

**PLANNING AND ZONING BOARD
STAFF REPORT**

MEETING OF: December 19, 2016

AGENDA NO. VIII.A.

AGENDA ITEM: Recommend to the City Commission to adopt the proposed City-initiated amendments to the LDRs, by amending section 2.4.7(G), "Requests for Accommodation"; subsections (1), "Purpose", (5), "Notice of Proposed Decision", (6), "Appeal", and (8), "Request Form for Reasonable Accommodation", to update and clarify same; enacting a new subsection 2.4.7(G)(10), "Recertification" to provide for annual recertification of reasonable accommodations; and enacting a new subsection 2.4.7(G)(11), "Severability" to provide for severability.

ITEM BEFORE THE BOARD

The action before the Board is a recommendation to the City Commission to adopt the proposed City-initiated amendments to the LDRs, by amending Section 2.4.7(G) to update the reasonable accommodation request form and require annual recertification of continued need for accommodation.

BACKGROUND

The purpose of enacting LDR Section 2.4.7.(G) "Requests for Reasonable Accommodation" is to implement a procedure for processing requests for reasonable accommodation to the City's Code of Ordinances, Land Development Regulations, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S. C. 3601, et. seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S. C. Section 12131, et. seq.) ("ADA"). Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's Land Development Regulations, Code of Ordinances, rules, policies, practices and/or procedures as provided by the FHA and the ADA, pursuant to the procedures set out in this section.

The proposed amendments are intended to update this section of the LDRs.

PROJECT DESCRIPTION

The proposed amendments are City-initiated to accomplish the following:

- Update the reasonable accommodation request form and require applicants to recertify on an annual basis that the accommodation is still needed.

REQUIRED FINDINGS

LDR Section 2.4. 5(M)(5)(Findings): 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 the following applicable Policy was noted:

Future Land Use Element Objective A-5 The City shall maintain its Land Development Regulations, which shall be regularly reviewed and updated, to provide streamlining of processes and to accommodate planned unit developments (PUD), mixed-use developments, and other innovative development practices.

The purpose of the proposed amendment is one of maintaining and updating the LDRs. Specifically, the amendment is required to bring the LDRs into compliance with recent federal case law. It is noted that while compliance with federal case law is not specifically mentioned in the Goals, Objectives, and Policies of the Comprehensive Plan, this is understood. Based on the above, a positive finding can be made that the amendment is consistent with and further the Goals, Objectives, and Policies of the Comprehensive.

ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Move a recommendation of approval to the City Commission to adopt the proposed City-initiated amendments (as provided in the attached Ordinance No. 03-17) to the LDRs, by amending Section 2.4.7(G) to update the reasonable accommodation request form; require annual recertification of continued need for accommodation 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 to adopt the proposed City-initiated amendments (as provided in the attached Ordinances No. 34-16 and 03-17) to the LDRs, by amending Section 2.4.7(G) to update the reasonable accommodation request form; require annual recertification of continued need for accommodation. In addition, amendments are proposed to update definitions of Medical Office, Non-residential Licensed Service Provider, and deleting obsolete

definitions, 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).

RECOMMENDED ACTION

Recommend to the City Commission to adopt the proposed City-initiated amendments (as provided in the attached Ordinance 03-17) to the LDRs, by amending Section 2.4.7 to update the reasonable accommodation request form and require annual recertification of continued need for accommodation 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).

Staff Report Prepared by: Tim Stillings, AICP

Attachments:

- *Ordinance No. 03-17: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, BY AMENDING SECTION 2.4.7(G), "REQUESTS FOR ACCOMMODATION"; SUBSECTIONS (1), "PURPOSE", (5), "NOTICE OF PROPOSED DECISION", (6), "APPEAL", AND (8), "REQUEST FORM FOR REASONABLE ACCOMMODATION", TO UPDATE AND CLARIFY SAME; ENACTING A NEW SUBSECTION 2.4.7(G)(10), "RECERTIFICATION" TO PROVIDE FOR ANNUAL RECERTIFICATION OF REASONABLE ACCOMMODATIONS; ENACTING A NEW SUBSECTION 2.4.7(G)(11), "SEVERABILITY" TO PROVIDE FOR SEVERABILITY; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.*
- Application Form to Request a Reasonable Accommodation