



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING
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HISTORIC PRESERVATION BOARD STAFF REPORT

Restaurant Definitions LDR Amendment

Meeting	File No.	Application Type
October 6, 2021	2020-160-LDR	Land Development Regulations Amendment

REQUEST

Provide a recommendation to the Planning and Zoning Board on Ordinance No. 27-21, a city-initiated amendment to the Land Development Regulations (LDR) updating the regulations for restaurants by updating restaurant definitions and restaurant specific regulations, creating provisions for limited indoor dining, which reduce off-site parking requirements, and updating zoning language to reflect such changes.

BACKGROUND INFORMATION

The proposed LDR amendment updates the definitions for restaurants, amends the zoning regulations to reflect such updates, and provides provisions where limited indoor dining can be provided at retail and restaurant establishments with a reduced parking requirement. This LDR amendment was initiated due to the ambiguity of the LDRs with respect to Ice Cream Shops, Cafes, Delicatessens or other establishments that have no indoor seating. This, coupled with the location of ice cream shops within the retail zoning regulations has in the past required an administrative interpretation. This LDR Amendment would eliminate the previous interpretation and clarify regulations for such establishments. No changes to the sidewalk café LDRs are proposed within this ordinance.

The City of Delray Beach LDR specifies certain uses allowed within each zoning district and their associated parking requirements; however, there may be variations within a specific use category, which then may modify site specific requirements. For example, retail uses may include the sale of antiques, cosmetics, meats, foods, music and musical instruments, sporting goods, etc. and generally, the consumption of goods purchased from a retail establishment is not intended to occur on site. There are uses such as an ice cream parlor or coffee shop where the retail sale of goods can occur either on or off-site. These uses are historically found in a successful and walkable downtown area such as Delray Beach.

For Ice Cream Shops, or establishments with indoor retail sale and outdoor dining space provided on the same site (either through outdoor seating or sidewalk café), the LDRs do not clearly define such establishment types as either restaurant or retail uses for parking requirements.

It is noted, that the LDRs provide direction in relation to parking requirements for similar uses and establishments that qualify as a Sidewalk Café. Specifically, within **LDR Section 4.6.9(C)(3)(d), Parking - Restaurants**, which states:

*"Inclusive of drive-ins, drive-thru, snack shops, night clubs, lounges shall provide 12 spaces per 1,000 square feet of gross floor area up to 6,000 square feet and then 15 spaces per 1,000 square feet of gross floor area over the initial 6,000 square feet. **All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) not classified as a restaurant, but otherwise qualifying for a sidewalk café permit which have no inside seating shall be considered a general commercial use with respect to parking requirements.** All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) which have inside seating shall be considered a restaurant use with respect to parking requirements."*



Former Sandwich Shop – The Rectory Building



Proper Ice Cream – 75 SE 4th Avenue

DESCRIPTION OF PROPOSAL

The proposed LDR amendments provide clarification to the different types of restaurants (bona-fide restaurant) or food-based retail establishments (fast casual restaurant) and how these uses are regulated with respect to the service of food, seating and occupancy requirements, parking requirements, etc. As a result, a new subsection of Section 4.3.3, "Special Requirements for Specific Uses" is proposed as (R), Restaurants, to provide a primary source for regulations applicable to restaurant and food-based retail establishments. The overall purpose is to allow smaller food-based retail establishments, such as an ice cream parlors, coffee shops, or sandwich shops, to be accommodated within the City without the requirement to provide parking at a normal restaurant rate. These establishments have a faster turnover than bona fide (also known as high quality) restaurants where patrons are seated for a longer period of time and the demand for parking is higher due to more seating capacity and a larger amount of employees required to run the business.

The amendment modifies the Base Zoning Districts regulations within Article 4.4 to update the definitions within the LDRs to match the proposed modifications within Appendix A: Definitions. The updated zoning districts where properties under the purview of the Historic Preservation Board are the Central Business District (CBD) and Old School Square Historic Arts District (OSSHAD). The Marina Historic District and West Settlers Historic District includes properties zoned CBD; while the Old School Square Historic District includes property zoned OSSHAD and OSSHAD with CBD Overlay. There are also individually designated commercial properties or structures that are not located within a historic district but located within the CBD zoning district such as The Colony Hotel at 525 East Atlantic Avenue where the proposed regulations will apply.

Additionally, LDR Section 4.6.9, Off-street Parking Regulations, are proposed for modification to update and clarify the Purpose and Intent (Subsection A), Applicability (Subsection B), and Number of parking spaces required (Subsection C) to be consistent with the proposed changes to the zoning district regulations. No changes to the number of parking spaces, drive throughs, or drive in provisions are proposed with this LDR Amendment.

The primary purpose of the amendment is to provide consistency with the new definitions, and to consider the provision of Limited Indoor Dining for establishments not operating as a restaurant. The new definition of limited indoor dining provides establishments with the option to provide no more than eight indoor seats. This provision is new to the LDRs and will address a common matter where establishments have either requested similar considerations or have modified business operations due to the zoning and parking requirements. Some instances include Whit's Frozen Custard, Pause at 131 Swinton, Kava Bar, Deke's in Delray, Kilwin's, Gelatto Go, Cream, Ben and Jerry's, Delray Goodies, It's Sugar, Tea by the Sea, A Kitchen, Ramen 369, and others that have not been established or are in the zoning process.

This table provides an overview of such definition changes and their prospective impacts.

Definition for:	Description of Changes	Justification
Limited Indoor Dining	New definition allowing for the provision of up to eight seats within a retail or certain type of restaurant.	Many establishments and proposed establishments have requested this type of amendment which would allow smaller spaces to operate closer to retail operations without providing parking which would become cost prohibitive to their business opening.
Drive-in Restaurant or Refreshment Stand and Drive-Through Restaurant	Strikes "refreshment stand" and rearranges "barbeque stand or pit. Reorganizes these uses into "quick service restaurant and creates "ancillary uses" under section 4.3.3 to regulate this type of restaurant. Other grammatical/syntax changes.	These restaurants are now considered "Fast Casual" and has certain ancillary uses where there limitations are now written out rather than provided in the definition.
Fast-Casual Restaurant	Provides a new definition for this type of restaurant where food is prepared for take-out or seated dining without table service.	This type of restaurant has become more prolific throughout the area and was not previously well defined in the City's Definitions. This definition would capture many types of restaurants previously either not defined or now modified.
Restaurant (Bona Fide)	Grammatical and syntax corrections; updates to match Florida Statutes.	NA

REVIEW AND ANALYSIS

Pursuant to **LDR Section 2.2.6(D)(6), Historic Preservation Board, Duties, powers, and responsibilities**, the Historic Preservation Board is tasked to *make recommendations to the Planning and Zoning Board concerning amendments to the Land Development Regulations, and to the Chief Building Official concerning building code amendments, as they apply to Historic structures and districts.*

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 members of the public (with City Commission sponsorship).* The proposed amendment is initiated by the Development Services Department.

The following Objective and Policies from the Historic Preservation Element of the Always Delray Comprehensive Plan provide support for amending the LDR and how the amendments are appropriately applied to properties under the purview of the Historic Preservation Board.

Historic Preservation Element

Objective HPE 1.4, Historic Preservation Planning *Implement appropriate and compatible design and planning strategies for historic sites and properties within historic districts.*

Policy HPE 1.4.1 *Continue to require that the Historic Preservation Board make findings that any land use or development application for a historic structure, site or within a historic district, is consistent with the provisions of the Secretary of the Interior's Standards for Rehabilitation, the Land Development Regulations, and Delray Beach Historic Preservation Design Guidelines.*

Policy HPE 2.2.3 *Continue to develop new land use and zoning incentives for eligible and historic resources within the Land Development Regulations, such as encouraging the adaptive reuse of historic structures within mixed-use zoning districts and providing parking relief strategies.*

The proposed amendments provide clarification with respect to restaurant uses, including retail-based establishments that prepare and sell food and beverages, primarily for the consumption of the product off-site. The ability to provide limited indoor dining, while not required to meet the parking requirement for a bona-fide restaurant, will be the most evident benefit of the subject amendments for historic districts and properties, as it can assist in supporting the adaptive reuse of many structures within a historic districts; thus, providing an ability for additional smaller or local businesses to be accommodated. As a result, the proposed amendments can be deemed an appropriate and compatible planning strategy for historic sites and properties within historic districts (HPE 1.4) and meets the intent of Policy HPE 2.2.3.

REVIEW BY OTHERS

Downtown Development Authority – July 12, 2021 – Passed Unanimously.

Parking Management Advisory Board – August 24, 2021 – Recommended approval with the provision of limited indoor dining only being allowed if a modified in-lieu fee is paid.

Pineapple Grove Main Street Advisory Board – October 20, 2021

Planning and Zoning Board – October 18, 2021

Community Redevelopment Agency – October 26, 2021

City Commission – Date to be determined. The proposed amendment will be reviewed at in two (2) public hearings via the standard ordinance procedures.

BOARD ACTION OPTIONS

- A. Recommend **approval** to the Planning and Zoning Board of Ordinance No. 27-21, amending the Land Development Regulations Sections Section 4.3.3 Special Requirements for Specific Uses, Section 4.4.9 General Commercial, Section 4.4.11 Neighborhood Commercial, Section 4.4.13 Central Business District Section 4.4.14 Resort/Tourism, Section 4.4.15 Planned Office Center, Section 4.4.24 Old School Square Historic Arts District, Subsection 4.6.9 (A) (B) and (C) Off-Street Parking Regulations, and 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 Planning and Zoning Board of Ordinance No. 27-21, **as amended**, amending the Land Development Regulations Sections Section 4.3.3 Special Requirements for Specific Uses, Section 4.4.9 General Commercial, Section 4.4.11 Neighborhood Commercial, Section 4.4.13 Central Business District Section 4.4.14 Resort/Tourism, Section 4.4.15 Planned Office Center, Section 4.4.24 Old School Square Historic Arts District, Subsection 4.6.9 (A) (B) and (C) Off-Street Parking Regulations, and 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 Planning and Zoning Board of Ordinance No. 27-21, amending the Land Development Regulations Sections Section 4.3.3 Special Requirements for Specific Uses, Section 4.4.9 General Commercial, Section 4.4.11 Neighborhood Commercial, Section 4.4.13 Central Business District Section 4.4.14 Resort/Tourism, Section 4.4.15 Planned Office Center, Section 4.4.24 Old School Square Historic Arts District, Subsection 4.6.9 (A) (B) and (C) Off-Street Parking Regulations, and 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.

PUBLIC AND COURTESY NOTICES

☒ Courtesy Notices are not applicable to this request.

☒ Public Notices are not required for this request.