

## **PLANNING AND ZONING BOARD MEMORANDUM & STAFF REPORT**

**MEETING DATE: MARCH 20, 2017**

**AGENDA NO:**

**AGENDA ITEM: CONSIDERATION OF CITY-INITIATED AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS (LDRS) REPEALING AND REPLACING SECTION 4.6.19, "TREE PRESERVATION, PROTECTION, ENFORCEMENT AND MAINTENANCE;" ADDING LANGUAGE FOR "FLEXIBLE SITE DESIGN OPTIONS", PERFORMING "CONDITION ASSESSMENTS" AND "CANOPY REPLACEMENT" OF TREES; ESTABLISHING A GRADUATED VALUE FOR REPLACEMENT BY CANOPY AND INCREASING PENALTIES FOR THE REMOVAL OF ALL TREES, ESPECIALLY "EXCEPTIONAL TREES".**

### **ITEM BEFORE THE BOARD**

The item before the Board is a recommendation to the City Commission regarding city-initiated amendments to LDR Section 4.6.19, to be renamed the "Tree Preservation, Protection, Enforcement and Maintenance", to revise and strengthen the LDRs to discourage the removal of trees and/or provide for their replacement in the community.

### **PROPOSED AMENDMENT**

The amendments to the LDRs are City-initiated to address the concerns raised about the removal and replacement of trees in the community. The proposed amendments to the LDRs are as follows:

- Throughout Section 4.6.19, an emphasis is placed on applying this code to all trees greater than four (4) inch Diameter at Breast Height (DBH). The current code emphasized protection from four (4) inch to twelve (12) inch DBH and above twenty-four (24) inch DBH. Note: Corrections were made throughout the document to change "caliper" to "DBH". Caliper is used for nursery trees and DBH is for trees that exist on a property.
- Throughout the document, an emphasis is placed on, first and foremost, preserving in place trees greater than four (4) inch DBH. Second priority is for re-locating trees on-site. Third priority is for locating trees off-site, to a location agreed upon by the City. Last option is for mitigation for tree removal.
- Under LDR Section 4.6.19(D), a better description is proposed for palm replacements (equal to overall height).

- Under LDR Section 4.6.19(D)(2), examples are given for "flexible site design options" to allow for preservation of trees through the plan review process.
- Under LDR Section 4.6.19(E), a description is given for performing a "condition assessment" by a certified arborist. This will allow for the proper determination of the condition of existing trees for preservation, relocation or removal.
- Under LDR Section 4.6.19(E)(5)(b), a better description is given for tree mitigation to assure replacements are made within the city standards for hardwood trees and palms. Trees and palms shall comply with LDR Section 4.6.16. "Trees: Shall be species having an average mature spread of crown greater than twenty (20) feet and having trunks which can be maintained in a clean condition with over six (6) feet of clear mature wood. Tree species shall be a minimum of sixteen (16) feet in overall height at the time of planting, with a minimum of six (6) feet of single straight trunk and eight (8) feet of clear trunk, and a seven (7) foot spread of canopy. Palms: Shall be considered trees. Palm species which do not have a mature crown of at least fifteen (15) feet shall be grouped in threes, and three (3) palms shall equal one (1) shade tree. Palms must have an overall height of a minimum of sixteen (16) feet and a minimum of eight (8) feet of clear trunk at the time of planting."
- Under LDR Section 4.6.19(5)(e), language is added to allow trees to be removed for existing single family homes, if their location interferes with the proposed addition to an existing structure or for the development of an accessory structure.
- Under LDR Section 4.6.19(E)(8)(c), a description is added for "canopy replacement" of trees, with a graduated value for replacement, based on the size of the canopy. Three-hundred-fifty dollars (\$350) per one-hundred (100) square feet for trees with canopy under four-hundred (400) square feet up to one-thousand dollars (\$1000) per one-hundred (100) square feet for trees one-thousand-six-hundred (1,600) square feet and greater.
- Under LDR Section 4.6.19(E)(8)(d), a description is added for the escalation of in-lieu fees for the removal of all trees. The in-lieu fee was increased from \$350/DBH inch to \$450/DBH inch for trees up to eight (8) inch DBH and a graduated increase was added. For trees from eight (8) inch DBH to twelve inch (12") DBH they are calculated at \$650/DBH inch; twelve + (12+) inch DBH to eighteen (18) inch DBH they are calculated at \$850/DBH inch and trees eighteen (18) inch DBH and greater are calculated at \$1000/DBH inch. (Currently the fee is \$450.00/DBH inch for all trees greater than eight (8) inch DBH.) A diagram was created (Figure 4.6.19.E.5.d) to visually emphasize the new fee schedule.

Additional revisions are included as "clean-up" to clarify the intention of the regulations.

## 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 amendments are City-initiated text amendments 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 these are the applicable elements to this specific request.

**Objective B-2** Educational programs shall be implemented to increase public awareness. Regulations shall provide for the protection of flora and fauna. All measures shall ensure the protection, preservation, enhancement, conservation, regeneration and appropriate use of fisheries, wildlife and marine habitats which serve endangered, threatened and native plant and animal species.

**Policy B-2.3** A tree permit shall be necessary to remove or destroy any tree which has a diameter of four inches or greater.

Given the above, the adoption of the proposed amendments is in keeping with the applicable policies, goals and objectives of the Comprehensive Plan.

#### REVIEW BY OTHERS

The **West Atlantic Redevelopment Coalition (WARC)** reviewed this item at their October 27, 2016 meeting and voted to recommend unanimous approval of the text amendment.

The **Downtown Development Authority (DDA)** reviewed this item at their November 14, 2016 meeting and voted to recommend unanimously the LDR text amendment.

The **Historic Preservation Board (HPB)** reviewed this item at their November 16, 2016 meeting and voted to recommend unanimously the LDR text amendment with two minor comments.

The **Green Implementation Advisory Board (GIAB)** reviewed this item at their November 17, 2016 meeting and voted to recommend unanimously the text amendment, with one minor comment.

The **Community Redevelopment Agency (CRA)** reviewed this item at their November 17, 2016 meeting and voted to recommend unanimously the LDR text amendments.

A courtesy notice was sent to the Delray Citizen's Coalition in anticipation of the Planning and Zoning Board meeting of December 19, 2016.

#### ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move a recommendation of approval to the City Commission of the amendment to Land Development Regulation Sections 4.6.19, Tree Preservation, Protection, Enforcement and Maintenance, 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 Sections 4.6.19, Tree Preservation, Protection, Enforcement and Maintenance, 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).

|                           |
|---------------------------|
| <b>RECOMMENDED ACTION</b> |
|---------------------------|

Recommend approval to the City Commission of the amendment to Land Development Regulation Sections 4.3.3(A), Tree Preservation, Protection, Enforcement and Maintenance, 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:** William Wilsher, Senior Landscape Planner