



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Board of Adjustment

Meeting	File No.	Application Type
June 21, 2021	2021-170-LDR	Amendment to the Land Development Regulations (City-initiated)

### Request

Provide a recommendation to the City Commission on Ordinance No. 21-21, a City-initiated request to amend Section 2.2.4 of the Land Development Regulations (LDR) for the purpose of modifying Board meeting requirements, composition requirements and duties for the Board of Adjustment.

### Background Information

The Board of Adjustment (BOA), which was established in the 1970s, is tasked with considering appeals to determinations made by the Chief Building Official, and to consider requests for the granting of variances to specific sections of the LDR.

The current Board composition requirement is five regular members and two alternate members. Three of the regular members must be filled by the specified professional; two may be filled by an at-large member. Four members is a quorum, and a supermajority vote is required to grant a variance or overturn a ruling by the Chief Building Official. However, the inclusion of alternates has rendered it difficult to consistently obtain a quorum and effectively use the alternate members. The proposed change to the composition requirements will elevate the alternate members to full board member status and eliminate the role of alternate members. The supermajority requirement to approve a variance request remains unchanged, and the language was updated to clarify the supermajority and minimum vote requirement.

### Description of Proposal

Substantive proposed changes to LDR Section 2.4.4 are as follows:

- Changing the board composition to seven regular members, four of which must be professionals, and three of which are open to at-large lay persons;
- Specifying that meetings must be held in the evening hours, which is consistent with the balance of the City's Advisory Boards;
- Clarifying the scope of authority of BOA over base district development standards in LDR Section 4.3.4, and specifying that variances to density are prohibited;
- Removing variances to the Noise Code from the scope of BOA authority; and
- Prohibiting variances to Comprehensive Plan requirements.

The amendment also proposes changes to wording and sentence structure to simplify the reading and interpretation of LDR Section 2.2.4.

### Review and Analysis

Pursuant to **LDR Section 1.1.6(A), Amendments**, *the text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission. Any such change shall be made by ordinance, pursuant to procedures found in LDR Section 2.4.5(M).*

The recommendation of the Planning and Zoning Board will be provided to the City Commission, where the amendments will be reviewed at two public meetings. The anticipated review dates are October 19, 2021 and November 2, 2021 (Public Hearing).

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 the Comprehensive Plan.*

The adopted Always Delray Comprehensive Plan does not contain Goals, Objectives, or Policies specific to the proposed amendments. However, the following policy generally supports the proposed amendment.

#### **Neighborhoods, Districts, and Corridors Element**

##### Objective NDC 3.5, Update Land Development Regulations

*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 LDR amendment improves the development review process by ensuring the Board is able to meet regularly and provide a timely forum for appeals. The proposed revisions also eliminate inconsistent and inaccurate language and requirements that have made the process challenge for staff to interpret and for the public to apply. The proposed board composition is consistent with other similar municipalities within the region.

#### **Review By Others**

The **City Commission** is anticipated to review the proposed LDR Amendments on October 19, 2021 (First Reading) and November 2, 2021 (Public Hearing/Second Reading).

#### **Alternative Actions**

- A. Recommend **approval** to the City Commission of Ordinance No. 21-21, a City-initiated amendment to Section 2.2.4 of the Land Development Regulations to revise the Board of Adjustment composition requirements and duties, 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, as amended**, to the City Commission of Ordinance No. 21-21, a City-initiated amendment to Section 2.2.4 of the Land Development Regulations to revise the Board of Adjustment composition requirements and duties, 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. 21-21, a City-initiated amendment to Section 2.2.4 of the Land Development Regulations to revise the Board of Adjustment composition requirements and duties, 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.