



## Cover Memorandum/Staff Report

**File #:** 20-998

**Agenda Date:** 12/1/2020

**Item #:** 9.A.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** December 1, 2020

ORDINANCE NO. 53-20: 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, CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS," SECTION 4.6.7, "SIGNS," BY AMENDING SUBSECTION (E), "SIGN DESIGN STANDARDS," AND SUBSECTION (J), "PROHIBITED SIGNS," TO ESTABLISH REGULATIONS ALLOWING CERTAIN SIGN DESIGNS TO EXTEND INTO THE RIGHT-OF-WAY WITHIN THE CENTRAL BUSINESS DISTRICT AND OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT AND RESTRUCTURE EXISTING SUBSECTIONS TO ELIMINATE INCONSISTENT REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

### **Recommended Action:**

Review and consider a request to approve Ordinance No. 53-20, a City-initiated amendment to the Land Development Regulations (LDR) Section 4.6.7 "Signs," Section 4.6.7(E) "Sign Design Standards," Section 4.6.7(J) "Prohibited Signs" to establish regulations allowing certain signs designs to extend into the right-of-way in certain zoning districts.

### **Background:**

The goal of the text amendment is to address signage needs in the downtown particularly for older structures that do not meet current building setback requirements as well as for both existing and new buildings with elements, such as arcades that legally extend into the public right-of-way. Currently, the LDRs do not allow commercial signs within the right-of-way. This rule is generally appropriate for most of the city; however, the downtown area is unique in that shops line the sidewalks, some buildings were built decades ago with little or no setback, and awnings and arcade elements are desired features. As such, the "projecting" signs and "under canopy signs" that in some instances project over the sidewalk or hang under arcades are located partially or wholly in the public right-of-way. As part of the proposed amendment, properties zoned CBD and OSSHAD with CBD overlay that were legally constructed with smaller setbacks or an arcade would be allowed, by right, to include projecting signs, under canopy signs and wall signs within the right-of-way with an agreement with the City. These historic sign types and positions are pedestrian oriented rather than vehicular and contribute to the desired character and aesthetic of the historic downtown area.

The proposed LDR amendment to Section 4.6.7 (E) and (J) also restructures existing subsections to eliminate requirements that are inconsistent with other sections in the code. The proposed amendment does not change the regulations associated with design requirements or number of signs

allowed per business and does not propose to amend any current regulations associated with monument signs.

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 will improve the permit review process for signs by providing clear standards for Staff, design professionals, and property owners within the city. The proposed amendment will support the character of downtown by allowing (with limitations) projecting signs, wall signs, and under canopy signs and is also consistent with variety of signage encouraged by the Gibbs Report.

- **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.*

The City of Delray Beach preservation ordinance adopted in 1987 via Ordinance No. 13-87 created review guidelines and local standards for review of historic projects. Applicable standards and guidelines include:

- LDR Section 4.5.1(E)(7) - Visual Compatibility Standards;
- The Delray Beach Historic Preservation Design Guidelines; and,
- The (United States) Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Rehabilitation (developed by the National Park Service for the preservation of historic buildings, structures, and sites, these guidelines).

The above standards and guidelines are required to be analyzed for each historic development proposal. The Delray Beach Historic Preservation Design Guidelines include a section relating to Signage and identifies projecting and awning signs as signs that are seen throughout Delray Beach. Specifically, guidance on such signs is noted as follows:

- Place signage so significant architectural detail is not obscured.
- In commercial districts, the valance of an awning is often a visible and unobtrusive location for signage.

In addition, the National Park Service has developed documents known as "Preservation Briefs" to assist property owners and professionals in applying the Standards and Guidelines. These Preservation Briefs are "especially useful because they recommend methods and approaches for

rehabilitating historic buildings that are consistent with their historic character” (National Park Service website). Preservation Brief 25 “The Preservation of Historic Signs” notes the following with respect to projecting and awning signs:

**“Hanging or projecting signs**, both lettered and symbolic, were also common in the nineteenth century, although less so than previously. Projecting signs were often paired with another at a 45-degree angle for increased visibility. Occasionally a sign would stretch out from the building across the sidewalk, supported by a post at the street.”

**Awnings** offered other opportunities for keeping a name before the public. The fringe or skirt of the awning, as well as the panel at the side were the usual places for a name or street number. Flags, particularly hung from the upper floors, and banners, sometimes stretching across the sidewalk, also appeared on buildings.

As projecting and awning signs were commonly used on historic structures, they are a characteristic of structures within the historic downtown area. Preservation Brief 25 also notes that communities often create regulation controls that limit signs and that “existing signs frequently do not meet requirements set forth in sign controls. They are too big, for example, or project too far from the building”. The Brief also notes that “Sign controls can impose a uniformity that falsifies history. Most historic districts contain buildings constructed over a long period of time, by different owners for different purposes; the buildings reflect different architectural styles and personal tastes. By requiring a standard sign “image” in such matters as size, material, typeface and other qualities, sign controls can mute the diversity of historic districts. Such controls can also sacrifice signs of some age and distinction...”. “increasingly, however, communities are enacting ordinances that recognize older and historic signs and permit them to be kept. The National Park Service encourages this trend”.

There are structures within the area that the proposed amendment would apply that have or once had signs, which were on awnings or projected from buildings (see photographs in Historic Preservation Board Staff Report of Block 69, which is zoned OSSHAD with CBD Overlay). These signs have gone to the wayside as replacement of them is not be permitted under existing code requirements.

Additionally, Preservation Brief 25 offers the following guidance when communities are considering new signs on historic buildings:

“...many efforts to control signage lead to bland sameness. For this reason the National Park Service discourages the adoption of local guidelines that are too restrictive, and that effectively dictate uniform signs within commercial districts. Instead, it encourages communities to promote diversity in signs-their sizes, types, colors, lighting, lettering and other qualities. It also encourages business owners to choose signs that reflect their own tastes, values, and personalities. At the same time, tenant sign practices can be stricter than sign ordinances. The National Park Service therefore encourages businesses to fit their sign programs to the building.”

The regulations, standards, and guidelines are in place to aid and guide property owners, city staff, and the Historic Preservation Board in making decisions with respect to what signage is appropriate for existing and new structures. These controls are already in place and continue to ensure that the downtown streetscape level and regulations are compatible and harmonious with historic and non-historic properties throughout the entire downtown area.

Finally, several nonconforming properties are currently located within the required setback area (minimum of 10 feet required) or built up to the property line. These existing nonconformities are a result of modifications throughout the years in the downtown such as road widening or legislative actions that changed the setback and design requirements. It is necessary to periodically amend the code to provide standards that support the local economic demand, incentivize the adaptive reuse of historic buildings to protect historic resources, and prevent undesired redevelopment. The proposed text amendment will provide the option for business owners in the downtown area, which occupy historic and non-historic buildings, to introduce signs that complement the downtown historic pattern of Delray Beach while providing appropriate sign options and flexibility for business owners to promote themselves.

The Planning and Zoning Board reviewed Ordinance No. 53-20 on October 19, 2020 and voted 4 to 3 to recommend approval of the proposal with the condition that the associated historic districts (OSSHAD, Marina and West Settlers) be excluded from the proposed changes.

The Historic Preservation Board reviewed Ordinance No. 53-20 on November 4, 2020 and voted 4 to 3 to recommend approval of the proposal with the condition that signs encroaching into the right-of-way be considered by the appropriate approving body.

The Downtown Development Authority Board reviewed Ordinance No. 53-20 at its meeting of November 16, 2020 and supports the proposed changes (memo attached).

**City Attorney Review:**

Ordinance No. 53-20 was approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Second reading is anticipated on January 5, 2021.