



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Ordinance No. 33-19

Meeting	File No.	Application Type
October 2, 2019	2019-259-LDR	Land Development Regulations Amendment

### Request

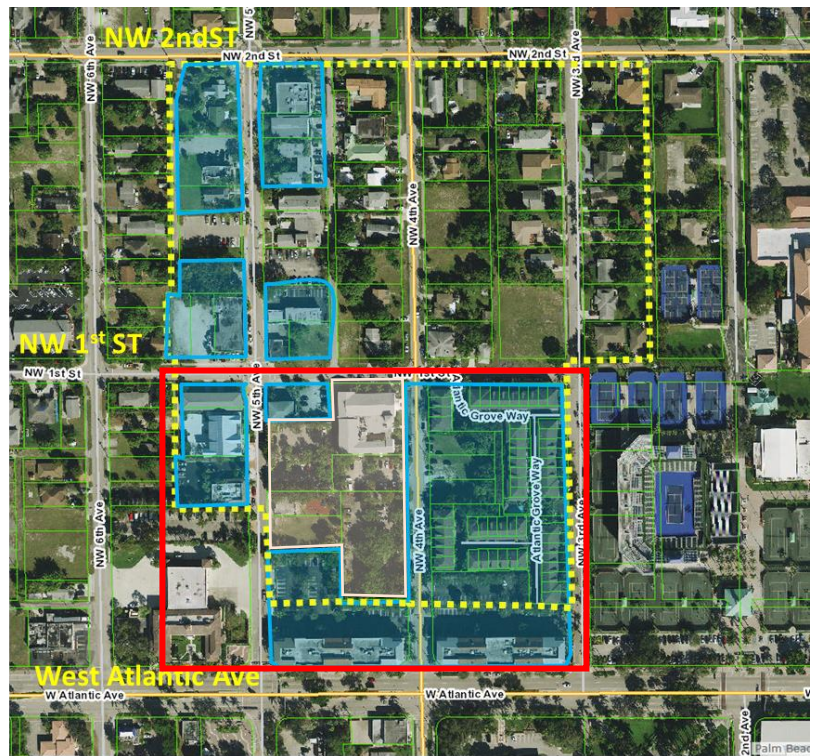
Consideration of a privately-initiated request by Timothy L. Hernandez on behalf of Atlantic Grove Partners, LLC, to amend the Land Development Regulations Section 4.4.13(H)(1), "Residential Incentives," to allow residential incentives in the form of increased density on certain lots that do not contain contributing historic structures or non-contributing structures that are more than 30 years old within the West Settlers Historic District portion of the West Atlantic Neighborhood Sub-district.

### Background Information

Proposed Ordinance No. 33-19 amends Section 4.4.13(H)(1) of the City's Land Development Regulations (LDR) that govern the availability of residential incentives within the Central Business District (CBD) zoning district. The CBD has four sub-districts, each with customized regulations to reflect distinct areas of the downtown. Currently, the West Atlantic Neighborhood Sub-District (highlighted in blue in the image below) allows 12 du/ac. Under the Residential Incentives, density may be increased in this Sub-district from 12 du/ac to 30 du/ac as an incentive for the provision of workforce housing. Workforce housing is deed restricted for 40 years and purchasers or renters must be income-qualified for the units.

LDR Section 4.4.13(H)(1) excludes properties located within historic districts and sites that are individually designated from using residential incentives. The reason historic properties were excluded from obtaining density increases was offering increased density on historic properties would increase the desirability of redeveloping historic structures and provide an incentive counter to preservation goals.

The boundaries of the West Settlers Historic District (outlined in yellow in the image to the right) includes land that is geographically representative of the historic settlement and neighborhood, in addition to protecting sites with historic structures from the adopted period of significance. The area that would be affected by the proposed land development regulation text amendment is located between West Atlantic Avenue and NW 1<sup>st</sup> Street (within the red box in the image to the right). In



In addition to the locational limitation, additional criteria must also be met to be eligible to use the incentive:

- *The property does not contain a contributing structure.*  
There are no contributing structures zoned CBD within the West Settlers Historic District and located between West Atlantic Avenue and NW 1<sup>st</sup> Street.

- *The property does not contain a non-contributing structure that is at least 30 years old, from the original date of construction.*  
There are three properties that contain non-contributing structures located between West Atlantic Avenue and NW 1<sup>st</sup> Street that are not eligible for the residential incentive: 98 NW 5<sup>th</sup> Avenue (ca. 1972), Masonic Lodge (ca. 1978), and Donnie's Golden Spoon (ca. 1990). The other non-contributing structures located within the boundary that could be eligible to use the incentive if redevelopment was proposed are the Delray Beach Housing Authority building at 82 NW 5<sup>th</sup> Avenue (ca. 2017) and the Atlantic Grove development (ca. 2003).
- *If the property is vacant, it has not contained a structure on the site for at least 15 years.*  
The vacant parcels within the eligible boundary area are located along NW 4<sup>th</sup> Avenue and surrounded on the north, south, and east sides by the Atlantic Grove Townhomes that were constructed in 2003. Aerial photos back through 1995 do not indicate the presence of any structures on those lots.

The balance of the properties within the proposed Residential Incentive boundary area (highlighted in pink on the image on page 1) are zoned Community Facilities (CF), and therefore, are not eligible for the incentive.

It is important to note that the existing Atlantic Grove development, which is located within the proposed Residential Incentive boundary area, received a density increase (to 16.54 du/ac) through a conditional use process that is no longer offered within the current Land Development Regulations. The current Atlantic Grove development is 4.54 acres and has a total of 75 residential units (townhomes and third floor apartments in the mixed-use buildings) plus retail and commercial uses along West Atlantic Avenue.

It is also important to note that any infill development proposal on the site will be processed as a Site Plan Modification and will ultimately be evaluated by the Historic Preservation Board at that time for compliance with all land development regulations, including LDR Section 4.5.1. When Atlantic Grove was built, workforce units were offered for sale; the exact number of units required for the infill area will be determined at the time of Site Plan Modification evaluation within the context of the development as a whole.

## 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 privately-initiated by Timothy L. Hernandez on behalf of Atlantic Grove Partners, LLC.

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 following GOPs of the adopted Comprehensive Plan are applicable to the proposed amendment:

**Future Land Use Policy A-2.3** Development of remaining vacant properties shall occur in a manner which is consistent with and complementary to adjacent development regardless of zoning designations. This policy shall be implemented through the review process associated with platting and site plans.

The proposed LDR amendment will allow for infill development that is consistent with the surrounding development all of which is located within the West Settlers Historic District.

**Future Land Use 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".

A development application has not been filed at this time. If the proposed LDR amendment is approved, any development application on the parcels will be brought before the Historic Preservation Board for review.

Pursuant to **Future Land Use Element, Objective A-5**, the City shall maintain its Land Development Regulations, which shall be regularly reviewed and updated, to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, and other innovative development practices.

The proposed amendment will allow density incentives for the provision of workforce housing in the downtown area. The amendment provides an equitable provision for the properties affected by the amendment by allowing the same incentive available on vacant parcels throughout the West Atlantic Neighborhood Sub-district. Since the amendment only affects vacant parcels or non-contributing structures that are less than 30 years old, contributing (historic) structures are not impacted by the amendment.

**Future Land Use Policy C-1.5** The following pertains to the redevelopment of the West Atlantic Avenue Area: This area extends in a corridor along Atlantic Avenue eastward from I-95 to Swinton Avenue. The present land uses in this area include single family homes, duplexes, mini-parks, commercial uses along Atlantic Avenue and N.W. 5th Avenue, and scattered vacant parcels. The West Atlantic Avenue Redevelopment Plan was adopted by the City Commission on July 11, 1995. The plan establishes Future Land Use Map designations, zonings, special development standards, and design guidelines for the Redevelopment Area. Future development in the area must be in accordance with the provisions of the redevelopment plan.

The proposed amendment is consistent with the plan, which calls for mixed use buildings along Atlantic Avenue and limits commercial uses to locations within 150 feet of West Atlantic Avenue. The plan also recognizes the need to improve the availability of housing and to facilitate construction of affordable housing in the area.

**Housing Objective A-9:** The City shall support the conservation and rehabilitation of historically significant housing, especially where such housing is an identifying characteristic of a particular neighborhood.

**Housing Policy A-9.1:** This objective will be implemented in accordance with the standards and criteria of Section 4.5.1 of the Land Development Regulations, Historic Preservation Sites and Districts.

The parcels specified in the amendment are either vacant or do not contain historically significant housing or structures; infill development will not remove historic resources and will be evaluated in regard to Section 4.5.1 when a Site Plan Modification application is made.

#### Review By Others

The **Historic Preservation Board (HPB)** considered the proposed LDR Amendments at its October 2, 2019 meeting; a recommendation of denial failed on a vote of 2 to 2. Note: Tie votes result in a denial of the application. In this case, the HPB was charged with providing a recommendation to the Planning and Zoning Board and the City Commission; the board's tie vote is reflected in the ordinance.

The **Downtown Development Authority (DDA)** reviewed the proposed LDR Amendments at its October 8, 2019 meeting; a recommendation of approval was made.

The **Community Redevelopment Agency (CRA)** will review the proposed LDR Amendments at its November 19, 2019 meeting.

The **City Commission** is anticipated to review the proposed LDR Amendments at its meetings of November 5, 2019 (First Reading) and November 19, 2019 (Second Reading).

#### Alternative Actions

- A. Recommend **approval** to the City Commission of Ordinance No.33-19, amending the Land Development Regulations Section 4.4.13 "Central Business (CBD) District", Subsection (H)(1), "Residential Incentives", 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. 33-19, **as amended**, amending the Land Development Regulations Section 4.4.13 "Central Business (CBD) District", Subsection (H)(1), "Residential Incentives", 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. 33-19, amending the Land Development Regulations at Section 4.4.13 "Central Business (CBD) District" at Subsection (H)(1), "Residential Incentives", 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.

## Public and Courtesy Notices

☐ Courtesy Notices are not applicable to this request

☒ Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:

- Atlantic Grove Property Owners Association

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

N/A Public Notice was posted at the property on (insert date), 7 calendar days prior to the meeting.

N/A Public Notice was mailed to property owners within a 500' radius on (insert date), 10 days prior to the meeting.

N/A Public Notice was mailed to the adjacent property owners on (insert date), 20 days prior to the meeting.

X Public Notice was published in the Sun Sentinel on Friday, October 11, 2019, 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website on Friday, October 11, 2019, 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall on Friday, October 11, 2019, 10 working days prior to the meeting.

X Agenda was posted on Friday, October 11, 2019, at least 5 working days prior to meeting.