



## Cover Memorandum/Staff Report

**File #:** 20-646

**Agenda Date:** 9/10/2020

**Item #:** 8.E.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** September 10, 2020

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. (SECOND READING/PUBLIC HEARING)

### **Recommended Action:**

Review and consider Ordinance No. 31-20 on Second Reading, privately-initiated amendments to the Land Development Regulations (LDR), specifically Section 4.3.4(J)(4), Increases to height regulations, to list the Aura Delray Beach Overlay District as eligible to increase the maximum building height up to 60 feet, subject to conditional use approval; and to amend Article 4.7, Family/Workforce Housing, to establish the Aura Delray Beach Overlay District as a workforce housing overlay and requiring a minimum of 25 percent of the units in the development to be provided on-site as workforce housing units.

### **Background:**

The Aura Delray Beach Overlay District consists of a total of 12.20 acres and is generally located at the northwest corner of West Atlantic Avenue and North Congress Avenue. All eight parcels are presently zoned Mixed Industrial and Commercial (MIC) with a land use of Commerce (CMR). The Always Delray Comprehensive Plan requires that, when allowed on land with a land use of CMR, residential development must provide a minimum of 25 percent workforce housing units. The proposed amendments seek to increase the height from 48 feet to 60 feet and to allow a density of 24 dwelling units per acre for the Aura Delray Beach Overlay District. The height amendment adds the Aura Delray Beach Overlay District to the list of geographic areas identified in LDR Section 4.3.4 (J)(4), Increases to Height Regulations, that are allowed to build up to 60 feet in height, subject to approval of a conditional use request based meeting certain criteria such as the provision of workforce housing, additional setbacks above 48 feet, ground-floor non-residential uses, or open

areas that add interest to the site and provide relief from the building mass. The amendment to add the "Aura Delray Beach Overlay District" to Section 4.7, will establish the requirement in the LDRs that at least 25 percent of the dwelling units be provided as workforce housing units on-site.

Given that the MIC zoning designation limits residential development to the I-95/CSZ Railroad Corridor Overlay District (developed as Delray Station apartments), the applicant also proposes to rezone the parcels to Special Activities District (SAD) to accommodate a multi-family residential development with limited commercial use. The rezoning to SAD is being reviewed concurrent with the subject request as Ordinance No. 32-20. Therefore, the LDR Amendments also specify that the Aura Delray Beach Overlay District may also be subject to "any workforce housing regulations specified as part of an adopted SAD Ordinance, as applicable."

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 the Goals, Objectives and Policies (GOPs) of the adopted Comprehensive Plan are applicable to the proposed amendment, and compliance with their intent is to be considered with the request:

**Neighborhoods, Districts, and Corridors Element, Objective NDC 1.1, Land Use Designations**

**Policy NDC 1.1.3:** *Provide transitions between land use designations at the rear of properties or at major corridors so that the prescribed uses and potential development patterns are arranged to achieve compatible and appropriate changes in intensity, height, and scale.*

**Policy NDC 1.1.7:** *Establish the maximum density, measured in dwelling units per gross acre, for residential land use and mixed-use designations (See Table NDC-1). The Standard density is the range of density allowed in the land use designation. The Revitalization/Incentive density is the maximum density that may be offered in the Land Development Regulations to achieve a certain community benefit in a specific area as part of an incentive program, or to implement the recommendations of an adopted redevelopment or neighborhood plan. Standards in the Land Development Regulations, including those guiding compatibility and transitions, such as setbacks, height limitations, open space criteria, etc. may limit the actual density achievable on a specific site.*

The surrounding land use designations are predominantly CMR. The surrounding zoning is predominantly MIC. The primary difference with the proposed LDR text amendment will be the increased building height allowed as the surrounding sites are limited to 48 feet in height, whereas the text amendment would allow building up to 60 feet, via a conditional use approval. Appropriate transitions and changes in intensity can be further addressed through the conditional use and site plan review processes. The Revitalization / Incentive density identified for the CMR land use is 24 dwelling units per acre, which is the same as the density proposed for the overlay district.

**Objective NDC 1.4, Industrial Land Use Designations**

**Policy NDC 1.4.6:** *Allow a maximum floor area ratio of 0.60 for nonresidential uses and a revitalization/ incentive density up to 24 dwelling units per acre with at least 25% of the units provided as workforce housing units, for properties with a Commerce land use designation.*

**Policy NDC 1.4.7:** *Use the Commerce land use designation for property located along or adjacent to*

*the North Congress Avenue corridor, north of West Atlantic Avenue, where it is appropriate to accommodate a mix of industrial, service, and commercial uses, and limited residential development opportunities.*

The property has a Commerce land use designation and is proposing a maximum of 24 dwelling units per acre with a minimum of 25 percent workforce housing units. While the Commerce land use designation allows for limited residential development opportunities and requires workforce housing in those areas, the proposed new workforce housing overlay will limit opportunities for industrial, services, and commercial uses.

The following NDC Policies are provided to reference the vision for the Congress Avenue corridor, where incentives are offered to support transit-oriented development for developments within ¼ mile of the Tri-Rail station, but also within the Congress Avenue Mixed Use land use designation. The subject properties are outside of those parameters as they are located almost 1/2 mile from the station. However, Policy NDC 1.4.9 recognizes the need to study the entire Congress Avenue corridor.

**Objective NDC 1.3 Mixed-Use Land Use Designations, Policy NDC 1.3.19:** *Continue to support transit-oriented development by providing incentives in the Land Development Regulations, for developments located within one quarter mile of the Delray Beach Tri-Rail Station with the Congress Avenue Mixed Use land use designation.*

**Objective NDC 1.4, Industrial Land Use Designations, Policy NDC 1.4.9:** *Analyze the existing land use and zoning designations of Commerce and Congress Avenue Mixed Use assigned to property along the Congress Avenue Corridor for the purpose of accommodating a balanced mix of commercial, industrial, office, and residential uses with a cohesive aesthetic for the corridor.*

### **Housing Element**

**Objective HOU 5.1, Housing Equity:** *Housing Equity Support housing options which ensure equitable access and elimination of disparities for all residents and household types.*

**Policy HOU 5.1.1:** *Encourage construction of mixed-income housing developments to avoid a concentration of affordable units in one development or neighborhood and to provide a full range of residential unit types and prices.*

### **Objective 6.1, Accommodation of Income Diversity**

**Policy HOU 6.2.4:** *Analyze areas targeted for workforce housing to determine opportunities for expansion, and identify new areas which should be included, with special attention given to areas west of Interstate 95 that coincide with major arterials and transit routes.*

**Policy HOU 6.2.5:** *Utilize incentives outlined in the workforce housing ordinance to develop additional workforce housing units.*

The Housing Objectives and Policies noted above support mixed-income housing opportunities, particularly for the area west of Interstate-95. The proposed amendments require the development to provide a minimum of 25% of the units on-site. The request specified that the units would be limited to moderate household incomes; this limitation has been removed and the amendment does not specify an income level. This revision will provide flexibility and an ability to offer workforce housing

units to a variety of qualifying income levels, as defined by the LDRs. It should be noted that the other overlays specifically require housing opportunities for very low, low, and moderate-income households. It is important to note that the highest income category in the LDRs is "Moderate" defined as "a household with a gross, combined income between 81 percent and 120 percent of the Palm Beach County Adjusted Median Income" (AMI) and currently does not contain a "High Moderate" category (120 percent to 140 percent of AMI) for required workforce housing. The applicant's request indicates income up to 140 percent of AMI.

Given the above and the underlying land use designation of Commerce, consideration is necessary as to the appropriateness of the provision of residential development in an area where industrial and services uses are accommodated. In addition, the appropriateness of the increased height is to be considered, which is sought to accommodate higher residential densities, with the majority of the proposed workforce housing accommodated through a financial contribution, rather than by on site units. The surrounding heights are limited to 48 feet, which is consistent along most of the Congress Avenue corridor. However, within the zoning designation of Mixed Residential Office and Commercial (MROC), which dominates the South Congress Avenue corridor from West Atlantic Avenue to the southern City boundary, the height is increased up to 85 feet to accommodate the higher densities allowed (up to 50 dwelling units per acre) and desired office uses. The vision for the MROC zoning district was to emphasize transit-oriented development patterns given the tri-rail station within that portion of the Congress Avenue corridor.

The Planning and Zoning Board (PZB) reviewed the proposed LDR Amendments at the meeting of July 20, 2020. The board voted 4 to 0 to recommend approval with the requirement to provide all workforce housing units on-site. The applicant agreed to this change, which is incorporated into the Ordinance and analysis above; the original request (analyzed in the PZB staff report) required a minimum of 25% workforce housing units be provided, with a minimum of 10% provided on-site, and the balance to be provided through a payment to the Delray Beach Housing Trust at a fee of \$60,000 per unit.

**City Attorney Review:**

Approved as to legal form and sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Review of an associated Conditional Use for height, Site Plan by the Site Plan Review and Appearance Board, and 2nd Reading of the rezoning to SAD (Ordinance No. 32-20) cannot move forward until the subject amendment is adopted.