



## Legislation Details (With Text)

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**Title:** RESOLUTION NO. 20-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE REQUEST PURSUANT TO SECTION 4.4.13(C)(4)(c)1. OF THE LAND DEVELOPMENT REGULATIONS, ALLOWING A COMMERCIAL USE (OFFICE AND RETAIL) TO EXTEND BEYOND 150 FEET FROM WEST ATLANTIC AVENUE WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT FOR THE PROJECT KNOWN AS "HATCHER BUILDING" LOCATED AT 20 AND 26 NORTHWEST 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES (QUASI JUDICIAL).

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Resolution No. 20-21, 3. Hatcher Building PZB Staff Report, 4. Hatcher Building Applicant Justification Letter, 5. Hatcher Building Location Map, 6. TPS Approval - Hatcher Office Building 9-22-20.pdf, 7. Legal Review Reso 20-21

Date	Ver.	Action By	Action	Result
1/5/2021	1	City Commission	approved	Pass

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

RESOLUTION NO. 20-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE REQUEST PURSUANT TO SECTION 4.4.13(C)(4)(c)1. OF THE LAND DEVELOPMENT REGULATIONS, ALLOWING A COMMERCIAL USE (OFFICE AND RETAIL) TO EXTEND BEYOND 150 FEET FROM WEST ATLANTIC AVENUE WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT FOR THE PROJECT KNOWN AS "HATCHER BUILDING" LOCATED AT 20 AND 26 NORTHWEST 6<sup>TH</sup> AVENUE, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES (QUASI JUDICIAL).

### **Recommended Action:**

Review and consider Resolution No. 20-21, approving a Conditional Use request to allow a commercial use (office and retail) to extend beyond 150 feet from West Atlantic Avenue within the West Atlantic Neighborhood Sub-District, for the properties located at 20 and 26 Northwest 6th Avenue.

### **Background:**

The subject properties are located at 20 and 26 Northwest 6th Avenue ("Property"), north of West Atlantic Avenue and south of NW 1st Street. The sites are both currently vacant and are zoned

Central Business District (CBD) with a Land Use designation of Commercial Core (CC). They are located within the West Atlantic Neighborhood Subdistrict of the CBD, as well as the West Atlantic Limited Height Area.

In May of 2020, the City Commission adopted an LDR text amendment (Ordinance No. 07-2) to establish a Limited Height Area (LHA) for new development on properties rezoned from Single-Family Residential (R-1-A) to CBD and located within the West Atlantic Neighborhood Sub-district. The height limitation for properties within the LHA is 38 feet and three stories; properties outside of the LHA have a maximum height of 54 feet and four stories. Additionally, in August of 2020, the City Commission adopted an ordinance to expand the boundary of the CBD through a Land Use Map Amendment (LUMA) and rezoning that included the parcel at 26 Northwest 6<sup>th</sup> Avenue.

**Project Description:**

The proposed development consists of two 3,556 square foot buildings consisting of the following:

- Two 2-story commercial buildings, both of which are 24'-9" tall, designed in the Florida Vernacular architectural style to complement the adjacent residential uses to the north and south of the property, as well as the Northwest Neighborhood to the north; and installation of a paver brick central courtyard area between the two buildings along with paver brick walkways, and two 2-space bike racks; and
- Construction of an 18-space on-site parking lot (10 regular, 6 compact, 2 ADA accessible) with site lighting and landscape areas accessed from NW 6<sup>th</sup> Avenue; and
- Installation of a 10' X 10' dumpster enclosure at the rear of the property with accommodations for recyclable materials; and
- Construction of three (3) on-street parallel parking spaces with a paver brick sidewalk, landscaping, decorative streetlights in compliance with City standards.

The conditional use request is to allow commercial / non-residential uses more than 150 feet from West Atlantic Avenue. The applicant has requested the ability to establish office and/ or retail uses within the proposed buildings. A range of potential uses has been submitted to allow for flexibility in leasing the new buildings. The proposed uses include general retail uses and/or facilities, as in GC district (4.4.9); Business, professional, and medical uses, as in GC district (4.4.9); and Services and facilities, as in GC district (4.4.9). The following retail uses have been excluded from the request: retail sales of automotive parts, beer, wine, liquor, meats, fish, lawn care equipment, pets and pet supplies. Additionally, the following Services and facilities uses have been excluded from the request: auctions, caterers, self-service limited laundromat facilities, pet grooming, drive-through facilities, restaurants including drive-in and drive-through, tobacconist, Neighborhood Electric Vehicle (NEV) sales, lease or rental transactions only (no inventory on-site for any purpose), and rental of sporting goods and equipment (such as but not limited to bicycles, skates, boogie boards).

**Conditional Use Findings LDR Section 2.4.5 (E)(5)**

In addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;*

*b) Hinder development or redevelopment of nearby properties.*

The proposed northernmost commercial building is located approximately 244 feet from West Atlantic Avenue. The surrounding properties include a single family home to the north; a duplex to the south; Fire Station # 1 and parking for Donnie's Place restaurant to the east; and vacant land to the west, which is primarily owned by the CRA.

The Purpose and Intent of the CBD Zoning District is to preserve and protect the cultural and historic aspects of downtown Delray Beach and simultaneously provide for the stimulation and enhancement of the vitality and economic growth of this special area. The West Atlantic Avenue Neighborhood was established to provide for development that is consistent with the adopted West Atlantic Avenue redevelopment plan, which is the West Atlantic Master Plan, as well as the Downtown Delray Beach Master Plan. The emphasis is on the preservation and enhancement of existing neighborhoods, while promoting a pedestrian friendly commercial area along Atlantic Avenue that contains a mix of residential, commercial, and civic functions. Businesses that are oriented toward serving the local neighborhood, as opposed to a regional area, are encouraged.

The recently adopted West Atlantic Avenue Master Plan recommends flexibility in allowing commercial developments to encroach beyond the 150' limit with the approval of a Conditional Use by the City Commission. In addition, the following are proposed Action Strategies identified in the West Atlantic Avenue Redevelopment Plan Update relate to this general area and the proposal:

- *Allow commercial buildings on West Atlantic Avenue to exceed the current 150' -300' depth without conditional approval within selected blocks subject to the following requirements: Site and building design that exceeds code as defined between the City Land Development Regulations, the developer, and the CRA.*
- *If the project extends to SW 1st Street, create a transition between the existing neighborhood and the new project by lining the north side of SW 1st with housing.*
- *Entering into a Community Benefits Agreement*

The LDRs were recently amended to include a height limitation of 35 feet for those properties that are rezoned from single-family zoning to CBD to ensure compatible transitions. The designation was recently applied to the Northwest 600 Block, where the subject site is located. The result of the recent FLUM amendment, rezoning, and height limitation results in a mixed-use zoning that maintains the scale, density, intensity, of the character of the surrounding area.

The applicant is proposing different use scenarios, which would each create a different impact on the surrounding neighborhood. On the lower intensity end, a 7,112 square foot general office building would have a low traffic generation and complement the existing neighborhood as it would be a quiet use that operates typically on a 8 AM to 5 PM schedule, Monday through Friday, with less activity in the evenings and on weekends.

The scenarios change based on the intensity of the proposed use that would be allowed in the building: Retail and medical office uses generate a much higher rate of vehicular trips throughout the day than a general office use would create, causing more of an impact on the adjacent single-family and multi-family residential homes. Additionally, retail use would extend the hours of operation for the

building past 5 PM on the weekdays and likely have weekend hours of activity. Higher impact uses, like restaurants and bars, are expressly excluded from this request. The balance between commercial activity and residential uses must be considered, as well as the addition of a low scale commercial project on previously vacant land, which will likely enhance the overall aesthetic of the neighborhood and spur additional development in the adjacent area.

The project is proposed with one driveway, which will limit the intensity of traffic on the neighboring properties. The proposed lighting is required to consist of cut-off luminaires to not impact adjacent properties, and the landscape plan illustrates significant buffering from the residential areas. The proposed height is consistent with the intent of the limited height area which will help to ensure the existing scale of the neighborhood remains.

### **Required Findings LDR Section 3.1.1**

- a) **Land Use Map (LUM):** *The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.*

As previously discussed, the subject property has recently gone through a FLUM amendment and rezoning to allow for a Future Land FLUM designation of CC, and a zoning designation of CBD, which are compatible with each other. Pursuant to Table 4.4.13(A), business, professional, and medical uses as in GC district (4.4.9) are permitted uses in the West Atlantic Neighborhood Subdistrict of the CBD. Per LDR Section 4.4.13(4)(c)1., a conditional use is required when a commercial use is proposed to be established or expanded beyond the 150-foot limit from Atlantic Avenue set forth in the same section. As the proposed site plan establishes a professional office/retail uses, approximately 244 -feet from Atlantic Avenue, a conditional use is required.

- b) **Concurrency:** *as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

**Traffic.** The applicant has received a Traffic Performance Standards (TPS) approval letter from Palm Beach County with three scenarios for potential trip generation based off different allocations of uses.

- Scenario 1: General Office = 7,112 square feet
- Scenario 2: General Office = 3,556 square feet; General Commercial = 3,556 square feet
- Scenario 3: Medical Office = 7,112 square feet

The TPS Letter states that the “worst case scenario” (Scenario 3) would result in 222 new daily trips with 30 new AM peak hour trips and 22 new PM peak hour trips. One entrance is proposed: Northwest 6th Avenue: 24- foot wide driveway approximately 300 feet north of the intersection with West Atlantic Avenue, within the Palm Beach County Transportation Concurrency Exception Area.

Schools. Commercial development is not subject to school concurrency evaluation. Therefore, there will be no negative impact on the public-school system.

Water. The City's Water Atlas and the survey indicate water is provided to the site by an 8-inch water main located within the NW 6<sup>th</sup> Avenue right-of-way.

Sewer. The survey indicates sanitary sewer service is provided. The City's Sewer Atlas indicates that sewer service provided to the site by an 8-inch water main located within the NW 6<sup>th</sup> Avenue right-of-way.

The proposed development, as office use, was reviewed by the Deputy Director of Utilities who noted that it as the proposed project is connected to the City of Delray Beach service area the City would therefore be the provider of water and sewer service. At that time, based on estimated sewage flow calculations submitted by the applicant's firm, dated August 21, 2020, it appeared adequate treatment capacity for both water and sewer are available to serve the proposed project. However, if mains and/or services require extension to serve the project, or if an upgrade is required to a downstream lift station, all costs associated with such design and construction upgrades would be the responsibility of the applicant. Capacity would be able to be reserved upon review and approval of the site engineering plans, calculations, and payment of required fees. Reclaimed water for irrigation is not currently available in this area.

As the applicant is seeking retail in addition to office, these calculations may change prior to City Commission scheduling.

Solid Waste. Proposed Office: 3,556 square feet x 5.4 lbs. = 19,202.4 lbs. /2,000 = 9.6 tons per year

As the property is vacant, the proposed development will generate an additional 9.6 tons of solid waste per year. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2047.

Drainage. The applicant has provided 80.3% impervious surfaces on the site. The site plan is currently under review, and the review process will ensure sufficiency of site drainage.

- c) **Consistency:** *A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*

A review of the objectives and policies of the adopted Comprehensive Plan was conducted and the following applicable objectives and policies that are relevant to Conditional Use applications are noted:

**Policy ECP 3.3.6** of the Economic Prosperity Element of the Comprehensive Plan: *Promote development or redevelopment of vacant, underutilized or surplus properties, particularly those with the potential to serve as a catalyst for economic development.*

As the subject site has never been developed and has been included within the boundaries of the CBD, the development of the site will help spur new development around it. The property is located adjacent to many other vacant sites that will be more desirable to be developed once the proposed project is complete.

**Policy ECP 5.4.2:** *Support development of neighborhood business centers that serve adjacent residential areas and neighborhoods within redevelopment areas.*

The project, as proposed, is located within a redevelopment area and the proposed use of office/retail can be used to enhance the quality of life and provide employment opportunities for the existing residential neighborhood. The project will also achieve the development of a long-standing undeveloped piece of property which will improve the aesthetic and economic vitality of the West Atlantic Neighborhood.

**Objective ECP 6.5:** *Support the growth and development of small businesses that enhance the vitality and quality of life in Delray Beach neighborhoods.*

The addition of the proposed office/retail project will serve to develop an undeveloped lot in the West Atlantic Neighborhood while also providing greater amenities and employment opportunities to the residents with the subdistrict.

**Policy NDC 1.1.2:** *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:*

- *Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.*
- *Uses that meet the daily needs of residents.*
- *Public open spaces that are safe and attractive.*

The proposed project is designed to be generally consistent in height and intensity as the existing surrounding neighborhood. The project as designed provides a transition between the West Atlantic Avenue commercial corridor and the residential neighborhood to the north. The proposed use of office and retail are consistent with the existing commercial uses in the West Atlantic Neighborhood Subdistrict and will help to meet the daily needs of the residents in the area

**d) Compliance with the LDRs.** General compliance with the LDRs is discussed below, followed by a discussion of compliance with the regulations specific to each Conditional Use request.

If the Conditional Use is approved, site plan approval complying with LDR Sections 2.4.3 and 4.4.13 will be required. The site plan was reviewed initially by the City's Technical Advisory Committee on April 3, 2020 and again on September 25, 2020. City Staff has determined that the proposed site plan meets all requirements of the applicable LDR's, including Section 2.4.3 and 4.4.13, which includes proposed use, dimensional requirements, CBD streetscape and frontage requirements, architectural standards, and required parking.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

