



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Mixed Residential, Office, and Commercial (MROC) Workforce Housing Regulations

Meeting

May 16, 2022

File No.

2022-161-LDR

Application Type

Amendment to the Land Development Regulations

Applicant

City of Delray Beach

Request

Provide a recommendation to the City Commission on Ordinance No. 20-22, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 4.4.29, "Mixed Office, Residential, and Commercial (MROC) District, to bring the regulations into compliance with HB 7103, to make corrective updates, and to revise the language to improve readability.

Background Information



The MROC district, which dominates the South Congress Avenue corridor from West Atlantic Avenue to the southern City boundary (see map at left), was created in 2006 through Ordinance No. 33-06. The intent of the MROC regulations is to create a more urban, multi-modal, pedestrian-friendly, mixed-use corridor in contrast to the autocentric suburban development type that currently dominates the corridor. Prior to the City-wide rezonings that occurred in 1990-1991, properties in MROC were generally zoned a mix of General Commercial (GC), Light Industrial (LI), Mixed Industrial and Commercial (MIC) and Planned Commerce Center (PCC) as the predominant zoning designations.

At the same time that the MROC zoning district was created, the Congress Avenue Mixed Use (CMU) land use designation was adopted. The intent of the CMU land use designation is to provide a foundation for the MROC zoning district that results in a corridor with a mix of stand-alone offices and commercial uses supported by residential uses, with incentives provided to encourage higher densities in closer proximity to the Tri-Rail station. The CMU land use allows a maximum floor area ratio of 2.5, and a standard density up to 40 dwelling units per acre with a revitalization/incentive density up to 50 dwelling units per acre.

MROC employs regulations such as maximum setback requirements along South Congress Avenue to provide a more engaging streetscape with buildings positioned closer to the street, and vehicular areas located to the side and rear of buildings. Additionally, the uses allowed in the MROC district are established to ensure a distribution and allocation of uses throughout the corridor that encourages transit-oriented development (TOD). The MROC district regulations allow higher density and stand-alone residential buildings in closer proximity to the Tri-Rail Station, while mixed-use buildings within a development are required when further than 1,000 feet from Tri-Rail. As an incentive to build at greater densities closer to the Tri-Rail, the regulations establish density bonuses. (See table and map below).

Project Planner:

Rebekah Dasari, Senior Planner
dasari@mydelraybeach.com,
561.243.7040, Ext. 7044

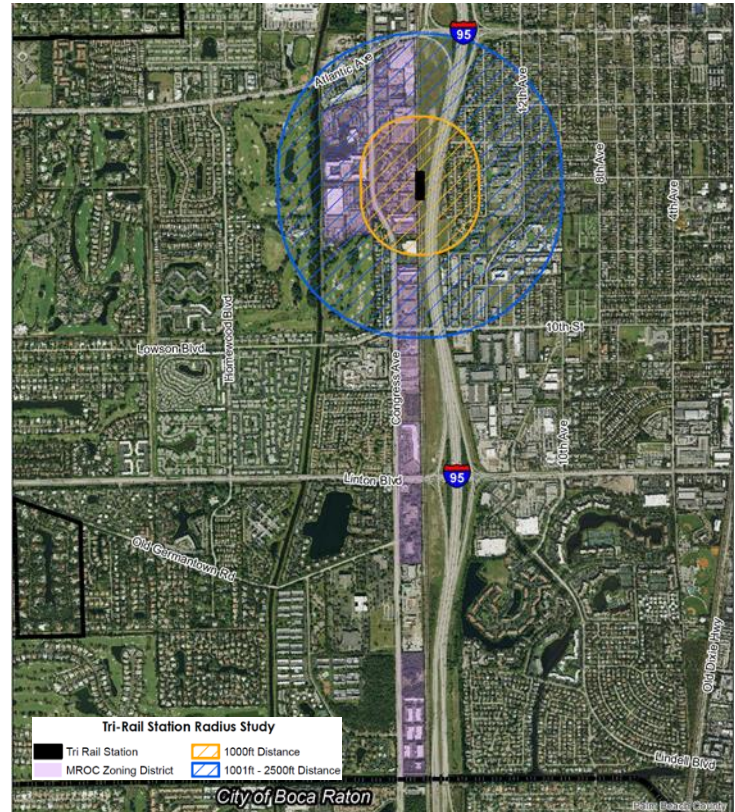
Attachments:

- Ordinance No. 20-22
- Tri-Rail Radius Map

| Distance from Tri-Rail (measured by airline route) | Residential Floor Area | Density | | Workforce Housing | |
|---|---------------------------|--------------------|---------------------|--|--------------------------|
| | | Standard (Max.) | Incentive (Max.) | Minimum required to achieve incentive density | Required Income Level |
| Within 1,000 linear feet | Up to 100% | 40 units/acre | 50 units/acre | 20% | Moderate income |
| Between 1,001 and 2,500 linear feet | Up to 80% | 40 units/acre | 50 units/acre | | |
| Greater than 2,500 linear feet | Up to 75% | 40 units/acre | 40 units/acre | | |

In 2019, the Florida Legislature adopted HB 7103, amending s. 125.01055, F.S. to require municipal governments to provide certain incentives to fully offset all costs to the developer of its affordable housing contribution. The legislative change has been interpreted such that **affordability requirements are permissible, provided they are paired with density incentives.**

The MROC regulations generally comply. The requirement for developments greater than 2,500 feet from the Tri-Rail station, however, must be amended to establish a standard density less than the incentive density; the maximum standard density (established by the comprehensive plan) and the maximum revitalization incentive (established by the LDR) are both 40 dwelling units per acre maximum. Therefore, Ordinance No. 75-22 is proposed to amend LDR Section 4.4.29 to establish a maximum standard density for properties greater than 2,500 linear feet from the Tri-Rail station, in order to bring the district into compliance with the regulatory change.



Description of Proposal

LDR Section 4.4.29, Mixed Residential, Office, and Commercial (MROC) District

The proposed update brings the City into compliance with HB 7103, adopted in 2019, requiring the developers to be made “economically whole” through incentives to offset all costs associated affordable housing requirements. The update to LDR Section 4.4.29 proposes modifications to the following subsections:

(A) Purpose and Intent. Simplifies the existing language while retaining the intent of the Section.

(B) Principal uses and structures permitted. Eliminates the detailed regulations governing multi-family development from the permitted use subsection to place them in a more appropriate location in Subsection (I).

(I) Special regulations.

- Minor corrections to verbiage.
- Adds the regulations governing multi-family development in table format, similar to the table below.

| Multi-family Development Regulations | | | | | |
|---|---------------------------|--------------------|---------------------|---|--------------------------|
| Distance from Tri-Rail (measured by airline route) | Residential Floor Area | Density | | Workforce Housing | |
| | | Standard (Max.) | Incentive (Max.) | Min. Required to achieve incentive density | Required Income Level |
| Within 1,000 linear feet | Up to 100 percent | 40 units / acre | 50 units / acre | 20 percent | Moderate income |
| Between 1,001 and 2,500 linear feet | Up to 80 percent | 40 units / acre | 50 units / acre | | |
| Greater than 2,500 linear feet | Up to 75 percent | 32 units / acre | 40 units / acre | | |

The current requirement for properties greater than 2,500 linear feet is to provide 20 percent of the total density as workforce housing at a maximum of 40 dwelling units per acre. To comply, the “fair” calculation, which is proposed, would be to allow a maximum standard density of 32 dwelling units per acre, with a maximum incentive density of 40 dwelling units per acre.

The following corrective updates are also proposed to the language taken from Subsection (B):

- Correction of a formatting error that inadvertently gives the appearance that the workforce housing requirement does not apply to all categories.

Ordinance No. 20-08 changed the bullet points in such a way that the language currently adopted gives the appearance that the properties closest to the Tri-Rail station do not have a workforce housing requirement, when properties greater than 2,500 feet from it do – counterintuitive to the purpose and intent of the MROC zoning district. Prior to the adoption of Ordinance No. 20-08, the workforce housing requirement was formatted such that it clearly applied to all distance categories established in the MROC adopting Ordinance No. 33-06. Research by staff into the adopting ordinances and staff reports indicates that the current format does not accurately reflect the intent of the regulation to apply to every distance category. The proposed ordinance corrects the formatting.

- Updates a reference to an LDR section of the Central Business (CBD) District that no longer exists, to reference the Performance Standards for multi-family residential uses in LDR Section 4.4.6(I).

Review and Analysis

Pursuant to **LDR Section 1.1.6, Amendments**, the text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.”

The recommendation of the Planning and Zoning Board will be provided to the City Commission, where the amendments will be reviewed at two public meetings.

Pursuant to **LDR Section 2.4.5(M)(1), Amendment to the Land Development Regulations**, 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 initiated by the City to ensure compliance with the State’s statutes.

Pursuant to **Section 2.4.5(M)(5), Findings**, 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 following Goals, Objectives, and Policies (GOPs) of the adopted Comprehensive Plan are applicable to and support the proposed amendment:

Neighborhoods, Districts, and Corridors Element

"It is the City's practice to reserve the highest density allowed in the land use designation for incentive programs focused on specific community benefits, such as the provision of workforce housing units, as stipulated in the land development regulations" (NDC DIA, page 3).

Objective NDC 1.3 Mixed-Use Land Use Designations *Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.*

Policy NDC 1.3.17 *Allow a maximum floor area ratio of 2.5, and a standard density up to 40 dwelling units per acre with a revitalization/incentive density up to 50 dwelling units per acre for properties with a Congress Avenue Mixed Use land use designation to encourage a mix of uses and continue to transform the Congress Avenue corridor as a destination and great street.*

Policy NDC 1.3.18 *Use the Congress Avenue Mixed Use future land use designation to accommodate a variety of commercial, office, and residential uses that provide development intensities that advance economic growth, provide incentives for transit oriented development, and create multimodal development patterns along the Congress Avenue corridor, south of West Atlantic Avenue.*

Policy NDC 1.3.19 *Continue to support transit-oriented development by providing incentives in the Land Development Regulations, for developments located within one quarter mile of the Delray Beach Tri-Rail Station with the Congress Avenue Mixed Use land use designation.*

Policy NDC 2.8.3 *Continue to utilize workforce housing programs and incentives, such as but not limited to, increased density and smaller lot sizes where appropriate and compatible in the Land Development Code to encourage the provision of workforce housing in the city.*

Policy NDC 2.8.5 *Promote the development of workforce housing units by offering incentives, such as, increased density, in specific areas identified in the Land Development Regulations.*

Policy NDC 2.8.6 *Monitor the progress of workforce/affordable housing programs and incentives to identify successful initiatives and to adjust underperforming programs or incentives or regulations.*

Objective NDC 3.5 Update Land Development Regulations *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*

Policy NDC 3.5.1 *Review the uses and use descriptions in the Land Development Regulations to provide consistent terminology.*

Housing Element

Policy HOU 6.2.5 *Utilize incentives outlined in the workforce housing ordinance to develop additional workforce housing units.*

The proposed LDR amendment is consistent with the applicable comprehensive plan policies.

MROC Workforce Housing Income Level Requirement

MROC only requires workforce housing units to be provided at the moderate-income level. While this is a minimum requirement and does not prohibit the inclusion of other income levels, the Board should consider whether the required income level should be expanded to require a broader range of income levels. There are a number of Policies in the Always Delray Comprehensive Plan, particularly in the Housing Element, that support mixed-income housing, and allowing different unit types for all income levels. Goal HOU 6, titled Affordability, is to "meet the housing needs for household types of all income levels to meet future population growth to the year 2035."

A wide range of incentive requirements exists within the City's affordable housing regulations, but currently, only two incentive areas require an equal distribution of all 3 areas. The current requirements in all incentive areas throughout Delray Beach are provided below.

| Incentive Area | Required Income Level | Required Percentage | Location of WFH Units |
|--|------------------------------------|-----------------------------------|----------------------------|
| Aura Delray SAD | Moderate | 25 percent of total units | On-site |
| Carver Estates Overlay District | Very low, low, or moderate | Bonus units based on income level | On-site, off-site, in lieu |
| Central Business District | - | - | - |
| <i>Railroad Corridor Sub-district</i> | Very low, low, and moderate | 20 percent of the total units | On-site |
| <i>South Pairs Sub-district</i> | Low and moderate | | On-site, off-site, in lieu |
| <i>West Atlantic Neighborhood Sub-district / West Atlantic Avenue Overlay District</i> | | | |
| 1690-2350 South Congress Avenue SAD | Moderate | 10 percent of the total units | On-site |
| Four Corners Overlay District | Moderate | 20 percent of the total units | Not specified |
| I-95/CSX RR Corridor Overlay District | Very low, low, or moderate | 25 percent of the total units | Not specified |
| Infill Workforce Housing Overlay | Very low, low, or moderate | Bonus units based on income level | On-site, off-site, in lieu |
| Linton Commons Overlay District | Very low, low, and moderate | 20 percent of the total units | On-site |
| Silver Terrace Courtyards Overlay District | Very low, low, or moderate | 20 percent of the total units | Not specified |
| SW 10 th Street Overlay District | Very low, low, or moderate | 20 percent of the total units | On-site or off-site |
| Southwest Neighborhood Overlay District | Very low, low, or moderate | Bonus units based on income level | On-site, off-site, in lieu |

The original purpose and intent in the MROC adopting ordinance from 2006 stated a goal to “*encourage the development of **Class A office buildings**, supporting commercial uses and residential units in a master planned environment.*” A subsequent update to the MROC regulations removed the specific reference to Class A office development (Ordinance No. 14-16), as did the 2019 Always Delray comprehensive plan update. The moderate-income requirement for workforce housing may have been related to the (then) stated goal of attracting Class A office development. However, inasmuch as the attraction of Class A office development is no longer a stated goal of the district, it may be more appropriate to require a broader range of incomes in the workforce housing requirement - if it was ever appropriate to contribute to the creation of an income-homogenous enclave. Additionally, the 2016 Congress Avenue: Delray Beach’s Next Great Street report supports the need for housing opportunities for varying income levels.

The table below provides a summary of the changes in Area Median Income (AMI) for the Palm Beach County Metropolitan Statistical Area (MSA); the maximum income that a 4-person, moderate income household could earn and still qualify for housing units restricted to moderate income households; and the maximum rent such household could be charged.

| | Palm Beach County AMI | Max Income, 4-person Moderate Income Household | Max Rent, 2-Br Unit |
|---|-----------------------|--|---------------------|
| 2000 | \$56,600 | \$67,920 | - |
| 2005 | \$62,100 | \$75,360 | - |
| 2010 | \$67,600 | \$88,080 | - |
| 2015 | \$64,900 | \$78,720 | \$1,773 |
| 2020 | \$79,100 | \$105,360 | - |
| 2022 | \$90,300 | \$110,400 | \$2,484 |
| NOTE: The same data is not available for all years. SOURCE: Florida Housing Finance Corporation / US Department of Housing and Urban Development | | | |

While the area median income used to establish rents for affordable housing units has increased by 39.8 percent between 2000 and 2020, the median income in Delray Beach is significantly lower. The 2020 Delray Beach median income is \$66,245 (Source: US Census); the 2020 median income in the Palm Beach County MSA is 19.4 percent higher. In the State of Florida, the Fair Market Rent for a two-bedroom apartment is \$1,290 per month - significantly lower than the maximum permitted rent for a two-bedroom apartment in the Palm Beach County MSA*. This translates to 115 hours of work per week for a minimum-wage earner (Source: Out of Reach, 2021). These statistics indicate a need to consider requiring a broader range of incomes in revitalization incentive programs in Delray Beach.

* Fair Market Rent is determined through data and analysis by the National Low Income Housing Coalition in the report “Out of Reach” (2021).

Review By Others

The subject update to correct the MROC requirement was reported to the Affordable Housing Advisory Committee (AHAC) during its meeting of May 12, 2022. A verbal report will be provided to the Planning and Zoning Board.

The **City Commission** is anticipated to review the proposed LDR Amendments at two meetings in June and July 2022, with the second being a public hearing.

Options For Board Actions

- A. Recommend **approval** to the City Commission of Ordinance No. 20-22, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 4.4.29, "Mixed Office, Residential, and Commercial (MROC) District, to bring the regulations into compliance with HB 7103, to make corrective updates, and to revise the language to improve readability; by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 20 -22, **as amended**, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 4.4.29, "Mixed Office, Residential, and Commercial (MROC) District, to bring the regulations into compliance with HB 7103, to make corrective updates, and to revise the language to improve readability; by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 20 -22, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 4.4.29, "Mixed Office, Residential, and Commercial (MROC) District, to bring the regulations into compliance with HB 7103, to make corrective updates, and to revise the language to improve readability; by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.
- D. Continue with direction.

Public and Courtesy Notices

X Courtesy Notices are not applicable to this request

N/A Public Notices are not required for this request.