



## Cover Memorandum/Staff Report

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**File #:** 19-693

**Agenda Date:** 7/9/2019

**Item #:** 8.C.

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**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** July 9, 2019

ORDINANCE NO. 17-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING SECTION 4.4.13 "CENTRAL BUSINESS DISTRICT", BY AMENDING SUBSECTION 4.4.13(C)(3)(b) "CENTRAL CORE AND BEACH SUB-DISTRICTS", TO AMEND THE BASIS FOR GROUND FLOOR RETAIL REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.(SECOND READING/PUBLIC HEARING)

### **Recommended Action:**

Review and consider Ordinance No. 17-19 on second reading, a City-initiated amendment Land Development Regulations, Section 4.4.13 "Central Business (CBD) District," subsection 4.4.13(C)(3) (b) to provide a basis for exceptions to the retail requirement within the Central Core and Beach Sub-districts.

### **Background:**

Within the Central Business District (CBD), certain streets are designated as "Required Retail Frontage" as a means of providing a lively, highly active pedestrian environment that supports businesses and reinforces local character. East Atlantic Avenue, Pineapple Grove Way/NE 2<sup>nd</sup> Avenue, and North/South Ocean Boulevard are designated as Required Retail Frontage streets in the Central Core and Beach Sub-districts of the CBD. This designation requires 100% of the building frontage at the sidewalk-level story be comprised of retail uses, service establishments, or lodging uses. Ordinance No. 17-19 seeks to re-instate an exception to the ground-floor retail requirement within the Central Core and Beach Sub-Districts for property with a building constructed prior to 1980 with a front setback of 25 feet or greater for 80 percent or more of the building frontage. This amendment would only apply to Waterway East located at 900 East Atlantic Avenue; the only other building that meets the exemption criteria will be demolished as part of the approved Atlantic Crossing redevelopment project.

In October of 2006, an LDR amendment was adopted that prohibited office uses at greater than 50% of the ground floor area on Atlantic Avenue. The tenants and owners of Waterway East expressed concern because the setback for the building is 28 feet from the property line and up to 53 feet from the edge of the sidewalk, which limits the visibility of businesses in the plaza from the pedestrian and vehicle pathways, particularly compared to nearby buildings with a smaller setbacks. In June of 2007, Ordinance No. 21-07 provided an exemption to the ground floor retail requirement for existing structures with front setbacks of 25 feet or more for most of the street frontage. Eliminating the

requirement for ground-floor retail requirement allowed property owners in these buildings to have more flexible uses that are less dependent on visibility, including office uses. In 2015, the CBD LDRs were amended and reorganized through Ordinance 27-15, and the update inadvertently excluded the retail exemption for these buildings. This proposed amendment provides a remedy to an inadvertent omission, and will allow uses other than retail along the ground floor in buildings that do not meet current maximum setback or street frontage criteria. If the property is redeveloped in the future, the exemption would no longer apply.

This amendment does not change the allowable uses in the Central Business District Sub-Districts, as described in Table 4.4.13(A).

The Downtown Development Authority (DDA) reviewed Ordinance No. 17-19 at the May 13, 2019 meeting and recommended approval.

The Planning and Zoning Board reviewed Ordinance 17-19 at the May 20, 2019 meeting and unanimously recommended approval (7-0).

**City Attorney Review:**

Ordinance No. 17-19 was approved to form and legal sufficiency on May 20, 2019

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A