



Legislation Text

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TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: November 10, 2020

RESOLUTION NO. 152-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A REQUEST FOR A CONDITIONAL USE PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AND THE COMPREHENSIVE PLAN, TO ALLOW FOR THE INCREASE TO MAXIMUM ALLOWABLE HEIGHT OF 55 FEET FOR BUILDINGS 3, 4, 5 AND 6 FOR THE AURA DELRAY BEACH PROJECT, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES (QUASI JUDICIAL).

Recommended Action:

Review and consider Resolution No. 152-20, granting a conditional use to increase building height to 55 feet 3,4,5 and 6 for the Aura Delray Beach project generally located at the northeast corner of W. Atlantic Avenue and N. Congress Avenue.

Background:

The subject site is zoned Mixed Industrial Commercial (MIC) with a proposed rezoning to Special Activities District (SAD). The 12.20-acre site is generally located at the northeast corner W. Atlantic Avenue and N. Congress Avenue.

- On August 18, 2020, the City Commission voted 3-2 approving the 1st reading of Ordinance No. 32-20 for the rezoning of the subject site from MIC to SAD. The 2nd and final reading of this ordinance will be presented the before the Commission at the same meeting as this conditional use.
- On September 10, 2020, the City Commission voted 3-2 approving the 2nd reading of Ordinance No. 31-20, to add the properties within the Aura Delray Beach Overlay district to the list of properties eligible for an increased height of 60 feet in LDR Section 4.3.4 (J)(4)(b)(i)(9).
- On September 21, 2020, the Planning & Zoning Board (P&Z Board) voted (6-1) recommending approval of Resolution No. 152-20 to the City Commission for the granting of a conditional use to increase the allowable building height to 55 feet for buildings 3,4,5 and 6 for the Aura Delray Beach project.
- On September 23, 2020, the Site Plan Review and Appearance Board (SPRAB) vote 6-0 approved the Class V Site Plan application (2020-195) Landscape Plan, and Architectural Elevations associated with the construction of two 3-story buildings, and four 5-story buildings containing a total of 292 multi-family apartment units, a clubhouse, and a 1,635 square foot

commercial out parcel building; with the condition that Ordinance No. 32-20 and Resolution No. 152-20 are approved by the City Commission. It is important to note, that if the conditions are not approved by the City Commission, the SPRAB motion will be null and void.

Staff Analysis

The proposed conditional use is for the increase of allowable height from 48 feet to 55 feet in accordance with LDR Section 4.3.4 (J)(4)(b). The proposed development consists of two 3-story buildings, and four 5-story buildings, containing a total of 292 multifamily apartment units. The height proposed for the 3-story buildings are 34 feet and 55 feet for the 5-story buildings.

Height Allowance Findings LDR Section 4.3.4 (J)(4)(b)

i. *That the structure is to be located in one of the following geographic areas: [list of areas].*

On September 10, 2020, the City Commission adopted Ordinance No. 31-20 adding the Aura Delray Beach Overlay District to the list of properties eligible for an increased height up to 60 feet listed as in LDR Section 4.3.4(J)(4)(b)(i). The subject site is now in the geographic boundary required.

ii. *That the increase in height will not provide for, nor accommodate, an increase in the floor area (within the structure) beyond that which could be accommodated by development which adheres to a height limitation of 48 feet, except for the following situations: (1) An increase in height is allowed when the increase from 48 feet to 60 feet is for the purpose of accommodating residential use on the top floor of the structure; however, the increase in height is only for the added residential use area.*

The proposed development provides a building height of 55 feet for the four 5-story multi-family apartment buildings to provide residential units throughout the buildings, inclusive of the top floor; the development does not contain a mix of uses within any of the apartment buildings.

iii. *Workforce housing units, equal to at least 20 percent of the residential units on the top floor, shall be provided within the development onsite, offsite, or through monetary contributions as referenced in Article 4.7 (fractions shall be rounded up). The workforce housing units shall be at the low or moderate income levels and shall comply with other applicable provisions of Article 4.7.*

The project is proposing 73 workforce housing units, which equates to 25% of the units on-site, exceeding the minimum 20 percent (11.2 units) of the units located on the top floors required under the LDRs. It is important to note that the Comprehensive Plan requires 25% for the Commerce Land Use designation.

iv. *That the increase in height shall be allowed if two or more of subsections 4.3.4(J)(iv)(1), (2) or (3) are met:*

1) *That for each foot in height above 48 feet, an additional building setback of two feet is provided from the building setback lines which would be established for a 48-foot tall structure. The additional setback is required from all setback lines (i.e., front, side, and rear) for the portion of the building that extends above 48 feet;*

2) *That a minimum of 50 percent of the ground floor building frontage consist of nonresidential*

uses (excluding parking);

- 3) *That open areas, such as courtyards, plazas, and landscaped setbacks, be provided in order to add interest and provide relief from the building mass.*

The project proposes to comply with subsections 1 and 3. Subsection 2 is not applicable since the development does not provide any commercial uses within the residential structures. The Aura Delray Beach project is requesting an additional 7 feet to the maximum overall height of 48 feet for buildings 3,4,5 and 6. Subsection 1 requires an additional two feet of setback for each additional foot of height requested. The SAD zoning district requires a minimum 15 feet perimeter building setback. Therefore, to increase the height to the desired 55 feet, an additional 14 feet of setback is required for each of the buildings proposed for increased height. The project provides overall building setbacks from 29 feet to 620 feet, which exceeds the minimum requirement.

The request complies with subsection 3 because the project provides a 15 foot wide greenway trail with benches on the west side of the property, linear green spaces, tot lot, dog park, and a swimming pool are also provided throughout the development that add open space and amenities to the project to assist in providing relief from the mass of the buildings. The buildings are internally spaced apart between 86 feet to 152 feet which further reduces the overall massing effect of the buildings

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.*

If granted, the conditional use will not have a detrimental effect on the stability of the neighborhood, as the project is located within a mostly commercial/industrial area. The project is separated from Atlantic High School by a canal to the west. The investment by a new project on this portion of Congress Avenue could help development/ redevelopment in the area.

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.*

The subject site has a LUM designation of Commerce (CMR), a current zoning designation of MIC, and a proposed zoning designation of SAD. Both the current and proposed zoning designations are compatible with the CMR LUM designation. The project proposes to provide 25 percent of the residential units as workforce housing, which is the only way to accomplish residential uses within the LUM designation.

- 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 provided Traffic Performance Standards (TPS) concurrency review letter from the Palm Beach County mentions that the proposed development meets the Traffic Performance Standards of Palm Beach County as long as the project (1) constructs a right turn lane at the northernmost driveway on congress avenue, and (2) extend the northbound turn lane storage length at the intersection of NW 1st Street and Congress Avenue.

School: The School Capacity Availability (SCAD) Determination letter provided mentions that the proposed development will not have a negative impact on the public school system.

Water and Sewer: The engineering plans indicate that the proposed development would be connecting into an 8" PVC water line 8" Sewer lines from Congress Avenue

Solid Waste: The proposed Aura Delray Beach development would add approximately 160.51 tons of waste per year to the current demand. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2048.

- 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.*

Policy HOU 4.1.7: Support innovative use of higher density in detached and attached housing which maintains usable open space, while providing larger living spaces.

Policy HOU 5.1.1: Encourage construction of mixed-income housing developments to avoid a concentration of affordable units in one development or neighborhood and to provide a full range of residential unit types and prices.

Policy HOU 6.1.4: Implement incentives in the Land Development Regulations, such as increases in density, to establish workforce housing units within targeted areas.

Policy HOU 6.2.4: Utilize incentives outlined in the workforce housing ordinance to develop additional workforce housing units.

The development provides 43.6% open space which include landscape buffers, a greenway trail, linear green spaces, tot lot, and a dog park. The proposed development provides 25 percent of the residential units as workforce housing on site. The additional height is requested to obtain the maximum density allowed of 24 du/ac in the Commerce (CMR) land use district to provide the

workforce units and a mix of unit types.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

Ordinance No. 32-20 and Resolution No. 152-20 must be approved prior to site plan (2020-195) certification.