



Cover Memorandum/Staff Report

File #: 20-779

Agenda Date: 10/20/2020

Item #: 8.A.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: October 20, 2020

ORDINANCE NO. 12-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING SECTION 4.4.13 "CENTRAL BUSINESS DISTRICT", SUBSECTION 4.4.13(C)(3)(b) "CENTRAL CORE AND BEACH SUB-DISTRICTS", TO AMEND THE BASIS FOR GROUND FLOOR RETAIL REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (SECOND READING).

Recommended Action:

Review and consider Ordinance No. 12-20, a City-initiated amendment to the Land Development Regulations, Section 4.4.13 "Central Business District," subsection 4.4.13(C)(3)(b), to provide exception to the retail requirement within the Central Core and Beach Sub-districts for properties that have 80 percent or more of frontage at a setback of 25 feet or greater.

Background:

In 2015, the Central Business District (CBD) LDRs were amended and reorganized through Ordinance No. 27-15, and the update appears to have inadvertently excluded an exemption to the required retail uses that was adopted in June of 2007 for buildings built prior to 1980 with setbacks greater than other properties along East Atlantic Avenue. The proposed amendment provides a remedy to the omission and will allow other uses, such as professional office, along the ground floor in buildings that exceed current maximum setbacks or do not meet the minimum required street frontage criteria. It is also important to note, this amendment does not change the allowable uses in the Central Business District Sub-Districts, as described in Table 4.4.13(A).

Within the CBD, certain streets are designated as "Required Retail Frontage" as a means of providing a lively, highly active pedestrian environment that supports businesses and reinforces local character. East Atlantic Avenue, Pineapple Grove Way/NE 2nd Avenue, and North/South Ocean Boulevard are designated as Required Retail Frontage streets in the Central Core and Beach Sub-districts. Within the Beach and Central Core Sub-districts, this designation requires 100% of the building frontage at the sidewalk-level story be comprised of retail uses, service establishments, or lodging uses. Ordinance No. 12-20 seeks to re-instate an exception to the ground-floor retail requirement within the Central Core and Beach Sub-Districts for existing structures that do not line the sidewalk like the traditional main street buildings, specifically for buildings constructed prior to 1980 with a front setback of 25 feet or greater for 80 percent or more of the building frontage. Though initially applied to other properties, this amendment would currently only apply to Waterway East

located at 900 East Atlantic Avenue; the other property that met the exception criteria was redeveloped as the Atlantic Crossing project. Atlantic Crossing lines the street and no longer meets the exception criteria.

In October of 2006, an LDR amendment was adopted that prohibited office uses at greater than 50% of the ground floor area on Atlantic Avenue. The tenants and owners of Waterway East expressed concern because the setback for the building is 28 feet from the property line and up to 53 feet from the edge of the sidewalk, which limits the visibility of businesses in the plaza from the pedestrian and vehicle pathways, particularly compared to nearby buildings with a smaller setbacks. In June of 2007, Ordinance No. 21-07 provided an exemption to the ground floor retail requirement for existing structures with front setbacks of 25 feet or more for most of the street frontage. Eliminating the requirement for ground-floor retail requirement allowed property owners in these buildings to have more flexible uses that are less dependent on visibility, including office uses. If the property is redeveloped in the future, the exemption would no longer apply as new development would meet the current setback and building frontage standards in the code.

This proposed amendment previously appeared before the Planning and Zoning Board as Ordinance No. 17-19 on May 20, 2019, and the Board voted 7-0 to recommend approval. Ordinance No. 17-19 was reviewed by City Commission at first reading on July 2, 2019, and the motion to approve did not pass on a vote of 3-1. At a subsequent meeting, the City Commission recalled the item for rehearing, and Ordinance No. 12-20 was assigned. Pursuant to review by the City Attorney's Office, this item was reviewed again by the Planning and Zoning Board prior to first and second reading by the City Commission. The Planning and Zoning Board voted 6-0 to recommend approval of Ordinance 12-20 at its June 15, 2020 meeting. At City Commission on July 21, 2020, the item did not pass on a vote of 2-3; subsequently at its August 11, 2020 meeting the City Commission voted 5-0 to recall the item for reconsideration. Ordinance 12-20 was approved 5-0 at first reading on September 22, 2020. The current ordinance provides the same exception criteria provided at readings prior to the September 22, 2020 Commission meeting, but re-organized the list of uses within the section by consolidating the various exceptions and limitations to uses on Required Retail Frontage streets within the Central Core and Beach Sub-districts.

City Attorney Review:

Ordinance No. 12-20 was approved to form and legal sufficiency.

Funding Source/Financial Impact:

NA

Timing of Request:

N/A