



# PLANNING AND ZONING BOARD STAFF REPORT

## DEVELOPMENT SERVICES DEPARTMENT

100 NW 1<sup>ST</sup> AVENUE, DELRAY BEACH, FLORIDA 33444  
PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200



### Ordinance 03-19

#### Review of Designated Historic Districts and Properties within the Beach Property Owners Association Overlay Districts

**Meeting:** December 17, 2018

**File No.:** 2018-213

**Application Type:** Land Development Regulations Amendment

#### Request:

Provide a recommendation to the City Commission regarding Ordinance No. 03-19, a City-initiated request to amend Land Development Regulations to specify that the regulations and guidelines of the Beach Property Owners Design Manual are not applicable to those properties located within a designated historic district or that are individually listed on the City of Delray Beach Local Register of Historic Places.

#### Recommendation:

Recommend approval of Ordinance No. 03-19 to the City Commission of the City-initiated request to amend Land Development Regulations Section 4.4.3(E)(4), Single Family Residential Districts, Review and Approval Process, Section 4.4.3(F)(1), Single Family Residential Districts, Development Standards, Section 4.4.3(G)(1), Single Family Residential Districts, Supplemental District Regulations, and Section 4.5.13(B), North Beach/Seagate and Ocean Neighborhood Overlay Districts, Defined, to specify that the regulations and guidelines of the Beach Property Owners Design Manual are not applicable to those properties located within a designated historic district or that are individually listed on the Local Register of Historic Places, by adopting the findings of fact and law contained in the staff report and finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M).

#### Background:

The proposed amendments provide clarification by specifying that the regulations and guidelines of the Beach Property Owners Design Manual are not applicable to those properties located within a designated historic district or which are individually listed on the Delray Beach Local Register of Historic Places and under the purview of the Historic Preservation Board (HPB).

The Beach Property Owners Design Manual, which was adopted in 2005, provides architectural design standards for new development within the defined area; however, it was not intended to be applied to those properties located within a designated historic district or that are individually listed on the Delray Beach Local Register of Historic Places ("historic properties") that are under the purview of the Historic Preservation Board (HPB). Properties under the purview of the HPB are subject to the regulations of Section 4.5.1, Historic Preservation: Designated District, Sites, and Buildings; the Delray Beach Historic Preservation Design Guidelines; and, the Secretary of the Interior's Standards for Rehabilitation. Currently five individually listed properties are located within the beach overlay districts; any additional designations within a beach overlay district will be subject to HPB purview, as opposed to beach overlay.

For example, architectural styles are defined by ordinance for each historic district or individual listing to the Delray Beach Local Register of Historic Places. LDR Section 4.5.1 provides for the identification, preservation, protection, enhancement, perpetuation, and the use of districts, archeological sites, buildings, structures, improvements, and appurtenances that are reminders of past eras, events, and persons important in local, state, and national history; that provide significant examples of architectural styles of the past; that are unique and irreplaceable assets to the City and its neighborhoods; or that provide this and future generations with examples of the physical surroundings in which past generations lived; and other purposes.

The Manual provides regulations, incentives, and design guidelines to address specific issues for the beach overlay districts (Ocean Neighborhood, North Beach, and Seagate), such as inappropriate new development, which is out of scale and character for the residential neighborhoods. Additionally, the architectural styles in these areas are not based on an identified Period of Significance, as are the styles for the historic districts.

#### Project Planner:

Amy Alvarez, Senior Planner;  
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#### Review Dates:

Historic Preservation Board, December 5, 2018; PZB December 17, 2018;  
City Commission, January 15, 2019, 1<sup>st</sup> Reading and February 5, 2019, 2<sup>nd</sup> Reading

#### Attachments:

\*Ordinance No. 03-19



The **Historic Preservation Board** reviewed the proposed amendments at its December 5, 2018 meeting. A recommendation of approval was made to the Planning and Zoning Board.

**Review and 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 City-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.

The Comprehensive Plan identifies the following with respect to processing site plan requests:

**Future Land Use Element Policy A-4.1** Prior to approval or recommending approval of any land use or development application for property located within a historic district or designated as a historic site, the Historic Preservation Board must make a finding that the requested action is consistent with the provisions of Section 4.5.1 of the Land Development Regulations relating to historic sites and districts and the "Delray Beach Design Guidelines".

**Coastal Management Element Objective C-1** The retention, rehabilitation, and protection of historic resources as provided for in the City's Historic Preservation Ordinance shall continue to be applied in the Coastal Planning Area. In coordination with the residents and the Historic Preservation Board, all efforts will be made to keep all the listed historic structures in the coastal planning area in fine condition and to list additional structures and districts as needed.

The proposed amendments are consistent with the intent of the above noted Future Land Use Element Policy and the Coastal Management Element Objective with respect to the protection of historic resources and review of development applications for improvements to historic properties.

**Alternative Actions:**

- A. Move a recommendation of approval to the Planning and Zoning Board regarding Ordinance No. 03-19 a City-initiated request to amend Land Development Regulations Section 4.4.3(E)(4), Single Family Residential Districts, Review and Approval Process; Section 4.4.3(F)(1), Single Family Residential Districts, Development Standards; Section 4.4.3(G)(1), Single Family Residential Districts, Supplemental District Regulations; and, Section 4.5.13(B), North Beach/Seagate and Ocean Neighborhood Overlay Districts, Defined - to specify that the regulations and guidelines of the Beach Property Owners Design Manual are not applicable to those properties located within a designated historic district or which are individually listed on the Delray Beach Local Register of Historic Places, by adopting the findings of fact and law contained in the staff report and finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M).
- B. Move a recommendation of approval to the Planning and Zoning Board regarding Ordinance No. 03-19, as amended, of the City-initiated request to amend Land Development Regulations Section 4.4.3(E)(4), Single Family Residential Districts, Review and Approval Process; Section 4.4.3(F)(1), Single Family Residential Districts, Development Standards; Section 4.4.3(G)(1), Single Family Residential Districts, Supplemental District Regulations; and, Section 4.5.13(B), North Beach/Seagate and Ocean Neighborhood Overlay Districts, Defined - to specify that the regulations and guidelines of the Beach Property Owners Design Manual are not applicable to those properties located within a designated historic district or which are individually listed on the Delray Beach Local Register of Historic Places, by adopting the findings of fact and law contained in the staff report and finding that the 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 Planning and Zoning Board regarding Ordinance No. 03-19 of the City-initiated request to amend Land Development Regulations Section 4.4.3(E)(4), Single Family Residential Districts, Review and Approval Process; Section 4.4.3(F)(1), Single Family Residential Districts, Development Standards; Section 4.4.3(G)(1), Single Family Residential Districts, Supplemental District Regulations; and, Section 4.5.13(B), North Beach/Seagate and Ocean Neighborhood Overlay Districts, Defined - to specify that the regulations and guidelines of the Beach Property Owners Design Manual are not applicable



to those properties located within a designated historic district or which are individually listed on the Delray Beach Local Register of Historic Places, by adopting the findings of fact and law contained in the staff report, 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).

ORDINANCE NO. 03-19

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 CHAPTER 4, "ZONING REGULATIONS", ARTICLE 4.4, "BASE ZONING DISTRICT", SECTION 4.4.3, "SINGLE FAMILY RESIDENTIAL (R-1) DISTRICTS", SUBSECTION (E)(4), "REVIEW AND APPROVAL PROCESS"; SUBSECTION (F)(1), "DEVELOPMENT STANDARDS"; SUBSECTION (G)(1), "SUPPLEMENTAL DISTRICT REGULATIONS"; AND, BY AMENDING SECTION 4.5.13, NORTH BEACH/SEAGATE AND OCEAN NEIGHBORHOOD OVERLAY DISTRICTS", SUBSECTION (B), "DEFINED," TO SPECIFY THAT THE REGULATIONS AND GUIDELINES OF THE BEACH PROPERTY OWNERS MANUAL ARE NOT APPLICABLE TO THOSE PROPERTIES LOCATED WITHIN A DESIGNATED HISTORIC DISTRICT OR WHICH ARE INDIVIDUALLY LISTED ON THE LOCAL REGISTER OF HISTORIC PLACES, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, properties located within a designated historic district or individually listed on the Local Register of Historic Places are subject to review by the Historic Preservation Board; and,

WHEREAS, the requirements and guidelines of the Beach Property Owners Design Manual are not applicable to those properties located within a designated historic district or that are individually listed on the Local Register of Historic Places; and,

WHEREAS, pursuant to LDR Section 2.2.6(D)(6), the Historic Preservation Board reviewed the proposed text amendment at a public meeting held on December 5, 2018 and voted 5 to 0 to recommend that the amendments be approved; and

WHEREAS, pursuant to Florida Statute 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency (LPA), has determined that the change is consistent with and furthers the goals, objectives and policies of the Comprehensive Plan; and

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on November 20, 2018 and voted \_\_\_\_ to \_\_\_\_ to recommend that the amendments be approved; and

WHEREAS, the City Commission of the City of Delray Beach adopted the findings in the Planning and Zoning Staff Report; and

WHEREAS, the City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That Section 4.4.3, “Single Family Residential (R-1) Districts”, Subsection (E) “Review and approval process”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(E) ***Review and approval process.***

- (1) All principal uses and accessory uses thereto shall be allowed upon application to and approval by the Chief Building Official for structures which require a building permit and otherwise complying with applicable use restrictions.
- (2) Conditional uses must be approved pursuant to the provisions of Section 2.4.5(E).
- (3) The creation of a new lot for the purpose of building a single family residence requires platting pursuant to 2.4.5(J) or (K), as applicable.
- (4) Within the North Beach/Seagate and Ocean Neighborhood Overlay Districts, all applications for single family residences, and additions and renovations that exceed 50 percent of the square footage of the existing structure must be reviewed in accordance with the Beach Property Owners Design Manual, pursuant to the site plan processing schedule provisions of Section 2.4.8. New construction, additions, and renovations for structures located within a designated historic district or individually listed on the Local Register of Historic Places are not subject to the regulations and guidelines of the Beach Property Owners Design Manual.
- (5) Any development of properties located within a Historic District or Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(I) is subject to review by the Historic Preservation Board, pursuant to Section 2.2.6(D).

Section 3. That Section 4.4.3, “Single Family Residential (R-1) Districts”, Subsection (F) “Development Standards”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(F) Development Standards: The development standards as set forth in Section 4.3.4 shall apply, except as modified below:

- (1) In addition to the provisions of Section 4.3.4(K), properties located within the North Beach/Seagate and Ocean Neighborhood Overlay Districts shall comply with the provisions of the adopted Beach Property Owners Design Manual for the North Beach and Seagate Neighborhoods including but not limited to visual compatibility standards relating to limitations on height, width, mass, scale, materials, color, style, form, and square footage. New construction, additions, and renovations for structures located within a designated historic district or individually listed on the Local Register of Historic Places are not subject to the regulations and guidelines of the Beach Property Owners Design Manual.

Subsections (2) – (4) These subsections shall remain in full force and effect as previously adopted.

Section 4. That Section 4.4.3, “Single Family Residential (R-1) Districts”, Subsection (G) “Supplemental District Regulations”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(G) Supplemental District Regulations: The supplemental district regulations as set forth in Article 4.6 shall apply, except as modified below:

- (1) In addition to the provisions of Section 4.3.4(K), properties located within the North Beach/Seagate and Ocean Neighborhood Overlay Districts shall comply with the provisions of the adopted Beach Property Owners Design Manual for the North Beach and Seagate Neighborhoods including but not limited to visual compatibility standards relating to limitations on height, width, mass, scale, materials, color, style, form, and square footage. New construction, additions, and renovations for structures located within a designated historic district or individually listed on the Local Register of Historic Places are not subject to the regulations and guidelines of the Beach Property Owners Design Manual.

Subsections (2) – (3) These subsections shall remain in full force and effect as previously adopted.

Section 5. That Section 4.5.13, “North Beach/Seagate and Ocean Neighborhood Overlay Districts”, Subsection (B) “Defined”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) **General.** With the adoption of the City's Comprehensive Plan Amendment 99-1, Housing Element Policy A-12.4 was modified to state the City will provide planning and technical assistance to implement neighborhood-supported initiatives aimed at preserving the character of existing residential areas. Such assistance may involve the formulation of regulations that would limit the size and scale of new homes to be consistent with existing structures within a defined

neighborhood, and analysis of the housing inventory to determine if the area qualifies for designation as a historic district, and similar measures. In accordance with this policy, the Beach Property Owners Design Manual was prepared for the single family zoned properties, east of the Intracoastal Waterway, and was adopted by the City Commission on January 4, 2005. This section is created to adopt and implement the provision of the North Beach and Seagate Neighborhoods Design Manual. All development within the North Beach/Seagate and Ocean District Neighborhood Overlay District, as defined in Section (B) below, shall take place according to the provisions of the manual adopted herein and shall follow the standards for visual compatibility provided within the guidelines including regulations limiting height, width, mass, scale, materials, color, style, form and square footage. The Beach Property Owners Design Manual is included as an exhibit hereto.

**(B) *Defined.***

- (1) ***North Beach/Seagate Neighborhood Overlay District.*** The North Beach/Seagate Neighborhood Overlay District is hereby established as the area zoned Single Family Residential (R-1), located north of East Atlantic Avenue, south of George Bush Boulevard, east of the Intracoastal Waterway and west of North Ocean Boulevard (State Road A-1-A) together with the entire Seagate Neighborhood generally located south of Bucida Road, north of Lewis Cove, between the Intracoastal Waterway and south Ocean Boulevard (State Road A-1-A), less Lots 35 through 45, Block 5, of the plat of Seagate Extension. The regulations established in Section 4.4.3(E)(4), 4.4.3(F)(1) and 4.4.3(G)(1) shall apply to all parcels within the Overlay District, with the exception of those parcels located within a designated historic district or individually listed on the Local Register of Historic Places.
- (2) ***Ocean Neighborhood Overlay District.*** The Ocean Neighborhood Overlay District is hereby established as the area located east of Ocean Boulevard (State Road A-1-A), zoned Single Family Residential (R-1). The regulations established in Sections 4.4.3(E)(4), 4.4.3(F)(1) and 4.4.3(G)(1) shall apply to all parcels within the Overlay District, with the exception of those parcels located within a designated historic district or individually listed on the Local Register of Historic Places.

Section 6. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 7. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder this Ordinance.

Section 8. Specific authority is hereby given to codify this Ordinance.

Section 9. That this ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Shelly Petrolia, MAYOR

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

\_\_\_\_\_  
R. Max Lohman, City Attorney