

ORDINANCE NO. 31-20

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 4, "ZONING REGULATIONS," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.4, "BASE DISTRICT DEVELOPMENT STANDARDS," SUBSECTION 4.3.4(J), "HEIGHT," TO ADD THE PROPERTIES WITHIN THE AURA DELRAY BEACH OVERLAY DISTRICT TO THE LIST OF PROPERTIES ELIGIBLE FOR AN INCREASED HEIGHT OF 60 FEET; AMENDING CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.7, "FAMILY/WORKFORCE HOUSING", SUBSECTIONS 4.7, "FINDINGS," 4.7.1, "DEFINITIONS," 4.7.2, "APPLICABILITY," AND 4.7.5, "DENSITY BONUS PROGRAM FOR THE SOUTHWEST 10<sup>TH</sup> STREET, I-95/CSX RAILROAD CORRIDOR, AND SILVER TERRACE COURTYARDS OVERLAY DISTRICTS," TO ESTABLISH THE AURA DELRAY BEACH OVERLAY DISTRICT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Trinsic Residential (the "Petitioner") is the contract purchaser of an aggregation of parcels (the "Property") that measures approximately 12.20± acres and is generally located at the northwest corner of North Congress Avenue and West Atlantic Avenue as more particularly described in Exhibit A, Legal Descriptions, Aura Delray Beach Overlay District; and

WHEREAS, a privately initiated amendment to the Land Development Regulations (LDR) of the City of Delray Beach, Code of Ordinances, is requested by the Petitioner; and

WHEREAS, the amendment establishes the Aura Delray Beach Overlay District, a workforce housing overlay for the Property described in Exhibit A, requiring a minimum of 25 percent of the units in the development to provide affordable housing as workforce housing units on-site; and

WHEREAS, the amendment adds the Aura Delray Beach Overlay District to the list of properties eligible for an increased height of 60 feet; 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, considered this item at a public hearing on July 20, 2020; and voted 4 to 0 to recommend these proposed text amendments be approved, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission of the City of Delray Beach finds that Ordinance No. 31-20 is consistent with the Comprehensive Plan and meets the criteria set forth the Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. That Section 4.3.4, “Base district development standards”, Subsection (J), “Height”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

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

(4) ***Increases to height regulations.***

(a) ***Prohibitions.*** There are no provisions which allow, nor is the Board of Adjustment empowered to grant, an increase of height for any purpose in the following zone districts:

Single Family (R-1) Districts	Rural Residential (RR)
Agriculture (Ag)	Mobile Home (MH)
Low Density Residential (RL)	Medium Density Residential (RM)
Planned Residential Development (PRD)	Residential Office (R0)
Neighborhood Commercial (NC)	Professional and Office District (POD)
Conservation District (CD)	Open Space (OS)

(b) ***Allowances.*** An increase, to a maximum height of 60 feet, may be approved by the City Commission in any zone district not listed above, except for the CBD zoning district, when approved pursuant to the processing of a conditional use request and based upon a finding of compliance with each of enumerated criteria listed below, as applicable.

(i) That the structure is to be located in one of the following geographic areas:

(1) Area "A" - all property located east of Congress Avenue and west of I-95.

- (2) Area "B" - the property encompassed by the Delint DRI, with the exception of that portion platted as "Waterford Village"; along with property located west of S.W. 10th Avenue, south of Linton Boulevard, and east of I-95.
  - (3) Area "C" - the property encompassed by the boundary of Linton Boulevard, Wallace Drive, S.W. 10th Street, and I-95.
  - (4) Area "D" - the properties located south of Atlantic Avenue, north of S.W. 1st Street, west of S.W. 2nd Avenue, and east of S.W. 4th Avenue; and the properties located north of Atlantic Avenue, south of N.W. 1st Street, west of N.W. 1st Avenue, and east of N.W. 3rd Avenue.
  - (5) Area "E" - the property encompassed on the west by the F.E.C. Railroad, on the east by the Intracoastal Waterway, on the south by Allen Avenue extended to said easterly and westerly boundaries, and on the north to the northernmost boundary of the City.
  - (6) Area "F" - the property located between the one-way pair system of Federal Highway (5th and 6th Avenues), except for property located in the CBD zoning district.
  - (7) Area "G" - the property on either side of Linton Boulevard, extending 200 feet north and south of its ultimate right-of-way, extending from I-95 to Dixie Highway.
  - (8) Area "H" - the area bounded by Linton Boulevard on the south, the F.E.C. Railroad on the east, the combination of Southridge Road and Swinton Avenue on the north, and S.W. 4th Avenue on the west.
  - (9) ~~Reserved.~~ Area "I" – the property within the Aura Delray Beach Overlay District, located on the west side of North Congress Avenue, north of Atlantic Avenue, east of the E-4 Canal, and south of the Palm Beach County Palm Tran property as depicted on the map provided in 4.7.1w., Definitions.
  - (10) Area "J" - the property encompassed by Lindell Boulevard on the north, Federal Highway on the east, Dixie Highway on the west, and the City limits on the south.
  - (11) Area "K" - the property within the project known as Delray Medical Center (Delray Hospital), located on the south side of Linton Boulevard approximately 1,240 feet west of Military Trail, and as annexed into the City of Delray Beach via Ordinance 33-05.
- (ii) That the increase in height will not provide for, nor accommodate, an increase in the floor area (within the structure) beyond that which could be accommodated by development which adheres to a height limitation of 48 feet,

except for the following situations: (1) An increase in height is allowed when the increase from 48 feet to 60 feet is for the purpose of accommodating residential use on the top floor of the structure; however, the increase in height is only for the added residential use area.

~~DELETED (2) in its entirety~~

- (iii) Workforce housing units, equal to at least 20 percent of the residential units on the top floor, shall be provided within the development onsite, offsite, or through monetary contributions as referenced in Article 4.7 (fractions shall be rounded up). The workforce housing units shall be at the low or moderate income levels and shall comply with other applicable provisions of Article 4.7 or any workforce housing regulations specified as part of an adopted SAD Ordinance, as applicable.
- (iv) That the increase in height shall be allowed if two or more of the following subsections ~~4.3.4(f)iv.(1), (2) or (3)~~ are met:

~~DELETED (1) and (2) and renumbered~~

- (1) That for each foot in height above 48 feet, an additional building setback of two feet is provided from the building setback lines which would be established for a 48-foot tall structure. The additional setback is required from all setback lines (i.e., front, side, and rear) for the portion of the building that extends above 48 feet;
- (2) That a minimum of 50 percent of the ground floor building frontage consist of nonresidential uses (excluding parking);
- (3) That open areas, such as courtyards, plazas, and landscaped setbacks, be provided in order to add interest and provide relief from the building mass.

(5) This subsection shall remain in full force and effect as adopted.)

Section 3. That Section 4.7, "Findings", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

**Sec. 4.7. – Findings.**

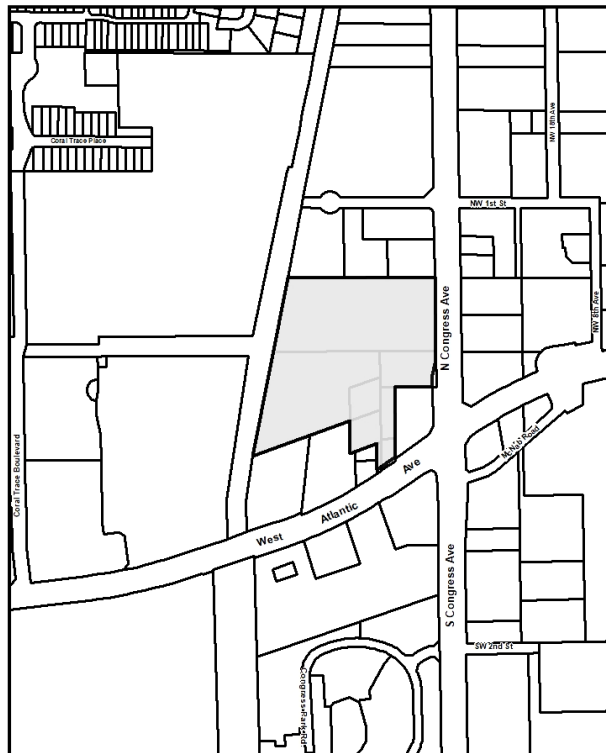
- (A) The City Commission has determined that there is a severe housing shortage in the City of Delray Beach that is affordable to the everyday working families and citizens of the City; and
- (B) Florida Statutes § 166.04151 provides that a municipality may adopt and maintain any ordinance that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such

- as inclusionary housing ordinances notwithstanding any other provision of law; and
- (C) The City Commission recognizes that there is a growing gap between housing costs and wages in the City; and
  - (D) The City of Delray Beach has a legitimate public interest in preserving the character and quality of neighborhoods which requires assuring the availability of workforce housing for moderate and lower income persons in the City; and
  - (E) The City recognizes that the need to provide workforce housing is critical to maintaining a diversified and sustainable City having the character and sense of a community where people can live and work in the same area; and
  - (F) The City is encouraging the production and availability of workforce housing and at the same time is cognizant that escalating land costs and rapidly diminishing amounts of land hinder the provision of sufficient workforce dwelling units by the private sector; and
  - (G) The City Commission has adopted the Southwest Area Neighborhood Redevelopment Plan and Comprehensive Plan changes recognizing the need to redevelop the Southwest Neighborhood in a manner that preserves the neighborhood and provides workforce housing.
  - (H) The City Commission desires to establish an additional workforce housing overlay district known as the Infill Workforce Housing Area for certain properties located west of the Intracoastal and east of I- 95, outside of the coastal high hazard area and as depicted on the map attached and made a part of Article 4.7.
  - (I) The City Commission also desires to establish additional incentives to encourage additional Family/Workforce Housing, including but not limited to requirements to provide additional workforce housing for developments that request increases in height and/or density pursuant to Section 4.3.4(J)(4)(b) and 4.4.13(I).
  - (J) The City Commission desires to establish an additional workforce housing overlay district known as the I-95/CSX Railroad Corridor Overlay District for certain properties located east of the CSX Railroad, west of I-95, south of the E-4 Canal, and north of the Historic Depot property as depicted on the map attached and made a part of Article 4.7.
  - (K) The City Commission desires to establish an additional workforce housing overlay district known as the Aura Delray Beach Overlay District for certain properties located north of Atlantic Avenue, on the west side of Congress Avenue , east of the E-4 Canal, and south of the Palm Beach County Palm Tran property as depicted on the map provided in 4.7.1w., Definitions.

Section 4. That Section 4.7.1, “Definitions”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

a. – v. (These subsections shall remain in full force and effect as adopted).

w. **Aura Delray Beach Overlay District.** The area located between Congress Avenue and the E-4 Canal, from West Atlantic Avenue to the Palm Beach County Palm Tran property, as shown on the map below.



Section 5. That Section 4.7.2, “Applicability”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

a.- j. (These subsections shall remain in full force and effect as adopted.)

k. In the Aura Delray Beach Overlay District, at least 25 percent of all residential units must be workforce housing units that are provided on-site.

Section 6. That Section 4.7.5, “Density Bonus Program for the Southwest 10th Street, I-95/CSX Railroad Corridor, and Silver Terrace Courtyards Overlay Districts.”, of the Land Development Regulations of

the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

Sec. 4.7.5. - **Density Bonus Programs**. ~~for the Southwest 10th Street, I-95/CSX Railroad Corridor, and Silver Terrace Courtyards Overlay Districts.~~

- a. **Southwest 10<sup>th</sup> Street Overlay District.** Developers of property in the Southwest 10<sup>th</sup> Street Overlay District shall develop the properties to afford a minimum of 20 percent of the residential units as workforce housing units.
  - i. The twenty percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
  - ii. ~~In the Southwest 10<sup>th</sup> Street Overlay District, t~~The maximum density allowed is the maximum zoning density allowed in the zoning district. To obtain the maximum density allowed in the zoning district, not only must a minimum of 20 percent of the residential units be developed as workforce housing, but all the performance standards that allow increased density shall also be substantially met.
  - iii. Workforce housing units may be located off-site provided the location chosen is within the City of Delray Beach.
  - iv. All sections of Article 4.7 apply to the Southwest 10th Street Overlay District, except for Sections 4.7.4, 4.7.11 and 4.7.12.
- b. **I-95/CSX Railroad Corridor Overlay District.** Developers of property in the I-95/CSX Railroad Corridor Overlay District shall develop the properties to afford a minimum of 25 percent of the residential units as workforce housing units.
  - i. The twenty-five percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
  - ii. ~~In the I-95/CSX Railroad Corridor Overlay District, t~~The maximum density allowed is 24 units per acres as a Conditional Use. To obtain a density greater than six units per acre, not only must a minimum of 25 percent of the residential units be developed as workforce housing, but the performance standards of Section 4.4.6(I), shall also be substantially met.
  - iii. All sections of Article 4.7 apply to the I-95/CSX Railroad Corridor Overlay District, except for Sections 4.7.4, 4.7.11 and 4.7.12.
- c. **Silver Terrace Courtyards Overlay District.** Developers of property in the Silver Terrace Courtyards Overlay District shall develop the properties to afford a minimum of 20 percent of the residential units as workforce housing units.
  - i. The 20 percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
  - ii. ~~In the Silver Terrace Courtyards Overlay District, t~~The maximum density allowed is 22 units per acre as a Conditional Use. To obtain a density greater than six units per acre, not only must a minimum of 20 percent of the residential units be developed as workforce housing, but the performance standards of Section 4.4.6(I), shall also be substantially met.

iii. All sections of Article 4.7 apply to the Silver Terrace Courtyards Overlay District, except for Sections 4.7.4, 4.7.11 and 4.7.12.

d. **Aura Delray Beach Overlay District.** The Aura Delray Beach Overlay District shall be developed in accordance with the following:

i. 25 percent of the residential units must be developed and provided on-site as workforce housing.

ii. The maximum density allowed is 24 units per acres.

iii. The provisions of Article 4.7 are to be applied, or any workforce housing regulations specified as part of an adopted SAD Ordinance, as applicable.

Section 9. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 10. Specific authority is hereby given to codify this Ordinance.

Section 11. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

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

ATTEST:

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

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

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

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

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

**EXHIBIT A**  
**LEGAL DESCRIPTION – AURA DELRAY BEACH OVERLAY DISTRICT**

A PORTION OF TRACT 27, "MODEL LAND COMPANY'S SUBDIVISION OF THE NORTH HALF AND PART OF THE SOUTH HALF OF SECTION 18-46-43", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6 AT PAGE 51 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 18; THENCE SOUTH 89°47'40" WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST ONE-QUARTER, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING, ALSO LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE; THENCE CONTINUE SOUTH 89°47'40" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 754.34 FEET; THENCE NORTH 11°08'27" EAST, ALONG THE EAST LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-4 CANAL, A DISTANCE OF 349.89 FEET; THENCE NORTH 89°55'29" EAST, ALONG THE SOUTH LINE AND EASTERLY EXTENSION THEREOF, OF TRACT 1, "PALM TRAN SOUTH COUNTY FACILITY", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 127 AT PAGES 194 AND 195 OF SAID PUBLIC RECORDS, A DISTANCE OF 681.33 FEET; THENCE SOUTH 00°54'26" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE, A DISTANCE OF 341.53 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACTS 38 AND 39, "MODEL LAND COMPANY'S SUBDIVISION OF THE NORTH HALF AND PART OF THE SOUTH HALF OF SECTION 18-46-43", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6 AT PAGE 51 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 18; THENCE SOUTH 89°47'40" WEST, ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING, ALSO LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE; THENCE SOUTH 00°53'40" EAST, ALONG SAID WESTERLY LINE, A DISTANCE OF 38.29 FEET; THENCE SOUTH 15°07'58" WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF CONGRESS AVENUE, AS RECORDED IN OFFICIAL RECORDS BOOK 29036 AT PAGE 463 OF SAID PUBLIC RECORDS, A DISTANCE OF 67.36 FEET; THENCE SOUTH 00°53'40" EAST, ALONG SAID WEST LINE, A DISTANCE OF 60.32 FEET; THENCE SOUTH 89°49'29" WEST, ALONG THE NORTH LINE OF TRACT A OF "CHEVRON 50128 TRACT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 60 AT PAGE 187 OF SAID PUBLIC RECORDS, A DISTANCE OF 174.43 FEET; THENCE SOUTH 00°53'52" EAST, ALONG THE WEST LINE OF SAID TRACT A, A DISTANCE OF 319.15 FEET; THENCE SOUTH 53°51'39" WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF WEST ATLANTIC AVENUE (STATE ROAD 806), ACCORDING TO THE ORDER OF TAKING AS RECORDED IN OFFICIAL RECORDS BOOK 29115 AT PAGE 34 OF SAID PUBLIC

RECORDS, A DISTANCE OF 109.46 FEET; THENCE NORTH 00°53'52" WEST, A DISTANCE OF 120.83 FEET; THENCE SOUTH 70°17'01" WEST, A DISTANCE OF 128.78 FEET; THENCE NORTH 00°53'52" WEST, A DISTANCE OF 149.91 FEET; THENCE SOUTH 70°12'20" WEST, ALONG THE NORTH LINE AND EASTERLY EXTENSION THEREOF, OF TRACT A, "CAUSEWAY LUMBER PLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 72 AT PAGE 146 OF SAID PUBLIC RECORDS, A DISTANCE OF 474.44 FEET; THENCE NORTH 10°48'51" EAST, ALONG THE EAST LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-4 CANAL, A DISTANCE OF 487.16 FEET; THENCE NORTH 89°47'40" EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER, A DISTANCE OF 754.34 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA AND CONTAIN 12.200 ACRES, MORE OR LESS.