shall be surrounded by a perimeter fence; electrified fences shall be setback one foot from the property line when surrounded by a perimeter wall or fence that is 100% opaque or at least two feet when surrounded by a wall or fence that is less than 100% opaque and adjacent to a residentially zoned residentially developed property; and, electric fences shall measure at least two feet higher than the perimeter non-electrified fence or wall, but in no case measure more than ten feet in height.

- LDR Section 4.6.5(H)(4), Electrified Fences, Signage Requirements: Signage in English, Spanish, and Creole is required to be placed on both the exterior and interior of the fence, no greater than 40 feet apart with symbols and lettering measuring a minimum of six inches in height, in accordance with the fire code.
- LDR Section 4.6.5(H)(5), Electrified Fences, Permitting Procedure: Approval of a site plan and issuance of a building permit is required prior installation which includes approval by the Police Chief and Fire Marshal, with additional regulation of the fences provided under the City's Burglar Alarm provisions of Chapter 112 of the Code of Ordinances, including registration process and fee requirements.
- LDR Section 4.6.5(H)(6), Electrified Fences, Emergency Shut-off: An emergency shut-off switch to de-energize the fence is required for access by emergency personnel with approval required during site plan review and permitting by the Police Chief and Fire Marshal.
- LDR Section 4.6.5(H)(7), Electrified Fences, Miscellaneous: Specification that it is unlawful for an electrified fence to be installed, maintained, or operated if in violation of this Section.

The proposed LDR Amendment is now before the Board for consideration.

ANALYSIS

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 a privately-initiated text amendment to the Land Development Regulations.

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 and furthers the Goals, Objectives and Policies of the Comprehensive Plan.

A review of the objectives and policies of the adopted Comprehensive Plan was conducted, and there are not any applicable to this specific request. However, the following Goal is generally applied to LDR Amendments to ensure that compatibility of the request is reviewed:

Future Land Use Element, Goal Area "A" Land within the planning area shall be developed or redeveloped, to sustain and enhance the existing quality of life, compliment and be compatible with existing land use and result in a mixed, but predominately residential community with a balanced economic base and encourage accessible affordable everyday services.

The intent of the proposed amendment to permit electrified fences within the City is to provide additional security to properties which have outdoor storage as a part of their business. The property which has prompted the request is part of an SAD zone which permits incidental fuel storage on site in association with the freight terminal, freight distribution, warehousing, general office, and automotive and truck maintenance and repair uses.

In consideration of the applicable Comprehensive Plan Element noted above, Staff has concerns regarding the safety of the City's resident's and patrons which would impact the existing quality of life, as well as that of the City's emergency personnel. The proposed locations where the electrified fences would be permitted are on properties within the Industrial zoning district, where outdoor storage is permitted as well as on property zoned SAD if the approved Ordinance for that district permits outdoor storage. While it is justifiable as an additional security measure for the site, certain protective measures must be taken for everyone, whether on or off site, including adjacent residential properties where the fence has a higher exposure to people, particularly small children.

Regarding safety of emergency personnel, both the Police and Fire Departments have reviewed the Ordinance and all concerns regarding required review during the site plan application and permitting phases have been addressed including a requirement for appropriate signage and a shut-off switch. However, one concern remains regarding the signage and the height of the lettering. The applicant has requested that the lettering measure at least two inches in height, while the Fire Department has indicated that the Fire Code requires that lettering for other signage and addressing on nonresidential properties measure at least 6". Given the signage's association with an electrified fence, this is a revision to the request that Staff recommends be included which is provided in the attached Ordinance.

Regarding safety for residents of adjacent residential properties, the electrified fence must be set back at least two feet when it is surrounded by a perimeter wall or fence that is less than 100% opaque, whereas if the perimeter fence is 100% opaque the minimum requirement is one foot. If these distances are not a viable solution and the minimum required setback needs to be reduced, the applicant will be required to seek a waiver and provide a clear justification for the request.

Given the above, the adoption of this text amendment will further the applicable policies, goals and objectives of the Comprehensive Plan in consideration of the additional safety measures required which will be thoroughly reviewed during the site plan and permitting processes.

COURTESY NOTICES

A courtesy notice was sent to the Delray Citizen's Coalition in anticipation of the Planning and Zoning Board meeting of March 21, 2016.

ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move a recommendation of approval to the City Commission of the amendment to Land Development Regulation Section 4.6.5, to permit electrified fences and provide regulations regarding their installation and review, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M).

- C. Move a recommendation of denial to the City Commission of the amendment to Land Development Regulation Section 4.6.5, to permit electrified fences and provide regulations regarding their installation and review, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Section 2.4.5(M).

RECOMMENDED ACTION

Recommend approval to the City Commission of the amendment to Land Development Regulation Section 4.6.5, to permit electrified fences and provide regulations regarding their installation and review, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M).

Report prepared by: Amy E. Alvarez, AICP, Senior Planner