

ORDINANCE NO. 23-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER ONE, "GENERAL PROVISIONS", ARTICLE 1.1, "ADOPTION OF CODE," SECTION 1.1.2, "AUTHORITY," AND ARTICLE 1.2, "EFFECT ON EXISTING LAW AND PREVIOUS DEVELOPMENT APPROVALS," SECTION 1.2.2, "PREVIOUS DEVELOPMENT APPLICATION APPROVALS"; CHAPTER 2, "ADMINISTRATIVE PROVISIONS," ARTICLE 2.1, "THE DEVELOPMENT SERVICES MANAGEMENT GROUP," SECTION 2.1.2, "ADMINISTRATIVE ORGANIZATION AND RESPONSIBILITIES," ARTICLE 2.2, "ESTABLISHMENT OF BOARDS HAVING RESPONSIBILITIES FOR LAND DEVELOPMENT REGULATIONS," SECTION 2.2.2, "THE PLANNING AND ZONING BOARD," SECTION 2.2.6, "THE HISTORIC PRESERVATION BOARD", ARTICLE 2.4, "GENERAL PROCEDURES," SECTION 2.4.5, "PROCEDURES FOR OBTAINING DEVELOPMENT APPROVALS," SECTION 2.4.6, "PROCEDURES FOR OBTAINING PERMITS AND APPROVALS," CHAPTER 3, "PERFORMANCE STANDARDS," ARTICLE 3.1, "REQUIRED FINDINGS FOR LAND USE AND LAND DEVELOPMENT APPLICATIONS," SECTION 3.1.1, "REQUIRED FINDINGS," ARTICLE 3.2, "PERFORMANCE STANDARDS," SECTION 3.2.1, "BASIS FOR DETERMINING CONSISTENCY", SECTION 3.2.2, "STANDARDS FOR REZONING ACTIONS," SECTION 3.2.3, "STANDARDS FOR SITE PLAN AND/OR PLAT ACTIONS," AND SECTION 3.2.4, "STANDARDS FOR SPECIFIC AREAS OR PURPOSES," CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.2, "ANNEXATION AND INITIAL ZONING," SECTION 4.2.1, "AUTHORITY FOR ANNEXATIONS," SECTION 4.2.3, "ZONING," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES", ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.1, "AGRICULTURE ZONE DISTRICT (A)", SECTION 4.4.3, "SINGLE FAMILY RESIDENTIAL (R-1) DISTRICTS", SECTION 4.4.5, "LOW DENSITY RESIDENTIAL (RL) DISTRICT", SECTION 4.4.7, "PLANNED RESIDENTIAL DEVELOPMENT (PRD) DISTRICT", SECTION 4.4.10, "AUTOMOTIVE COMMERCIAL (AC) DISTRICT", SECTION 4.4.11, "NEIGHBORHOOD COMMERCIAL (NC) DISTRICT"; SECTION 4.4.12, "PLANNED COMMERCIAL (PC) DISTRICT", SECTION 4.4.13, "CENTRAL BUSINESS (CBD)

DISTRICT”, SECTION 4.4.16, “PROFESSIONAL AND OFFICE DISTRICT (POD), SECTION 4.4.19, “MIXED INDUSTRIAL AND COMMERCIAL (MIC) DISTRICT”, SECTION 4.4.21, “COMMUNITY FACILITIES (CF) DISTRICT”, SECTION 4.4.22, “OPEN SPACE DISTRICT”, SECTION 4.4.23 “CONSERVATION DISTRICT”, SECTION 4.4.25, “SPECIAL ACTIVITIES DISTRICT”, SECTION 4.4.26, “LIGHT INDUSTRIAL (LI) DISTRICT”, SECTION 4.4.27 “OPEN SPACE AND RECREATION (OSR) DISTRICT”, ARTICLE 4.5, “OVERLAY AND ENVIRONMENTAL MANAGEMENT DISTRICTS,” SECTION 4.5.6, “THE WEST ATLANTIC AVENUE OVERLAY DISTRICT,” ARTICLE 4.6, “SUPPLEMENTAL DISTRICT REGULATIONS,” SECTION 4.6.16, “LANDSCAPE REGULATIONS,” SECTION 4.6.20, “TRANSFER OF DEVELOPMENT RIGHTS,” CHAPTER 5, “SUBDIVISION REGULATIONS,” ARTICLE 5.1, “GENERAL PROVISIONS,” SECTION 5.1.5, “COMPLIANCE WITH THE COMPREHENSIVE PLAN,” CHAPTER 8, “SPECIAL IMPLEMENTATION PROGRAMS,” ARTICLE 8.3, “WEST ATLANTIC AVENUE NEIGHBORHOOD IMPROVEMENT DISTRICT,” SECTION 8.3.5, “AUTHORITY TO APPLY FOR AND RECEIVE GRANTS,” TO PROVIDE UPDATED REFERENCES TO AND CLARIFICATIONS RESULTING FROM THE ADOPTION OF THE ALWAYS DELRAY COMPREHENSIVE PLAN, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3202 of the Florida Statutes requires that each county and each municipality shall adopt or amend and enforce Land Development Regulations that are consistent with and implement their adopted Comprehensive Plan within one-year of adoption of any Comprehensive Plan adoption or update; and

WHEREAS, the City of Delray Beach adopted the Comprehensive Plan Update known as the “Always Delray Comprehensive Plan (“Plan”) on February 4, 2020; and

WHEREAS, these amendments to the Land Development Regulations (LDR) update references to the Comprehensive Plan, address any imposed conflicts resulting from the update, and provide updates and clarifications regarding development; and

WHEREAS, the LDRs provide authority for the City to amend, change, supplement, or repeal the LDRs from time to time; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the LDRs at a public hearing on March 16, 2020 and voted _ to _ to recommend that the proposed text amendments be

approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

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 Section 1.1.2, “Authority”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

These regulations have been adopted pursuant to requirements imposed by F.S. ch. 163, ~~State Department of Community Affairs Administrative Rule 9J-5, the Department of Economic Opportunity,~~ and the City's adopted Comprehensive Plan ~~all of which required revising then existing land development regulations so as to be consistent with a comprehensive plan adopted pursuant to the 1985 Growth Management Act.~~

Section 3. That Section 1.2.2, “Previous development application approvals”, Subsection (D), “Compliance with new regulations,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(D) **Compliance with new regulations.**

- (1) Any development application which expired pursuant to 1.2.2(C)(1) shall, if resubmitted, fully comply with these Land Development Regulations.
- (2) Any development application which expires because an extension was not granted under 1.2.2(C)(2) shall, if resubmitted, fully comply with these Land Development Regulations.
- (3) Any development application which is granted an extension pursuant to 1.2.2(C)(2) may be required, as a condition of extension approval, to be modified in whole, or in part, to comply with the provisions of these Land Development Regulations.
- (4) Any development application which seeks an extension under 1.2.2(C)(2) shall not be approved if the resulting use of the land or structures will be in conflict with the ~~Future~~ Land Use Map of the adopted Comprehensive Plan or with the allowable uses pursuant to the property's zoning designation.

Section 4. That Section 2.1.2, “Administrative organization and responsibilities”, Subsection (B), “Responsibilities of required positions,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (B) ***Responsibilities of required positions.*** Responsibilities assigned to required positions shall be as set forth throughout these regulations and as provided herein to include, but not be limited to, the following for each such position. Such items may be delegated, in writing, to others. However, neither exclusion

of a responsibility which is included elsewhere in this Code, nor delegation to another diminishes the responsibility assigned herein.

(a) ***Director.***

1.4.1 (C)	Interpretations of Use
4.3.2(C)(1)	Interpretations of Use
2.4.3	Waivers of, or additions to, individual land development submission requirements
2.4.3(A)(1)	The form of development order applications
2.4.5(G)(3)	Approval of non-impacting site plan modifications
2.4.5(I)(1)(a)	Promulgation of list of items not requiring Architectural Approval
2.4.6(J)(1)(c)	Promulgation of list of items not requiring a C.O.A.
2.4.7(D)	Granting of Administrative Relief
2.4.8(C)(4)	Acceptance of late submissions
2.4.9(B)	Certification of Site Plans
2.4.1(C)(3)	Designation as City Preservation Officer

Additional Items:

- Ensuring compliance with the annual review process established for the adopted Comprehensive Plan as set forth in ~~Part V~~ said Plan.
- Designation as the Ex-Officio Member to the Planning and Zoning Board.
- Designation as the Ex-Officio Member to the Site Plan Review and Appearance Board.
- Designation as the Ex-Officio Member to the Historic Preservation Board.

Section 5. That Section 2.2.2, “The Planning and Zoning Board”, Subsection (E), “Duties, powers, and responsibilities,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(E) Duties, powers, and responsibilities.

- (1) The Board shall prepare and maintain a Comprehensive Plan in compliance with the Florida State Planning Statutes (163 and successor legislation).

- (2) ~~The Board shall prepare a formal Evaluation and Appraisal Report (EAR) of the Comprehensive Plan and shall transmit said report to the State Department of Community Affairs (DCA) Economic Opportunity through the City Commission. The EAR shall be conducted pursuant to criteria outlined in the "Procedures for Monitoring and Evaluation of the Plan" section of the Comprehensive Plan.~~
- (3) ~~The Board shall, in a public meeting, review reports prepared pursuant to criteria outlined in the "Procedures for Monitoring and Evaluation of the Plan" section of the Comprehensive Plan.~~
- (4)(2) ~~On an annual basis in the winter months, Tthe Board shall obtain public input, on an annual basis, in at a public meeting and review the proposed capital budget for the before prioritizing capital improvement needs for the subsequent fiscal year based on criteria specified in the adopted Comprehensive Plan. ensuing fiscal year and shall be guided by Policy F-2.2 of the Public Facilities Element.~~
- (5) ~~The Board shall hold a public hearing(s) in the winter months of each year for the purpose of obtaining public input before prioritizing capital improvement needs for the subsequent fiscal year. (PF F-2.1)~~
- (6)(3) The Board shall review and make recommendations to the City Commission with respect to the following items, pursuant to the procedures and standards of the Land Development Regulations (LDR):
- (a) Amendments to the Comprehensive Plan and to the ~~Future~~ Land Use Map;
 - (b) Rezoning of land and changes to the text of any portion of the ~~Land Development Regulations (LDR);~~
 - (c) The annexation of territory to the City;
 - (d) Establishment of a conditional use;
 - (e) The abandonment of rights-of-way or public easements excepting single purpose easements;
 - (f) The approval or denial of site and ~~development~~ master development plans as required in certain "planned" zoning districts.
 - (g) The establishment or change in street names;
 - (h) Certification of a final subdivision plat;
- (7)(4) The Board hereby has the authority to take action on the following items pursuant to the procedures and standards of the LDR:
- (a) Approval or denial of a preliminary subdivision plat;
 - ~~(b) Certification of final subdivision plat;~~
 - ~~(c)~~(b) Granting of relief from the number of parking spaces required for specific uses pursuant to Section 4.6.9(F)(1);

- ~~(d)~~(c) Approval of certain site and development plans and modifications and extensions thereto;
- ~~(e)~~(d) Determinations of similarity of use;
- ~~(f)~~(e) Approval or denial of a minor modification of a conditional use approval pursuant to Section 2.4.5(E)(7).
- ~~(8)~~(5) The Board shall make findings of consistency with the adopted Comprehensive Plan on development applications. be consulted when it is necessary to make findings addressing consistency between Land Development Applications (LDA) and the Comprehensive Plan. The Board must make such findings for any LDA which goes before it.
- ~~(9)~~(6) To provide "good offices" and assistance to other governmental boards, commissions, and committees in the fulfillment of goals, objectives, and policies of the adopted Comprehensive Plan.

Section 6. That Section 2.2.6, "The Historic Preservation Board", Subsection (D), "Duties, powers, and responsibilities," of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(D) Duties, powers, and responsibilities. The following duties, powers, and responsibilities shall be carried out by the Historic Preservation Board:

- (1) – (17) (These subsections shall remain in full force and effect as previously adopted)
- (18) Make recommendations to the City Commission, ~~by referral to the Planning and Zoning Board,~~ to make historic preservation concepts an integral and ongoing part of all City planning efforts and zoning codes, the City Future Land Use Plan, and any comprehensive use planning required by this state.
- (19) Advise the City Commission on all matters related to the use, administration, and maintenance of city-owned designated historic sites.
- (20) Execute any other functions relevant to the duties, powers and responsibilities of the Board regarding historic preservation planning programs and policies which may be approved by ordinance or resolution of the City Commission.
- (21) Make recommendations to the City Commission on amendments to the Historic Preservation Element of the adopted Comprehensive Plan, and amendments to other Elements that may have an impact on historic preservation efforts in the city.

Section 7. That Section 2.4.5, "Procedures for obtaining development approvals", Subsection (C), "Annexation of territory," of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(C) Annexation of territory.

- (1) – (3) (These subsections shall remain in full force and effect as previously adopted)

- (4) Findings. The City Commission must make findings that the annexation is consistent with Objective ~~B-3~~ NDC 3.3 of the ~~Land Use~~ Neighborhoods, Districts, and Corridors Element, and complies with F.S. Chapter 171.

Section 8. That Section 2.4.6, “Procedures for obtaining permits and approvals”, Subsection (H), “Certificate of appropriateness for individually designated historic structures and all properties located within historic districts,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(H) Certificate of appropriateness for individually designated historic structures and all properties located within historic districts.

(1) – (4) (These subsections shall remain in full force and effect as previously adopted)

- (5) Findings. Prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective ~~A-4~~ HPE 1.4 of the ~~Land Use~~ Historic Preservation Element of the adopted Comprehensive Plan and specifically with provisions of Section 4.5.1, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

Section 9. That Section 3.1.1, “Required findings” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ~~**Future Land Use Map.**~~ The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the ~~Future~~ Land Use Map.
- (B) ~~**Concurrency.**~~ Concurrency as defined by ~~pursuant to~~ Objective ~~B-2~~ NDC 3.1 of the ~~Future Land Use~~ Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table ~~CI-GOP-4~~ CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.

(C) – (D) (These subsections shall remain in full force and effect as previously adopted)

Section 10. That Section 3.2.1, “Basis for determining consistency”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Section 3.2.1. - Basis for determining consistency. The performance standards set forth in this Article either reflect a policy from the adopted Comprehensive Plan or a principle of good planning practice. The

performance standards set forth in the following sections as well as compliance with items specifically listed as required findings in appropriate portions of Section 2.4.5 shall be the basis upon which a finding of overall consistency [Section 3.1.1(C)] is to be made. However, exclusion from this Article shall not be a basis for not allowing consideration of other objectives and policies found in the adopted Comprehensive Plan in the making of a finding of overall consistency.

Section 11. That Section 3.2.2, Standards for rezoning actions,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Section 3.2.2. - Standards for rezoning actions. In addition to the standards listed below, rezoning actions shall be consistent with the land use designation applied to the land to be rezoned. Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts, of the Neighborhoods, Districts, and Corridors Element, identifies the land use designations and implementing zoning districts that provide appropriate development and improvements that further the adopted strategies of and are compatible with the assigned land use designation.

- (A) The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied ~~to those areas identified as "stable" and "stabilization" on the Residential Neighborhood Categorization Map.~~ Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied unless the proposed changes implement an adopted neighborhood or redevelopment plan.
- ~~(B)~~ Rezoning of land located west of Interstate-95 to accommodate auto dealerships or to AC (Automotive Commercial) is prohibited pursuant to Policy NDC 2.5.2 of the Neighborhoods, Districts, and Corridors Element. ~~to accommodate auto dealerships shall not be permitted west of I-95.~~
- ~~(C)~~ Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration ~~should~~ shall be given to increasing the depth of the commercial-mixed-use zoning in order to provide for more substantive, mixed use projects that provide compatible transitions in form and use to the surrounding area. better project design.
- (D) ~~That the r~~Rezoning of land shall result in allowing land uses ~~which are~~ deemed compatible with adjacent and nearby land uses both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.
- ~~(E)~~ Remaining, ~~isolated~~ infill lots within the Coastal High Hazard Area of the eCoastal pPlanning aArea shall be developed ~~under using zoning which that is~~ identical or similar to the zoning of adjacent properties ~~or that results in less intense development; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.~~

Section 12. That Section 3.2.3, “Standards for site plan and/or plat actions,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) Building design, landscaping, and lighting (glare) shall be such that they do not create unwarranted distractions or blockage of visibility as it pertains to traffic circulation.
- (B) ~~Separation of different forms of transportation shall be encouraged. This includes pedestrians, bicyclists, and vehicles in a manner consistent with policies found under Objectives D-1 and D-2 of the Transportation Element.~~ All development shall provide pedestrian, bicycle, and vehicular interconnections to adjacent properties and include accessible routes from the entry points of publicly-accessible buildings to the sidewalk network in accordance with the Americans with Disabilities Act (ADA).
- (C) ~~Open space enhancements and recreational amenities shall be provided to as described in policies found under Objective B-4, meet Objective OPR 1.4 and other requirements of the Goals, Objectives and Policies, as applicable, of both the Open Space, Parks, and Recreation Element and Conservation Element.~~ are appropriately addressed.
- (D) ~~The City shall evaluate the effect that any sAny street widening or modifications to traffic circulation modification may have upon an existing neighborhood. If it is determined that the widening or modification will shall be evaluated by the City, and if found to have a be detrimental impact upon and or result in a the degradation of the an existing neighborhood, the project shall be permitted modified or denied.~~
- (E) Development of residentially zoned vacant land ~~which is zoned for residential purposes~~ shall be planned in a manner ~~which is~~ consistent with adjacent development regardless of zoning designations.
- (F) ~~Vacant p~~Property shall be developed or redeveloped in a manner so that the ~~future use, and intensity, and density~~ are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfills remaining land use needs.
- (G) ~~Redevelopment and the d~~Development of new land shall ~~result in the provision of~~ provide a variety of housing types ~~which shall continue to that accommodates the city's growing and socio-economically diverse population makeup of the City's demographic profile; and to meet the housing needs identified in Goals, Objectives, and Policies of the Housing Element. This shall be accomplished through the implementation of policies under Objective B-2 of the Housing Element.~~
- (H) ~~The City shall e~~Consider the effect that the proposal development will have on the safety, livability, and stability of nearby neighborhoods and residential areas. ~~Factors such as with respect to noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas, and if found to If it is determined that a proposed development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.~~

- (I) Development shall not be approved if traffic associated with such development would create a new high accident location, or exacerbate an existing situation causing it to become a high accident location, without such development taking actions to remedy the accident situation.
- (J) Tot lots and recreational areas, serving children, ~~from toddler to teens,~~ and adults shall be a feature of all new housing developments as part of the design to accommodate households having a range of ages. This requirement may be waived or modified for residential developments located in the downtown area, and for infill projects having fewer than 25 units.
- (K) Development shall not exceed the maximum limits established in the Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts, of the Neighborhoods, Districts, and Corridors Element or specific standards established in the zoning districts that limit density (dwelling units per acre) or intensity (floor area ratio) and shall adhere to whichever limit is lower. Development in areas included in density or incentive programs (i.e. workforce housing programs specified in Article 4.7-Family/Workforce Housing) may exceed the Standard density limit, up to the specified Revitalization/Incentive density for the program; development in all other areas shall not exceed the Standard density.

Section 13. That Section 3.2.4, “Standards for specific areas or purposes,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Wellfield zones.*** The City shall continue to assure compliance with the County Wellfield Protection Ordinance by including compliance as a performance standard for which a specific finding must be made upon approval of any site plan or conditional use action, in accordance with Goal 2, Water Resources, Conservation, and Protection, of the Conservation, Sustainability, and Resiliency Element.
- (B) ***Environmentally sensitive areas.*** ~~That any s~~Significant flora or fauna communities ~~which that~~ are identified pursuant to a biological survey and habitat analysis required by Conservation, Sustainability, and Resilience Element Policy ~~B-2.1~~ CSR 4.2.3 ~~are being~~ shall be appropriately treated as if they were environmentally sensitive areas as identified on Map AD-19, Location of Native Ecosystems and Conservation Areas, in Policy B-1.1 of the Conservation Element.
- (C) ***Barrier island.*** ~~The d~~Development of vacant and under developed land on the barrier island shall occur in a manner ~~which that~~ does not change the character, increase the intensity of use; or demand upon existing infrastructure, ~~nor reduce~~ increase hurricane evacuation time beyond its present level in the Coastal Planning Area pursuant to ~~Objective D-2~~ Policy CME 4.1.4 and Policies contained under ~~Objective C-3~~ Objective CME 2.2 of the Coastal Management Element.
- (D) ***Flood prone areas.*** ~~Certification that any d~~Development proposed on land ~~which that~~ is located in a floodplain ~~has~~ shall certify that the proper requirements provisions for mitigation of potential flood damage ~~potential~~ have been provided.

- (E) **Historic districts and individually designated sites listed on the Local Register of Historic Places.** ~~That the p~~Proposed development is shall be consistent with the purpose and provisions of ~~the~~ Historic Preservation Overlay District pursuant to LDR Section 4.5.1, Historic Preservation: Designated Districts, Sites, and Buildings, and the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.
- (F) **Impact on adjacent communities.** The staff report prepared for any development application or development activities proposed in the plan and provided to the Local Planning Agency shall contain an assessment, if applicable, of how the proposed activity may affect the existing plans of any adjacent local government.

Section 14. That Article 4.2, “Annexation and Initial Zoning,” Section 4.2.1, “Authority for annexations”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

The boundaries and corporate limits of the City of Delray Beach now existing may be amended from time to time, as provided by law, to extend to the ultimate municipal boundaries as shown on the ~~Future~~ Land Use Map. (Note: adapted from Chapter II of the Charter)

Section 15. That Section 4.2.3, “Zoning,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

~~At the time of a voluntary annexation,~~ Voluntary annexations shall be processed concurrently with a zoning petition for a ~~a zoning~~ designation shall be applied to the property in a manner consistent with the ~~Future~~ Land Use Map designation and Table NDC-1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan. ~~To this end, a petition for voluntary annexation shall be processed concurrently with a zoning petition.~~ Notwithstanding the foregoing, under unique circumstances a parcel of land may be annexed with zoning of Agriculture (A) or Open Space (OS) and then be rezoned, at a later date, through the formal rezoning processes for a designation more appropriate to the ~~Future~~ Land Use Map designation. ~~With non-voluntary annexations, t~~The current County land use and zoning designations shall remain in effect until adoption of City land use and zoning designations for non-voluntary annexations. The application for assignment of City land use or zoning designations on land non-voluntarily annexed may be initiated by the City or the property owner.

Section 16. That Section 4.3.3, “Special requirements for specific uses”, Subsection (VV), “24-Hour or Late Night Businesses,” (2), “Requirements,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (2) **Requirements:** Unless otherwise specified, the following regulations shall apply to 24-Hour or late night businesses:
- (a) - (b) (These subsections shall remain in full force and effect as previously adopted)

- (c) **Findings:** In addition to any findings required by Section 2.4.5(E) of the Land Development Regulations, and any other required findings, the following specific findings shall be made in order for any 24-Hour or late night business to be approved for a conditional use:
1. That the use will be consistent with Housing Element ~~A-12.3~~ Policy HOU 1.1.12 of the adopted Comprehensive Plan of the City of Delray Beach.
 2. That the submitted security plan contains measures adequate to reasonably protect the safety of patrons, employees and nearby residents.
 3. That the amount and type of proposed buffering is adequate to minimize the effects of noise impacts upon surrounding uses and nearby residential properties and to act as a visual buffer to the property from surrounding uses and nearby residential properties.

Section 17. That Section 4.4.1, “Agriculture Zone District (A)”, Subsection (D), “Conditional uses and structures allowed”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (D) **Conditional uses and structures allowed.** Except for family and transitional community residences as specified herein, there are no unrelated conditional uses listed based upon the premise that once an agricultural operation ceases, it is more appropriate to have the land rezoned to a district more in keeping with the designation on the ~~Future~~ Land Use Map. However, nurseries, either retail or wholesale, may be accommodated as a conditional use.
- (1) Family Community Residence, except as required by state law, that (1) is less than 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence, or (2) the State of Florida does not require the operator or applicant to be licensed or certified to operate the proposed community residence, has no certification from an appropriate national accrediting agency, or has not been recognized or sanctioned by Congress to operate the proposed community residence.
 - (2) Transitional Community Residence, except as required by state law.

Section 18. That Section 4.4.3, “Single Family Residential (R-1) Districts”, Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) **Purpose and intent.** The Single Family Residential Districts have been created in order to provide areas where the traditional single family detached residence can be established and maintained and be protected from the unwarranted intrusion of other inappropriate uses. Further, the Single Family Residential Districts are established in compliance with provisions of Goal ~~Area "A"~~ HOU 2 of the Housing Element of the adopted Comprehensive Plan which calls for the preservation and maintenance of stable neighborhoods. The following Single Family Residential Districts are regulated by this Section:

- (1) R-1-AAA
- (2) R-1-AAAB
- (3) R-1-AA
- (4) R-1-AAB
- (5) R-1-A
- (6) R-1-AB

Section 19. That Section 4.4.5, “Low Density Residential (RL) District”, Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Low Density Residential (RL) District provides a residential zoning district with flexible densities having a base of three units per acre and a range to six units per acre. ~~Further, the Low Density Residential District provides for implementation of provisions of Housing Element Goal Area "B" of the Comprehensive Plan and, more specifically, Policy B-2.1 which calls for providing sites for single family detached and low density planned residential development.~~

Section 20. That Section 4.4.7, “Planned Residential Development (PRD) District”, Subsection (A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Planned Residential (PRD) District provides a residential zoning district with flexible densities in which multiple family and single family detached dwellings are designed together so as to: promote improved design, character, and quality of development; to preserve natural, scenic, and open space features of a site; and to accommodate flexibility in design. Further, the PRD provides for implementation of provisions of Goal Area "C" of the adopted Comprehensive Plan and, more specifically ~~Objective C-2~~ Policy HOU 3.1.2 and Policy HOU 4.1.5 of the Housing Element which that calls for providing a variety of housing types, and ~~Policy C-2.1~~ Objective NDC 1.2 and Policy NDC 1.2.3 of the Neighborhoods, Districts, and Corridors Element which calls for providing that support the provision of sites for single family detached and low density planned residential development.

Section 21. That Section 4.4.7, “Planned Residential Development (PRD) District”, Subsection (H) “Special Regulations,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(H) ***Special regulations.***

- (1) The density for a PRD is established by a numerical suffix affixed to the designation and shown on the zoning map i.e. PRD-8 limits the density to eight units per acre. To seek a density greater than that shown in such a manner, it is necessary to rezone the property. If there is no density suffix, then the maximum density shall be as allowed by the ~~Future~~ Land Use Map.
- (2) Prior to approving a Master Site Plan, the Planning and Zoning Board must make findings that:
 - (a) – (j) (These subsections shall remain in full force and effect as previously adopted)

(k) Tot lots and recreational areas shall be a feature of all new housing developments containing more than 12 units and located outside the downtown area. ~~which utilize PRD zone districts. (OSR A-3.3)~~

(3) - (4) (These subsections shall remain in full force and effect as previously adopted)

Section 20. That Section 4.4.10, “Automotive Commercial (AC) District”, Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(A) ***Purpose and intent.*** The Automotive Commercial (AC) District has been created to provide specific regulations for this class of use and related uses when those related uses are not located within Commerce or Industrial Districts; and to further ~~Objective A-2~~ Objective NDC 1.1 of the ~~Land Use~~ Neighborhoods, Districts, and Corridors Element.

Section 21. That Section 4.4.11, “Neighborhood Commercial (NC) District,” Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(A) ***Purpose and intent.*** The Neighborhood Commercial (NC) District provides the opportunity to locate limited retail and service uses in a manner convenient to and yet not disruptive to residential areas. ~~The NC District may be located in areas designated as Transitional on the Future Land Use Map when a nonresidential use is appropriate for the location.~~

Section 22. That Section 4.4.12, “Planned Commercial (PC) District”, Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(A) ***Purpose and intent.*** The Planned Commercial (PC) District provides for retail, office, and other commercial activities to be established on large sites in a well-planned, functional, and aesthetically pleasing manner. Residential uses may also be permitted as part of a mixed-use development within the Four Corners Overlay District, provided at least 20 percent of the units are workforce housing units which comply with the provisions of Article 4.7, "Family/Workforce Housing." The maximum density is 30 units per acre. The actual density will be based upon the development's ability to achieve the performance standards of Section 4.4.13(I)(2). Institutional uses may also be permitted as part of the Medical Arts Overlay District. The PC District shall be applied to properties designated as General Commercial on the ~~Future~~ Land Use Map where the unified development is, or will be, in excess of five acres; or when it is appropriate to preserve the character of certain specialty retail and office centers; or to ensure that certain high visibility areas are attractively developed.

Section 23. That Section 4.4.13, “Central Business (CBD) District”, Subsection 4.4.13(A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) **Purpose and intent.** The Central Business District (CBD) is established to preserve and protect the cultural and historic aspects of downtown Delray Beach and simultaneously provide for the stimulation and enhancement of the vitality and economic growth of this special area. The CBD is ~~generally applied to the~~ compatible with land areas designated as Commercial Core on the ~~Future~~ Land Use Map.

Section 24. That Section 4.4.16, “Professional and Office District (POD), Subsection (A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) **Purpose and intent.** The Professional and Office District (POD) is created ~~in order~~ to provide a smaller-scale and very limited application of professional, office, and similar intensity uses to small parcels on properties designated as Transitional or General Commercial on the ~~Future~~ Land Use Map and ~~thus~~ mitigate against adverse effects ~~which~~ that may occur with a higher intensity development. ~~application of such usage.~~

Section 25. That Section 4.4.19, “Mixed Industrial and Commercial (MIC) District”, Subsection (A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) **Purpose and intent.** The Mixed Industrial and Commercial (MIC) District is created in order to provide for a mix of industrial, commercial, and office use in a single zone district. The uses allowed are intended to enhance employment opportunities in the industrial, manufacturing and trade sectors, with supporting business and professional office functions. Retail uses are appropriate on a limited basis, and only as a secondary use within the district. Residential uses may also be permitted as a conditional use within the I-95/CSX Railroad Corridor Overlay District, provided at least 25 percent of the units are workforce housing units which comply with the provisions of Article 4.7, "Family/Workforce Housing." ~~The maximum density is 24 units per acre. The actual density will be based upon the development's ability to achieve the performance standards of Section 4.4.6(I).~~ The MIC District is to be located in areas designated for the primary use - industry and commerce - as shown on the ~~Future~~ Land Use Map.

Section 26. That Section 4.4.21, “Community Facilities (CF) District”, Subsection 4.4.21(A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) **Purpose and intent.** The Community Facilities (CF) District is a special purpose zone district primarily, but not exclusively, intended for locations at which facilities are provided to serve public, semi-public, and private purposes. Such purposes include governmental, religious, educational, health care, social service, and special facilities. It is also applied to regulated properties subjected to a transfer of development rights pursuant to Section 4.6.20. In addition, this district has provisions for the Medical Arts Overlay District.
~~The CF District is deemed compatible with all land use designations shown on the Future Land Use~~

Section 27. That Article 4.4, “Base Zoning District,” Section 4.4.22, “Open Space District”, Subsection (A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Open Space (OS) ~~Zone~~ District is established ~~in order~~ to most appropriately identify parcels of land ~~which that~~ are used primarily in an open space manner. Created to reflect some of the open space areas as shown on the ~~Future~~ Land Use Map, the OS District is applied to portions of land development projects ~~which that~~ are primarily open space in nature (e.g., water bodies) and to other open space areas, including the municipal beach, which are normally not to have intense use or commercialization.

~~The OS District is deemed compatible with all land use designations shown on the Future Land Use Map.~~

Section 28. That Section 4.4.23 “Conservation District”, Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Conservation (CD) District is established in order to preserve and protect those environmentally sensitive lands as identified in the Conservation, Sustainability, and Resiliency Element of the adopted Comprehensive Plan and Ordinance of Palm Beach County.

Section 29. That Section 4.4.25, “Special Activities District”, Subsection (A), “Purpose and intent”; of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Special Activities District (SAD) is established ~~in order~~ to provide a zone district ~~which is~~ appropriate for projects development which are that is not otherwise classified or categorized in other ~~zone~~ districts; or, ~~which for some other good reason, that~~ cannot be properly accommodated in ~~the any other~~ zone districts. ~~Also, the~~ SAD is to be used for large scale and mixed-use developments projects for which conventional zoning and development standards are is not applicable. ~~While SAD zoning is deemed consistent with any land use designation on the Future Land Use Map, the uses allowed within a specific SAD shall be consistent with the land use category shown on the Future Land Use Map.~~ The uses, activities, and characteristics of an SAD are to be consistent with the Land Use Map designation, and the Goals, Objectives, and Policies of the adopted Comprehensive Plan; to provide a development that is suitable and compatible with surrounding existing development, and with the proposed intended character of any adopted redevelopment plans for the area.

Section 30. That Article 4.4, “Base Zoning District,” Section 4.4.26, “Light Industrial (LI) District”, Subsection (A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Light Industrial ~~Zone~~ (LI) District provides an opportunity to site, develop, and maintain high quality industrial land uses outside of an industrial park setting. It also allows certain industrial land uses to be located in areas which are considered to be environmentally or aesthetically sensitive. This ~~LI~~ District is appropriate in such areas due, in part, to the development standards ~~which~~ that are more strict than those found in the "I" and "MIC" Districts. While the LI District has flexibility in its application ~~(it is compatible with both Industrial and Commerce designations on the Future Land Use Map)~~, it is not to be applied to small lots or other circumstances which would lead to non-conforming site development.

Section 31. That Section 4.4.27 “Open Space and Recreation (OSR) District”, Subsection (A), “Purpose and intent,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The Open Space and Recreation (OSR) ~~Zone~~ District is established ~~in order~~ to most appropriately identify parcels of land which are used primarily for recreational or public purposes in an outdoor setting (e.g. a swimming facility). ~~Thus, it~~ The OSR district is generally applied to parks, golf courses, and ~~situations~~ properties where public recreational facilities may exist. ~~It~~ and also accommodates the operation of activities licensed by the City.

~~The OSR District is deemed compatible with all land use designations shown on the Future Land Use Map.~~

Section 32. That Section 4.5.6, “The West Atlantic Overlay District”, Subsection (A), “General”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (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~~ The West Atlantic Avenue Redevelopment Plan ~~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 and any updates subsequently adopted. 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) – (C) (These subsections shall remain in full force and effect as previously adopted)

Section 33. That Section 4.6.16, “Landscape regulations”, Subsection (A), “Purpose”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (A) ***Purpose and intent.*** The objective of this ~~article~~ Section is to improve the appearance of setback and yard areas in conjunction with the development of commercial, industrial, and residential properties, including off-street vehicular parking and open-lot sales and service areas in the City, and to protect and

preserve the appearance, character and value of the surrounding neighborhoods and thereby promote the general welfare by providing minimum standards for the installation and maintenance of landscaping. This Section is further intended to fulfill objectives as contained within the Conservation, Sustainability, and Resiliency Element of the adopted Comprehensive Plan, by providing for: the conservation of potable and non-potable water; the implementation of Florida-friendly landscaping principles; proper tree selection adjacent to or within utilities to mitigate damages which may be caused by trees; encouraging the creation or preservation of open space; maintaining permeable land areas essential to surface water management and aquifer recharge; encouraging the preservation of existing plant communities; encouraging the planting of site specific, native and drought tolerant plant materials; establishing guidelines for the installation and maintenance of landscape materials and irrigation systems; reducing air, noise, heat, and chemical pollution through the biological filtering capacities of trees; reducing the temperature of the microclimate through the process of evapotranspiration; and promoting energy conservation through the creation of shade.

The provisions of this Section are minimum standards which may be increased in accordance with the guidelines contained herein as well as aesthetic criteria established by the Site Plan Review and Appearance Board and the Historic Preservation Board when applicable. Additional landscape requirements may be required for certain zoning districts and roadways as provided for elsewhere in these regulations.

Section 34. That Section 4.6.20, "Transfer of development rights", Subsection (D), "Limitations", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(A) – (C) (These subsections shall remain in full force and effect as previously adopted)

(D) ***Limitations.***

- (1) ***Limitations on regulated properties.*** In order to be eligible for transference of development rights, the resulting use of the "to be regulated" property must be in a manner to advance goals, objectives, and policies of the adopted Comprehensive Plan through:
 - (a) Preservation of historic structures and sites;
 - (b) Obtaining land for public facilities (e.g. fire stations, tennis courts, water storage tanks, etc.);
 - (c) Preservation of designated conservation areas;
 - (d) Any time when a voluntary action would aide in fulfilling a policy or objective of the adopted Comprehensive Plan.
- (2) ***Limitations on receiver properties.*** ~~In order to~~ To apply a TDR to a receiver property, it must be able to be developed in accordance with the goals, objectives, and policies of the adopted Comprehensive Plan. ~~Receiver properties must be located in one of the following areas:~~

(a) ~~"Redevelopment (white) Areas" delineated on the Future Land Use Map — in these areas, land use intensities which are greater than those allowed elsewhere by the Comprehensive Plan may be allowed after adoption of, and pursuant to, the area's redevelopment plan.~~

(b) ~~Geographic Areas in which height increases are allowed pursuant to Section 4.3.4(J)(4) — in these areas, in addition to receiving an exception to the base district height regulation, the receiver parcel may also receive an increase in development intensity up to the value of the TDR Certificate.~~

Section 35. That Section 5.1.5, "Compliance with the comprehensive plan", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

(A) ***General.*** No land shall be subdivided unless such subdivision and future use thereof ~~shall be~~ is consistent with the ~~Future~~ Land Use Map and policies of the adopted Comprehensive Plan.

(B) ***Provision of land for facilities.*** Whenever land, which is to be subdivided, includes existing features such as streets; parks; conservation sites; sites for public schools; drainage courses; sites for water tanks, lift stations and similar public utility facilities; and easements for water, sewer and drainage devices ~~embraces any part of a designated feature within an Element of the Comprehensive Plan, that the feature(s) shall be included in the proposed subdivision. Such features shall include, but not be limited to: streets; parks; conservation sites; sites for public schools; drainage courses; sites for water tanks, lift stations and similar public utility facilities; and easements for water, sewer and drainage devices.~~

Section 36. That Section 8.3.5, "Authority to apply for and receive grants", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

The local government Safe Neighborhood Improvement District Created is hereby authorized to apply for and receive from the State Department of ~~Community Affairs~~ Economic Opportunity a planning grant in the amount of \$250,000.00.

Section 37. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 38. That 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 this Ordinance.

Section 39. Specific authority is hereby given to codify this Ordinance.

Section 40. That this ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this _____ day of _____, 2020.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading: _____

Second Reading: _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney