

ORDINANCE NO. 52-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH BY AMENDING SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT", BY AMENDING SUBSECTION (C), "ALLOWABLE USES," TO ALLOW AUTOMATED PARKING GARAGES TO BE LOCATED THROUGHOUT THE RAILROAD CORRIDOR SUB-DISTRICT AND ALLOW A ROOFTOP STRUCTURE TO EXCEED THE MAXIMUM BUILDING HEIGHT BY 10 FEET; SUBSECTION (D), "CONFIGURATION OF BUILDINGS", TO ADD THE RAILROAD CORRIDOR SUB-DISTRICT OF THE CENTRAL BUSINESS DISTRICT AS AN EXCEPTION TO STANDARD BUILDING HEIGHT REGULATIONS OF THE CENTRAL BUSINESS DISTRICT AND AMEND THE REQUIRED FRONT SETBACK ABOVE THE THURD FLOOR; AMENDING TABLES 4.4.13(B), "BUILDING HEIGHT" AND 4.4.13(C), "DIMENSIONAL REQUIREMENTS BY CBD SUB-DISTRICT", TO INCREASE THE MAXIMUM HEIGHT AND NUMBER OF STORIES ALLOWED IN THE RAILROAD CORRIDOR SUB-DISTRICT; AMENDING SUBSECTION (H), "INCENTIVE PROGRAM", TO REQUIRE THE PROVISION OF WORKFORCE HOUSING FOR A DENSITY INCREASE ABOVE 30 DWELLING UNITS PER ACRE WITHIN THE RAILROAD-CORRIDOR SUB-DISTRICT; AND AMENDING TABLE 4.4.13(L), "MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED IN THE CBD," TO REVISE THE PARKING REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, a privately initiated amendment to the Land Development Regulations (LDR) of the City of Delray Beach, Code of Ordinances, was submitted by Dunay, Miskel, Backman, LLP, on behalf of 1<sup>st</sup> Avenue Capital 301 LLC; and

WHEREAS, the amendment seeks to add the Railroad Corridor Sub-District of the Central Business District (CBD) as an exception to the standard maximum height, number of stories, and density for the Central Business District, revise setbacks above the 3<sup>rd</sup> story when abutting a residential zoning district, expand the locations where Automated Parking Garages can be located, and increase the height of rooftop structures; 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 Land Development Regulations at a public hearing on November 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

WHEREAS, the City Commission of the City of Delray Beach finds the Ordinance is consistent with the Comprehensive Plan and in the best interests of the City.

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 4.4.13, “Central Business (CBD) District”, Subsection (C) “Allowable Uses”, (4), “Supplemental use standards”, 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 adopted.)

(d) ***Railroad Corridor Sub-district Supplemental Use Standards.*** The following supplemental district regulations apply in the Railroad Corridor Sub-district:

1. ***Outdoor uses:*** Within the Railroad Corridor Sub-district, except for outside storage approved pursuant to Section 4.6.6(C)(2) and outdoor dining, all principal and conditional uses shall be conducted within an enclosed building.
2. ***Automobile brokerages:*** Inventory must only be located within an enclosed building. Automobiles which are part of the business inventory must not be placed in parking areas.
3. ***Parking garages, automated:*** Automated parking garages are allowed on Secondary Streets ~~located north of NE 2<sup>nd</sup> Street~~. Automated parking garages are subject to the following requirements:
  - a. A traffic statement must be provided detailing the ingress, egress, queuing, and circulation demonstrating the specific measures taken to minimize stacking onto public right-of-way resulting from the automated parking garage.
  - b. An attendant must be on-site during all hours of operation, defined as any time the parking garage is accessible for parking purposes by the public, and the garage must be secured when not accessible for parking purposes. An attendant is not required if the parking garage is limited to private use. i.e, not available to the general public.

- c. Projects with driveways that limit the ability to install the required number of street trees shall either provide the required trees at another location on-site or contribute to the Tree Fund, in accordance with the fee schedule in Section 4.6.19(E)(5)(d).
- d. The SPRAB may approve automated parking garages that utilize an alternative façade design or cladding materials provided photovoltaic cells (solar panels) are incorporated into the structure and used as a power source for the garage operations or uses associated with the automated parking garage; if solar panels are not incorporated, facades that do not meet the architectural standards in Section 4.4.13(F) require City Commission approval.

(e) – (f) (These subsections shall remain in full force and effect as adopted.)

(g) **Rooftop Terraces:** These regulations are intended to guide the use of rooftops in the downtown.

1. **Rooftop uses.** Rooftop terraces may be used for outdoor dining, open-air lounges, exercise and fitness activities (both as principal or accessory uses), rooftop gardens, urban agriculture, and recreational amenities.
2. **General Standards for rooftops.** All rooftop terraces shall comply with the following standards:
  - a. Rooftop terraces shall be architecturally compatible with the design of the overall building.
  - b. Rooftop terraces shall be designed to mitigate potential impacts to surrounding properties.
    - i. Lighting standards of Section 4.6.8 apply. All rooftop lighting shall be full cutoff luminaries to minimize spillover on adjacent properties. Light poles may not extend beyond the maximum building height limit.
    - ii. Live music and music played by a disc jockey are not permitted unless within enclosed spaces; and, noise control is subject to the City's Noise Ordinance.
    - iii. For properties adjoining or separated by an alley from a residential zoning district, OSSHAD, or an existing residential use, rooftop terrace design shall provide screening at least six feet in height along the adjoining perimeter to limit oversight into residential properties. Privacy screening shall not extend above 60 feet and may consist of a parapet, landscape, railings, etc.
    - iv. Outdoor rooftop activities (not within enclosed areas) are limited on Sunday through Thursday to the time between 7 a.m. and 10 p.m., and on Friday and Saturday to the time between 7 a.m. and 11 p.m.
  - c. Parking must be provided when a principal use is located on a rooftop terrace. (For example, restaurant seating or an outdoor yoga studio). Parking is not required for

amenities that are ancillary to the principal use. (For example, a swimming pool for a condominium).

- d. Railings or parapets shall be a minimum of four feet in height, consistent with proposed architectural style, and provided for the full perimeter of rooftop terrace. Railing and parapet height may not extend beyond the maximum building height of 60 feet.

**3. Rooftops on Buildings with the Maximum Number of Stories.** These regulations are intended to guide the non-habitable use of rooftops for buildings built to the maximum story height limit to allow rooftop terraces. Rooftop terraces and rooftop amenities, such as roof gardens, observation decks, swimming pools, and running tracks, are encouraged to create unique gathering spaces, to aid in the reduction of the urban heat index, and to add aesthetic value to the buildings. Rooftop terraces are not intended to add additional story height. Rooftop terraces shall be subject to the following criteria:

- a. Rooftop terraces that are entirely open to the sky may occupy 100 percent of the total gross roof area.
- b. Rooftop terraces shall be hardscaped with materials such as, but not limited to, patterned concrete, pavers, or wood decking.
- c. Rooftop terraces shall be landscaped over a minimum of ten percent of the rooftop terrace area. Landscaping shall consist of trees, shrubs, ground cover, and vines.
- d. Covered structures located above the maximum allowable number of stories are permitted to cover a maximum area of 25 percent of the rooftop terrace area. For the purposes of calculating the maximum area, the term "covered structures" shall not include enclosures for screening mechanical systems, elevator shafts, or stair towers. The following restrictions apply:
  - i. Covered structures located above the maximum number of stories shall not exceed a maximum height of 60 feet, except in the Railroad Corridor Sub-district south of SE 2<sup>nd</sup> Street where such structures may exceed the maximum allowed height by 10 feet.
  - ii. The uses within covered structures shall not be for residential or similar use or for uses generally with a 24-hour occupancy. Covered structures that may be climate-controlled are limited to elevator lobby areas, restrooms, restaurants, lounges, fitness centers, and similar uses.

Section 3. That Section 4.4.13, "Central Business (CBD) District", Subsection (D) "Configuration of buildings", (1), "Standards for CBD", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

**(D) Configuration of buildings.**

- (1) **Standards for CBD.** The following building configuration standards apply to all CBD Sub-districts:
  - (a) **Building height.** Unless otherwise specified herein, the height of buildings shall be measured in and regulated by the number of stories and the maximum overall building

height (See Table 4.4.13(C)). Stories are measured from the finished floor to finished ceiling. See Figure 4.4.13-10.

1. Within the Atlantic Avenue Limited Height Area, maximum overall building height is 38 feet and maximum building height in number of stories is three. The Atlantic Avenue Height Limit Area is defined as those properties, or portions of properties, located within 125 feet north or south of the East Atlantic Avenue right-of-way line, between Swinton Avenue and the Intracoastal Waterway.
2. Within the West Atlantic Neighborhood Limited Height Area, the maximum overall building height in feet is 35 feet and the maximum number of stories is three. The West Atlantic Neighborhood Limited Height Area is required for those properties rezoned from Single-family Residential (R-1-A) to Central Business District.
3. Except within limited height areas and the Railroad Corridor Sub-district south of SE 2<sup>nd</sup> Street, the maximum overall building height in feet is 54 feet and maximum building height in number of stories is four.
4. - 10. (These subsections shall remain in full force and effect as previously adopted).

(b) - (e) (These subsections shall remain in full force and effect as previously adopted).

Section 4. That Section 4.4.13, “Central Business (CBD) District”, Subsection (D) “Configuration of buildings”, (1), “Standards for CBD”, Table 4.4.13(B), “Building Height”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Table 4.4.13(B) Building Height		
A	Maximum Building Height in the Atlantic Avenue Limited Height Area	3 stories and 38 ft.
	Maximum Building Height in the West Atlantic Neighborhood Limited Height Area	3 stories and 35 ft
	Maximum Building Height outside of the Atlantic Avenue Limited Height Area	4 stories and 54 ft.
	<u>Maximum Building Height in the Railroad Corridor Sub-district south of SE 2<sup>nd</sup> Street</u>	<u>6 stories and 60 ft.</u>
B	Ground Floor Finish Level	
	Residential Units in the Beach, Central Core, and Railroad Corridor Sub-districts	18" min.
	Residential Units in the West Atlantic Neighborhood Sub-district	12" min.

	Ground Story Height	
C	Commercial and Mixed-Use Buildings, with ground floor commercial uses.	12 ft. min.
	Residential Buildings	10 ft. min.
D	Upper Story Height	9 ft. min.
E	Additional Setback Above 3 <sup>rd</sup> Story	varies

Section 5. That Section 4.4.13, “Central Business District (CBD)”, Subsection (D) “Configuration of buildings”, (2) “Dimensional requirements for CBD Sub-district”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (2) ***Dimensional requirements for CBD Sub-districts.*** Table 4.4.13(C) provides the dimensional requirements regarding lot size, building placement, building size, height, density, and civic open space for each CBD Sub-district. Figure 4.4.13-12 illustrates the dimensional requirements from the table.
- (a) Buildings shall be located in accordance with the minimum and maximum setbacks in Table 4.4.13(C).
1. The front setback or side setback facing a street or park is a minimum of 10 feet and a maximum of 15 feet, which is coordinated with streetscape requirements in Section 4.4.13(E)(2).
  2. The minimum rear setback is ten feet and minimum side interior setbacks are zero feet, unless required per 4.4.13(D)(1)(b)2. Side lot lines adjoining alleys are regulated by rear setbacks.
  3. Buildings over three stories in height are subject to additional setback requirements to ensure architectural articulation and reduce the impact of taller building heights.
    - a. At the top of the third story, the front and rear setbacks are 20 feet minimum, except for within the Railroad Corridor Sub-District south of SE 2<sup>nd</sup> Street where the front setback shall be a minimum of 10-feet above the third floor.
    - b. With approval from the SPRAB, building entries, lobbies, and vertical circulation areas located above the third story may not be required to increase the setback to 20 feet, if configured as tower elements determined to be consistent with the Delray Beach Architectural Design Guidelines.
  4. Where the rear or side of a property directly abuts a residential zoning district with a height limitation of 35 feet without any separation between them of 30 feet or more, such as a street, alley, railroad, waterway, park, or other public open space; the following shall apply:
    - a. For buildings or portions of buildings three stories or less in height, a minimum side set back of ten feet from the property line shall be provided.

- b. At the top of the third story, minimum side and rear building setbacks of 30 feet shall be provided from the property line for the portion of the building that is over three stories in height.
  - c. A solid finished masonry wall six feet in height, or a continuous hedge at least four and one-half feet in height at the time of installation, shall be located inside and adjacent to the portion of the boundary line of the CBD-zoned property which directly abuts the residentially zoned property. Walkways and other pedestrian or bicycle connections shall be placed through the wall or hedge if they provide links identified on any adopted bicycle and pedestrian master plan or if SPRAB determines they would promote desirable connectivity between properties.
5. On Primary Streets, the minimum building frontage is 75 percent and the maximum frontage is 100 percent. On Secondary streets, minimum building frontage is not required and the maximum building frontage is 100 percent.
6. Buildings with more than 250 feet of street frontage shall provide a pedestrian/bicycle passageway at least ten feet wide connecting rear alleys and/or parking to the public sidewalk. The passageway elevation(s) shall have storefront windows with a base between nine inches and three feet high with transparent glazed windows extending to at least eight feet high for 50 percent of the length of the wall.

Section 6. That Section 4.4.13, “Central Business District (CBD)”, Subsection (D) “Configuration of buildings”, (2) “Dimensional requirements for CBD Sub-district”, Table 4.4.13(C), “Dimensional requirements for CBD Sub-district” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Table 4.4.13 (C) Dimensional Requirements by CBD Sub-district					
		Central Core	Railroad Corridor	Beach	West Atlantic Neighborhood
<b><i>Lot Size</i></b>					
	Lot Width	20 ft. min.	20 ft. min.	20 ft. min.	20 ft. min.
	Lot Area	2000 sf. min.	2000 sf. min.	2000 sf. min.	2000 sf. min.
<b><i>Building Placement</i></b>					
<b><i>A</i></b>	Front Setback <sup>1</sup>	10 ft. min./ 15 ft. max.	10 ft. min./ 15 ft. max.	10 ft. min./ 15 ft. max.	10 ft. min./ 15 ft. max.
<b><i>B</i></b>	Side Setback <sup>1</sup>	0 ft. or 5ft. min. <sup>2</sup>	0 ft. or 5 ft. min. <sup>2</sup>	0 ft. or 5ft. min. <sup>2</sup>	0 ft. or 5ft. min. <sup>2</sup>
<b><i>C</i></b>	Rear Setback	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.
<b><i>B C</i></b>	Side Setback Abutting Res. District; 1 <sup>st</sup> to 3 <sup>rd</sup> Story	10 ft. min.	10 ft. min.	10 ft. min.	10 ft. min.

Table 4.4.13 (C) Dimensional Requirements by CBD Sub-district					
		Central Core	Railroad Corridor	Beach	West Atlantic Neighborhood
<b>B C</b>	Side/Rear Setback Abutting Res. District Above 3 <sup>rd</sup> Story	30 ft. min.	<del>30</del> <u>10</u> ft. min.	30 ft. min.	30 ft. min.
<b>D</b>	Front Setbacks Above 3 <sup>rd</sup> Story <sup>1</sup>	20 ft. min.	<del>20</del> <u>10</u> ft. min.	20 ft. min.	20 ft. min.
<b>E</b>	Building Frontage Required on Primary Streets	75% min./ 100% max.	N/A	75% min./ 100% max.	75% min./ 100% max.
<b>Building Height</b>					
	Min. Building Height on Primary Streets	1 Story and 18 ft.	1 Story	1 Story and 18 ft.	1 Story
	Max. Building Height in Atlantic Avenue Limited Height Area	3 Stories and 38 ft.	N/A	N/A	N/A
	Max. Building Height in West Atl. Neigh. Limited Height Area	N/A	N/A	N/A	3 stories and 35 ft
	Max. Height outside of the <del>Atlantic Avenue</del> Limited Height Areas	4 Stories and 54 ft.	4 Stories and 54 ft. <u>north of NE 2<sup>nd</sup> Street; 6 stories and 60 ft. south of SE 2<sup>nd</sup> Street.</u>	4 Stories and 54 ft.	4 Stories and 54 ft.
<b>Density</b>					
	Density	30 du/ac	30 du/ac	12 du/ac	12 du/ac <sup>3</sup>
<b>Civic Open Space Requirement (See Section 4.4.13(G))</b>					
	Sites smaller than 20,000 sq.ft.	0%	0%	0%	0%
	Sites Between 20,000 and 40,000 sq. ft.	5% of area above 20,000	5% of area above 20,000	5% of area above 20,000	5% of area above 20,000
	Sites Greater than 40,000 sq. ft.	5% of area above 20,000 + 9% of area above 40,000	5% of area above 20,000 + 9% of area above 40,000	5% of area above 20,000 + 9% of area above 40,000	5% of area above 20,000 + 9% of area above 40,000

N/A is "Not Applicable"

<sup>1</sup> Side lot lines facing streets are regulated by front setback requirements. Side lot lines along alleys are regulated by rear setbacks.

<sup>2</sup> See Section 4.4.13(D)(1)(b)(2).

<sup>3</sup> See Incentive Program in Section 4.4.13(H) for potential density increases pursuant to certain location and performance criteria.

**Section 7.** That Section 4.4.13, “Central Business District (CBD)”, Subsection (H) “Incentive Program”, of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (H) ***Incentive program.*** Certain incentives may be offered from time to time to encourage development that advances City strategic, policy-driven goals, such as diverse residential housing opportunities, sustainable building practices, historic preservation, public parking, civic open space, or office uses within the CBD.



The specific incentives and required performance criteria are set forth in this section and may be revised or amended after seeking community input and in response to factors such as update to the Downtown Master Plan, changing conditions within the CBD, transportation impacts, or market and/or demographic shifts. Any incentives shall be broad based and applicable within the entire CBD or CBD sub-district, no incentives programs shall be considered on a case-by-case basis or project-by-project basis.

- (1) ***Residential Incentive Program.*** To encourage a variety of unit types and income ranges within the downtown area, opportunities to increase density are offered in certain CBD Sub-districts. This Residential Incentive Program is the only way to obtain increases in density for property zoned CBD. The maximum density allowed by Table 4.4.13(C) in certain CBD Sub-districts may only be increased in the locations described below. The required Performance Standards are set forth in Section 4.4.13(H)(2).
  - (a) Density may be increased over 12 du/ac (up to 30 du/ac) within the West Atlantic Neighborhood Sub-district.
  - (b) Properties located within a historic district or on individually designated sites as listed on the Local Register of Historic Places in Section 4.5.1(I) are not eligible to use the Residential Incentive Program, except properties that meet the criteria in (c) below.
  - (c) Properties located within the West Atlantic Neighborhood Sub-district that are also located within the West Settlers Historic District may utilize the Residential Incentive Program to increase the density to over 12 du/ac (up to 20 du/ac) if the following criteria is met:
    1. The property is located between West Atlantic Avenue and NW 1<sup>st</sup> Street; and,
    2. The property does not contain a contributing structure;
    3. The property does not contain a non-contributing structure that is at least 30 years old, from the original date of construction;
    4. If the property is vacant, it has not contained a structure on the site for at least 15 years.
  - (d) Density may be increased over 30 du/ac (up to 80 du/ac) within the Railroad Corridor Sub-district south of SE 2<sup>nd</sup> Street.
- (2) ***Performance standards for density increases.*** Projects ~~which~~ proposing to increase density from the base amount allowed in the West Atlantic Neighborhood Sub-district or the Railroad Corridor Sub-district shall provide workforce housing units. Workforce housing units, equal to at least 20 percent of the bonus density 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.

(3) **Approval process for incentives.**

- (a) Applications to utilize the Incentive Program will be reviewed as part of a Class V site plan by the SPRAB or HPB for compliance with the regulations in this code that direct building configuration, uses, open space, streetscape design, parking location and quantity, and the performance standards in Section 4.4.13(H)(2). The SPRAB or HPB will make a recommendation to the City Commission on the entire Class V site plan before the City Commission takes final action to approve or deny the site plan and the increased density.
- (b) Applications must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) of sufficient detail to determine that the applicable development and performance standards are being met.

Section 8. 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 hereof as a whole or part thereof other than the part declared to be invalid.

Section 9. All ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

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

Section 11. This Ordinance shall become effective immediately upon its adoption 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