

ORDINANCE NO. 09-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS CHAPTER 4, "ZONING REGULATIONS", BY AMENDING ARTICLE 4.4 "BASE ZONING DISTRICT", SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT"; AND ARTICLE 4.5, "OVERLAY AND ENVIRONMENTAL MANAGEMENT DISTRICTS", SECTION 4.5.6, "THE WEST ATLANTIC AVENUE OVERLAY DISTRICT" TO ELIMINATE CERTAIN REQUIREMENTS FROM THE DEVELOPMENT REVIEW PROCESS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on \_\_\_\_\_ and voted \_\_\_\_ to \_\_\_\_ to recommend that the proposed 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 and in the best interests of the City.

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 Chapter 4, "Zoning Regulations", Article 4.4, "Base Zoning District", Section 4.4.13, "Central Business (CBD) District", Paragraph (K), "CBD 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 to read as follows:

(K) ***CBD review and approval process.***

- (1) ***Visual impact analysis:*** A 3-D visual impact analysis will be required which includes a model of the proposed development in a format compatible with GIS, such as SketchUp, Communityviz, City Engine, etc. Models shall depict building height, massing, and other details such as rooftop equipment which may visually impact adjacent properties. The model analysis shall be in accordance with the following:

- (a) New construction of 10,000 gross square feet or less: Model of the development site.
  - (b) New construction of 10,001 gross square feet to 100,000 gross square feet: Model of the development site and all properties and structures within a 100-foot radius of the development site, as measured from the property lines of the development site.
  - (c) New construction of 100,001 gross square feet or more: Model of the development site and all properties within a 500-foot radius of the development site, as measured from the property lines of the development site.
  - (d) Additional analysis and/or an expanded analysis area may be required based upon project location or potential development impacts. This may be required by the Planning and Zoning Director at my point in the process.
  - (e) A Sight Line Study of all development consisting of two or more stories shall be submitted for review by the approving body. The study shall include a one or more two-dimensional cross section, at a minimum scale of 1:100, of the site showing the building with the equipment screening in relation to the adjacent properties (including views from upper stories) and/or the public street.
  - (f) Graphic illustration showing that the equipment is not visible within a 200-foot radius. The radius shall be measured from the exterior side of the screen to a point ten feet above finished grade.
- (1) ***Site Plan Review and Appearance Board (SPRAB)***. For any new development requiring approval under Sections 2.4.5(F), 2.45(H), or 2.4.5(I), approval must be granted by the SPRAB, unless the property is located within a designated historic district or is individually designated (see subsection (3) below). In addition, the SPRAB has the following authority within the CBD:
- (a) Modification of building frontage and setback requirements by waiver to accommodate civic buildings such as libraries, cultural facilities, municipal buildings, etc. along with parking garages associated with any development on properties that are not located within a Historic District or Individually Designated Sites as listed on the Local Register of historic Places in Section 4.5.1(I).
  - (b) SPRAB may provide relief from the additional setback required above the third story for building entries, lobbies, and vertical circulation areas

configured as tower elements consistent with the architectural character of the building; and setback relief for parking garage floors above the third story subject to Sec. 4.4.13(F)(8)(d).

- (c) Determination of compliance with the Performance Standards of the Incentive Program and provide recommendations of approval or denial to City Commission of requested increases in density under the program.
- (d) Determination that a site plan design for a full service grocery store in the West Atlantic Neighborhood Sub-district has compatible transitions between adjacent commercial and residential areas.
- (e) Determination that desirable connectivity between properties and/or links identified on any adopted bicycle and pedestrian master plan are achieved on the site plan.
- (f) Approval of alternative surface parking configurations for sites located on Primary Streets where parking in the rear is inappropriate or impossible. The SPRAB may require special perimeter treatments to protect and improve the pedestrian experience along the street.
- (g) Recommend approval or denial to the City Commission of proposed architectural styles and/or any addition of architectural styles for use in the CBD or modifications to the Delray Beach Central Business District Architectural Design Guidelines. Recommendations must include an explanation of support or denial by the SPRAB as part of the motion to be transmitted to the City Commission.

(3) ***Historic Preservation Board.*** 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 (HPB), pursuant to Section 2.2.6(D). For these properties, the Historic Preservation Board has the approval authority pursuant to Sections 2.4.5(F), 2.4.5(H), and 2.4.5(I), plus the additional authority described in subsections (2)(a)—(f) above. Architectural styles are determined by those which are both permitted in the CBD and identified as appropriate for the historic district based on the Period(s) of Significance per the adopted Ordinance.

~~(4) ***West Atlantic Redevelopment Coalition (WARC).*** Projects located within the West Atlantic Neighborhood Sub-district shall be reviewed by the WARC for consistency with the requirements of this Section and the recommendation of The Set Transformation Plan prior to review by the SPRAB or HPB.~~

~~(5) ***Pineapple Grove Design Review Committee.*** Projects located within the boundaries of the Pineapple Grove Neighborhood Plan, as mapped on the Central Core and Railroad Corridor Sub-~~

~~districts Regulating Plans (See Section 4.4.13(B)), shall be reviewed by the Pineapple Grove Design Review Committee for consistency with the requirements of this Section and compliance with the Pineapple Grove Neighborhood Plan prior to consideration by SPRAB or HPB.~~

~~(6) **DDA and CRA.** All development applications under their purview which are processed through the Planning and Zoning Board, SPRAB, or HPB shall be referred to the Downtown Development Authority and the Community Redevelopment Agency in sufficient time to allow for review and comment prior to action by the approving body.~~

~~(7)~~ (4) **Conditional uses.** Conditional uses listed on Table 4.4.13(A) may be considered pursuant to the provisions of Section 2.4.5(E). In addition, the following regulations apply:

(a) **Drive-through facilities.**

1. Drive-in or drive-through restaurants are not permitted the CBD zoning district boundaries.
2. On Primary Streets, drive through facilities serving banks and other commercial uses shall have the drive through window(s) and stacking area located behind buildings. On Secondary Streets, drive through facilities may be located to the rear or side of buildings.

(b) **Gasoline stations.** Gasoline Stations are not permitted on Primary Streets. In addition to the standards in 4.3.3(J), the following configuration is required.

1. A ground-story shop must be located along a street, with the gas pumps located to the rear of the lot as illustrated in Figure 4.4.13-33. No more than eight dispensing locations are permitted.
2. The shop shall have the primary entrance facing and directly accessible from the street; an additional entrance facing the parking lot is permitted.
3. Gasoline Stations may be one story in height.

**Figure 4.4.13-31**



- (c) ***Car Wash establishments.*** Car wash establishment, with automatic/mechanical systems shall not be located east of the Intracoastal Waterway or on lots which front along Primary Streets. Further, this use must be established on property with a minimum lot area of 20,000 square feet.
- (d) ***Automotive repair and detailing.*** Automobile repair and automobile detailing may not be located north of S.E. 1<sup>st</sup> Street or south of SE 6<sup>th</sup> Street, extended. Conditional use approval may not be granted for a new automobile repair facility, or for the expansion of an existing facility, unless it is specifically demonstrated that off-street parking is available in accordance with the requirements of Section 4.6.9.
- (e) ***Additional Application Requirements.*** Applications for conditional use approval pursuant to Section 4.4.13(I) must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) of sufficient detail to determine that the applicable performance standards are being met. Final approval of the detailed site plan is by the SPRAB or HPB.
- (f) ***Modifications.*** The process for modification of a conditional use and site plan approved pursuant to Section 4.4.13 (I) is as follows:
  - 1. Modifications to any aspect of the plan that was a basis for determining compliance with the applicable performance standards shall be processed as a modification to the conditional use approval.
  - 2. Modifications to the plan that do not affect the application of the performance standards may be processed as a site plan modification.

~~(8)~~ (5) **Waivers.** This Section allows consideration of two types of waivers:

- (a) Section 2.4.7(B)(1)(a) authorizes the waiver of certain regulations irrespective of a property's zoning district. Those waivers may be considered within the CBD in accordance with those specific provisions. When reviewing applications that include waivers that can only be granted by the City Commission, the SPRAB and the HPB shall make formal recommendations to the City Commission regarding those waivers prior to site plan consideration.
- (b) Section 2.4.7(B)(1)(b) authorizes the City Commission to waive certain other regulations that no other official or board have the authority to waive.
  - 1. Within the CBD, that authority of the City Commission is limited by the following restrictions:
    - a. **Building Height Waivers.** Waivers to increase the number of stories or maximum height of a building are not permitted.
    - b. **Front Setback Waivers.** Waivers to decrease the minimum front setback depth are permitted if the reduction would not result in a streetscape that does not meet the minimum requirements of Section 4.4.13(E)(2).
    - c. **Sidewalk Width Waivers.** Waivers to decrease the minimum sidewalk width are not permitted in the CBD.
  - 2. Within the CBD, the following standards shall be used by the City Commission, SPRAB or HPB when considering waiver requests, in addition to the findings in Section 2.4.7(B)(5):
    - a. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.
    - b. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.
    - c. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/pedestrian master plan.
    - d. The waiver shall not reduce the quality of civic open spaces provided under this code.

Section 3. That Chapter 4, “Zoning Regulations”, Article 45, “Overlay and Environmental Management Districts”, Section 4.5.6, “The West Atlantic Avenue Overlay District” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows:

**Sec. 4.5.6. - The West Atlantic Avenue Overlay District.**

(A) **General.** With the adoption of the City's Comprehensive Plan by Ordinance No. 82-89 on November 28, 1989, the City identified the West Atlantic Avenue Corridor as an area in need of redevelopment and revitalization. In accordance with Future Land Use Element Policy C-2.4, a redevelopment plan was prepared for the area and was adopted by the City Commission at its meeting of July 11, 1995. This section is created to implement the provisions of the adopted West Atlantic Redevelopment Plan. All development within the West Atlantic Overlay District, as defined in Section (B) below, shall take place according to the provisions of the adopted plan.

(B) **Defined.** The West Atlantic Avenue Overlay District is hereby established as the area bounded by I-95 on the west, Swinton Avenue on the East, S.W. 1st Street on the south, and N.W. 1st Street on the north, and extending one block north of N.W. 1st Street along N.W. 5th Avenue to include Blocks 19 and 27, Town of Delray. The regulations established in Section 4.4.13(G)(2) shall apply to all CBD zoned parcels within the Overlay District.

~~(C) — **West Atlantic Avenue Redevelopment Coalition (WARC).**~~

~~(1) — All applications for commercial or multiple family residential development, including signs, within the West Atlantic Avenue Overlay District will be forwarded to the West Atlantic Redevelopment Coalition (WARC) for comment.~~

Section 4. 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 hereof as a whole or part thereof other than the part declared to be invalid.

Section 5. All ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 6. Specific authority is hereby given to codify this Ordinance.

Section 7. This Ordinance shall become effective immediately upon its adoption on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Shelly Petrolia, Mayor

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

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

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

Approved as to form and legal sufficiency:

\_\_\_\_\_  
City Attorney