



## Legislation Text

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File #: 21-004, Version: 1

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**TO: Mayor and Commissioners**  
**FROM: Anthea Giannotes, Development Services Department**  
**THROUGH: Jennifer Alvarez, Interim City Manager**  
**DATE: January 5, 2021**

ORDINANCE NO. 03-21: 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 CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT", BY AMENDING SUBSECTION (C), "ALLOWABLE USES," TO EXPAND THE AREAS WHEREIN AUTOMATED PARKING GARAGES ARE A PERMISSIBLE USE; BY AMENDING 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; BY AMENDING TABLES 4.4.13(B), "BUILDING HEIGHT," AND 4.4.13(C), "DIMENSIONAL REQUIREMENTS BY CBD SUB-DISTRICT", TO INCREASE THE MAXIMUM NUMBER OF STORIES ALLOWED IN THE RAILROAD CORRIDOR SUB-DISTRICT SOUTH OF SE 2ND STREET; BY 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 SOUTH OF SE 2ND STREET; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

### **Recommended Action:**

Review and consider Ordinance No. 03-21 on First Reading, privately-initiated amendments to the Land Development Regulations for the portion of the Central Business District (CBD) Railroad Corridor Sub-district located south of SE 2<sup>nd</sup> Street to increase the maximum number of stories allowed from four to five within the current maximum height of 54 feet, increase the maximum density from 30 to 70 dwelling units per acre as part of a Residential Incentive Program that requires at least 20 percent of the bonus density be provided as workforce housing units (either on-site, off-site, or through monetary contribution), and expand the locations for Automated Parking Garages to include any Secondary Street within the Railroad Corridor Sub-district.

### **Background:**

The proposed amendments to the Land Development Regulations (LDR) are privately-initiated, and requested by Christina Bilenki of Dunay, Miskel, Backman, LLP, for 1st Avenue Capital 301 LLC. The amendments are applicable to the Central Business District (CBD) Railroad Corridor Sub-district for those properties located south of SE 2<sup>nd</sup> Street, and generally bounded by SE 1st Avenue, SE 3rd Avenue, and SE 6th Street. The proposed amendments seek to increase the maximum number of

stories allowed from four to five within the current maximum building height in feet of 54 feet; increase the maximum density from 30 to 70 dwelling units per acre as part of a Residential Incentive Program that requires at least 20 percent of the bonus density is provided as workforce housing units either onsite, office, or through monetary contribution; and, expand where Automated Parking Garages can be located to include any Secondary Street within the Railroad Corridor Sub-district, which is currently limited to Secondary Streets north of NE 2<sup>nd</sup> Street within the Railroad Corridor Sub-district.

The request indicates that the purpose of the amendments is to facilitate the redevelopment of a 1.46 acre property located at 301 SE 1<sup>st</sup> Avenue. The submitted narrative indicates that the property is currently vacant, and the applicant proposes to develop the property "*with an attractive new multi-family residential development with a small café and retail component.*" The complete request letter and narrative memo are provided as attachments. It is important to note the LDR Amendments will apply to all of the properties within this portion of the Sub-District, and not just the applicant's property, and are not tied to a specific development proposal. Any project that meets the LDR requirements would be approved; not the building specifically presented by the applicant.

The CBD regulates height through two measures: the number of stories and overall building height in feet. Prior to 2015, building height in the CBD was limited to 48 feet, with ground stories required to be at least 10 feet from floor to ceiling and upper stories at least 9 feet. Ordinance No. 02-15 updated Section 4.4.13 of the LDRs and revised height to be limited both by the number of stories and by overall building height. Generally, height is 4 stories and 54 feet. The intent of using both number of stories and feet to limit height is to allow for higher ceilings without increasing development capacity. Higher ceilings allow for Class A office, facilitate adaptive reuse in the mixed use district, and provide for a high quality residential or hotel product. The proposed increase in the maximum number of stories from four to five within the current maximum building height of 54 feet will negatively impact the provisions of high quality development and adaptive reuse due to the lower ceiling heights that will inevitably result as developers seek to maximize density and/or floor area. For this reason, the ability to "pancake" floors within buildings in the CBD was specifically prevented in the 2015 update of the CBD regulations by limiting the number of stories to four.

The CBD regulations specify that "stories are measured from the finished floor to finished ceiling" and minimum story heights for buildings are as follows:

- the ground story of commercial or mixed-use buildings shall be a minimum of 12 feet tall;
- the ground story of residential buildings shall be a minimum of 10 feet tall; and
- each story above the ground story in all buildings must be at least nine feet tall.

The proposed density change will increase the current maximum of 30 du/ac to 70 du/ac, provided that 20% of the additional units are reserved as Workforce Housing units at the moderate level. Using the applicant's companion request to develop a 1.43-acre parcel as an example, the number of units allowed would increase from 42 to 100 - an increase of 58 units. 20% of the 58 units results in a requirement of 11 units to be Workforce Housing at the moderate level. 11 units is approximately 11% of the overall number of units. The moderate level is 80-120% of the Average Median Income (AMI), currently \$79,100 for Palm Beach County. Under the current AMI, the moderate level range for a family of 4 is a total household income of \$70,240 - 105,360 with a rental range of \$1,827 - 2,740 for a 3-bedroom unit. Given the considerable density increase (233%), consideration should be given to both the proposed percentage of required workforce housing units and the proposed income levels, as well as the context of the location. The West Atlantic Neighborhood Sub-district has not had the

number of new private, market rate residential development as the core area of downtown has had in the last 10 years, raising the question of whether an incentive offered today in the Railroad Corridor Sub-district should require a higher percentage of workforce units and/or a wider range of income levels, such as the very low (up to 60% AMI) and low (61% - 80% AMI), than the current incentive offered in that sub-district. No economic data has been submitted to support the proposed density increase, percentage of workforce housing, or income levels proposed for downtown Delray Beach. It is important to note that requests for increased density require a recommendation by the applicable site plan review Board (Site Plan Review and Appearance Board or Historic Preservation Board) to the City Commission and the final action would be taken by the City Commission.

While the amendment maintains the use of automated parking structures within the Railroad Corridor Sub-district, the initial inclusion of automated parking structures as a use was focused to a small area so that impacts, such as noise and traffic could be observed prior to a wider application. To date, one structure has been approved, but construction has not been completed. The additional location proposed would expand the direction from 2019. There are certain requirements associated with this use that strive to mitigate traffic impacts and allow architectural deviations related to the function in exchange for the incorporation of solar panels into the design. Additional considerations, such as the orientation of the facility, whether it faces a residential zoning district or single family houses, and general compatibility with the surrounding neighborhood may be necessary under this proposed expansion.

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 (GOPs) of the Comprehensive Plan.*

A complete review of those applicable Goals, Objectives, or Policies from the Always Delray Comprehensive Plan are provided in the attached Planning and Zoning Board Staff Report.

On November 16, 2020, the **Planning and Zoning Board** recommended denial on a vote of 6 to 1; however, the amendments reviewed by the Planning and Zoning Board have been revised in the ordinance before the City Commission for first reading as follows:

1. an increase to six stories and 60 feet in building height has been revised to an increase to five stories within current 54 feet height limit.
2. an increase in density up to 80 du/ac has been revised to 70 du/ac.
3. an increased height for rooftops and rooftop features has been removed.
4. a reduction in upper-story setbacks has been removed.

The attached Planning and Zoning Board Staff report further outlines and analyzes the initial text amendments.

**City Attorney Review:**

Approved as form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Second Reading is anticipated for January 19, 2021.