



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

HISTORIC PRESERVATION BOARD STAFF REPORT

Rooftop Uses and Exceptions to Height Limitations LDR Amendment, Ordinance No. 54-20

Meeting	File No.	Application Type
November 4, 2020	2020-144-LDR	Land Development Regulations Amendment

Request

Provide a recommendation to the City Commission regarding a City-initiated Land Development Regulations (LDR) amendment to update Section 4.3.3 "Special Requirements for Specific Uses" by establishing Subsection (RR) "Rooftop Use", to amend Section 4.3.4(J)(3) "Exceptions to district height limitations", and to amend Appendix A "Definitions" to update the standards associated with appurtenances, establish new requirements for Rooftop uses, and to update and add definitions related to appurtenances and rooftop uses.

Background Information

The current LDRs do not have quantitative measures for all rooftop appurtenances or necessary details to provide clear expectations and ensure a predictable outcome regarding the use of rooftops and appurtenances. As residential, commercial, and mixed-use zoning districts become denser and more compact, the use of rooftops is evolving from just utilitarian functions to including rooftop spaces utilized by building occupants for recreational purposes and to expand living and other uses areas. In the past, the main function of rooftops was to house mechanic equipment and appurtenances were associated with the functionality of the structure; access was needed for maintenance of the structure or rooftop equipment, and was not required nor desired to be utilized by building occupants.

The current code provides the following in LDR Section 4.3.4(J)(3)(b), Appurtenances on Buildings:

"Appurtenances usually required to be placed above the roof level of a building and not intended for human occupancy may be allowed to extend above the height limitations contained in 4.3.4(K) but only when specifically approved by action of the Site Plan Review and Appearance Board" (SPRAB).

However, quantitative standards are not provided for all types of appurtenances. And it is important to note the current definition provided in the code does not include rooftop elements.

Appendix A of the City of Delray Beach Land Development Regulations (LDR) defines Appurtenances as follows: *That which is an accessory to another structure, including but not limited to stonewalls, fences, light fixtures, steps, paving, sidewalks, shutters, and signs.*

LDR Section 4.3.4.(J)(3) was last updated in Ordinance No. 02-06; therefore, no revisions have been made to this section of the code since 2006. Since that time, the use of elevators within residential units has increased as they have become more affordable, the population has aged, the number of building stories has increased, and usable living space is not solely located on the first and second stories of new homes. In addition, citywide interest in rooftop terraces has increased in a climate that permits almost year around outside activity. The SPRAB regularly reviews multiple family and townhouse projects within the Central Business District (CBD) and Medium Density Residential (RM) zoning districts that incorporate appurtenances to provide rooftop access - some code required and others providing access to designed and activated rooftops. Amendments to the CBD to facilitate the use of rooftop terraces in the downtown area have been adopted. However, the code provides no guidance for single family development – and the only houses that receive board review are historic properties, all others proceed directly to building permit. Conversely, numerous members of the public have raised concerns regarding the size and scale of new construction, particularly in residential districts.

As a result, on January 16, 2020, the Delray Beach City Commission ("City Commission") approved by majority vote Resolution No. 37-20, to consider amendments to the City's Land Development Regulations relating to appurtenances that provide rooftop terrace access above the maximum height limitations for single family, duplex, and multi-family residences within the Single Family Residential and Medium Density residential zoning districts.

As part of Resolution No. 37-20, acceptance and processing of applications, permits, or any other approvals that are related to appurtenances, which provide rooftop terrace access above the maximum height limitations of single family, duplex, and multi-family residences within the Single Family Residential and Medium Density residential zoning districts was deferred until July 14, 2020. At its meeting of June 16, 2020, the City Commission approved Resolution No. 102-20 to extend the period established by Resolution No. 37-20 until January 10, 2021.

Description of Proposal

The proposed text amendment includes the introduction of Section (RR) "Rooftop Use" as part of 4.3.3, "Special Requirements for Specific Uses". The new subsection includes the following provisions:

- (1) Purpose and Intent statement;
- (2) Allowable rooftop uses, which includes allowable uses in residential and nonresidential zoning districts; and,
- (3) General design standards for rooftop terraces, which describes all the requirements for rooftop terraces located at any level and zoning district.

Amendments to subsection (3) "Exceptions to district height limitations" in Section 4.3.4(J) "Height" include the following: Subsection (a), (b) and (c), pertaining to free-standing features, appurtenances, and parapets are proposed to be repealed and rewritten in a table format. The table describes structures and featured "Allowed" above a certain height and subject to a maximum roof area. The table also identifies those structures and features that are "Subject to action by the approving body", which may exceed a certain height with board review and approval. A process is established for duplexes and houses and standards are provided for the boards to consider all height exceptions within the proposed amendments to subsection (3) "Exceptions to district height limitations".

Amendments to Appendix A include revisions to existing definitions and introduction of new definitions, which are associated with rooftop uses and height exceptions.

Review and Analysis

Pursuant to **LDR Section 2.4.5(M)(1)**, amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual. The proposed amendment is City-initiated.

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 (GOP) of the Comprehensive Plan.

The following policies from the Always Delray Comprehensive Plan support the proposed amendment.

- **Neighborhoods, Districts, and Corridors Element, Objective NDC 3.5.** *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*

The proposed amendment provides standards to improve and clarify the review process for rooftop uses and structures allowed to exceed the maximum building height. The proposed amendment is initiated by the City to support and address current market changes and development trends associated with rooftop uses.

- **Historic Preservation Element, Objective HPE 1.3, Regulatory and Educational Preservation, Policy HPE 1.3.3:** Evaluate and, where necessary, amend the Land Development Regulations to ensure the protection of historic resources.

Consideration of potential impacts by the active use of rooftops in historic districts or adjacent to historic districts were evaluated as part of the proposal with the intent to prevent negative impacts. The regulations applicable to single family zoning districts, which are the more stringent standards to ensure the characteristic of residential neighborhoods are not changed, is applied to the OSHHAD and RO districts (mixed use-districts). In addition, to mitigate the potential impact of rooftops associated with non-residentially zoned properties adjacent to OSHHAD, RO, or residential zoning districts, additional setbacks or screening is required as part of non-residential rooftops

over 100 square feet. Other mitigation standards to regulate the use of rooftops and the placement or construction of features and structures on the rooftop are proposed.

Review By Others

The **Planning and Zoning Board** is anticipated to review the proposed LDR Amendments at the meetings of November 16, 2020. The **City Commission** is anticipated to review the proposed LDR Amendments at the meetings of December 8, 2020 (First Reading) and January 5, 2020 (Second Reading).

Alternative Actions

- A. Recommend **approval** to the City Commission of Ordinance No. 54-20, on a City-initiated request to amend Land Development Regulations Section 4.3.3 "Special Requirements for Specific Uses", to introduce Subsection (RR) "Rooftop Use", to amend Section 4.3.4(J)(3) "Exceptions to district height limitations" and to amend Appendix A "Definitions", by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 54-20, **as amended**, on a City-initiated request to amend Land Development Regulations Section 4.3.3 "Special Requirements for Specific Uses", to introduce Subsection (RR) "Rooftop Use", to amend Section 4.3.4(J)(3) "Exceptions to district height limitations" and to amend Appendix A "Definitions", by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 54-20, on a City-initiated request to amend Land Development Regulations Section 4.3.3 "Special Requirements for Specific Uses", to introduce Subsection (RR) "Rooftop Use", to amend Section 4.3.4(J)(3) "Exceptions to district height limitations" and to amend Appendix A "Definitions", by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

Public and Courtesy Notices

☒ Courtesy Notices are not applicable to this request

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