Legislation Text

File #: 21-086, **Version:** 1

TO: **Mayor and Commissioners**
FROM: **Anthea Gianniotes, Development Services Department**
THROUGH: **Jennifer Alvarez, Interim City Manager**
DATE: **February 2, 2021**

ORDINANCE NO. 02-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," TO ADD SUBSECTION 4.3.3(RR), "ROOFTOP USE," TO PROVIDE REGULATIONS FOR ROOFTOP USES; AMENDING SECTION 4.3.4, "BASE DISTRICT DEVELOPMENT STANDARDS," SUBSECTION 4.3.4(J), "HEIGHT," TO UPDATE HEIGHT EXCEPTIONS; AMENDING ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS," SECTION 4.6.18, "ARCHITECTURAL ELEVATIONS AND AESTHETICS," SUBSECTION 4.6.18(B), "BUILDING AND STRUCTURE REQUIREMENTS," TO PROVIDE REGULATIONS FOR THE SCREENING OF FLAT ROOFS AND APPURTENANCES; AMENDING APPENDIX A, "DEFINITIONS," TO AMEND THE DEFINITION OF ARCHITECTURAL FEATURES AND PARAPET AND TO ADD A DEFINITION FOR FREE-STANDING FEATURES, HABITABLE STRUCTURE, ROOFTOP APPURTENANCES AND ROOFTOP TERRACE; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

Recommended Action:
Review and consider Ordinance No. 02-21 (formerly Ordinance No. 54-20) on First Reading, a City-initiated Land Development Regulations (LDR) amendment to update Section 4.3.3 "Special Requirements for Specific Uses" by establishing Subsection (RR) "Rooftop Use", to amend Section 4.3.4(J)(3) "Exceptions to district height limitations", to amend Section 4.6.18(B) "Building and Structure Requirements", and to amend to Appendix A "Definitions" to update the standards associated with appurtenances, establish new requirements for Rooftop uses, and to update and add definitions related to appurtenances and rooftop uses.

Background:
The current LDRs do not contain quantitative measures for all types of rooftop appurtenances - and the increasing desire for incorporating rooftop use areas has led to concerns in the residential neighborhoods. The ordinance is intended to provide the necessary detail to provide clear expectations and predictability regarding the use of rooftops and the allowed size and types of appurtenances. As residential, commercial, and mixed-use zoning districts redevelop, the use of rooftops is evolving from just utilitarian functions to spaces for recreation or to expand living areas to the outdoors. In the past, the main function of rooftops was to house mechanic equipment and

appurtenances were associated with the functionality of the structure; access was needed for maintenance of the structure or rooftop equipment and was not required nor desired to be utilized by building occupants.

The current code provides the following in LDR Section 4.3.4(J)(3)(b), Appurtenances on Buildings: "*Appurtenances usually required to be placed above the roof level of a building and not intended for human occupancy may be allowed to extend above the height limitations contained in 4.3.4(K) but only when specifically approved by action of the Site Plan Review and Appearance Board (SPRAB)*". However, quantitative standards are not provided for all types of appurtenances. And, it is important to note the current definition of "appurtenance" in the code does not include rooftop elements.

Appendix A of the LDR defines Appurtenances as follows: *That which is an accessory to another structure, including but not limited to stonewalls, fences, light fixtures, steps, paving, sidewalks, shutters, and signs*.

LDR Section 4.3.4.(J)(3) was last updated in Ordinance No. 02-06; therefore, no revisions have been made to this section of the code since 2006. Since that time, the use of elevators within residential units has increased as they have become more affordable, the population has aged, the number of building stories has increased, and usable living space is not solely located on the first and second stories of new homes. In addition, citywide interest in rooftop terraces has increased in a climate that permits almost year around outside activity.

The SPRAB regularly reviews multiple family and townhouse projects within the Central Business District (CBD) and Medium Density Residential (RM) zoning districts that incorporate appurtenances to provide rooftop access - some code required and others providing access to designed and activated rooftops. Amendments to the CBD to facilitate the use of rooftop terraces in the downtown area have been adopted.

The SPRAB evaluates rooftop appurtenances as part of the architectural elevations, which are subject to the findings in LDR Section 4.6.18(E). Criteria for board action:

The following criteria shall be considered, by the Site Plan Review and Appearance Board or Historic Preservation Board, in the review of plans for building permits.
If the following criteria are not met, the application shall be disapproved.

(1) The plan or the proposed structure is in conformity with good taste, good design, and in general, contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas, and high quality.

(2) The proposed structure, or project, is in its exterior design and appearance of quality such as not to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

(3) The proposed structure, or project, is in harmony with the proposed developments in the general area, with the Comprehensive Plan, and with the supplemental criteria which may be set forth for the

Board from time to time.

However, the code provides little guidance for single family development - and the only houses that receive board review are historic properties, all others proceed directly to building permit. Conversely, numerous members of the public have raised concerns regarding the size and scale of new construction, particularly in residential districts.

As a result, on January 16, 2020, the City Commission approved Resolution No. 37-20 (extended via Resolution Nos. 102-20 and 207-20), to enact a zoning in progress to consider amendments to the City's LDRs relating to appurtenances that provide access to rooftop terraces located above the maximum height limitations for single family, duplex, and multi-family residences within the Single Family Residential and Medium Density residential zoning districts.

The proposed ordinance adds definitions, provides regulations both for the types of appurtenances and the use of rooftop areas, and establishes the process for approval depending upon the size and type of appurtenance. The most significant change is for the single-family and multi-family zoning districts, which will allow rooftop uses, provided they are no higher than 26 feet. This provides for the activated use area within the current overall building height limit of 35 feet a prevents the creation of a de facto fourth story.

Review Process:

- November 4, 2020: The Historic Preservation Board recommended approval of the Ordinance on a 7-0 vote.
- November 16, 2020: The Planning and Zoning Board recommended approval of the Ordinance on a 7-0 vote.
- November 19, 2020: The Site Plan Review and Appearance Board reviewed the Ordinance and provided comments (this Board is not required to make a recommendation to the City Commission).
- Staff held two meetings with members of the BPOA. Revisions to the proposal have been made to address concerns made by the members.

Revisions to the Ordinance have been made after consideration by the Boards and input meetings and are incorporated for first reading as follows:

1. Section 4.3.3(RR): The rooftop uses listed in (2)(b) apply to properties zoned OSSHAD and RO when located no higher than 26 feet.
2. Section 4.3.4(J): Provisions to allow "stair towers" up to 8 feet in height were moved from "Allowed" to "Subject to action by the approving body".
3. Section 4.3.4(J): The maximum height for "stair towers" under "subject to action by the approving body" was decreased from 10 feet to 8 feet.
4. Section 4.3.4(J): The maximum height for "rooftop appurtenances" and "parapets and roof screening" was decreased from 6 feet to 4 feet under "Allowed". Proposals "Subject to action by the approving body" were adjusted accordantly.
5. Section 4.3.4(J): "Architectural features" in residential zoning districts were eliminated from the table. Architectural features in residential zoning districts are not proposed to be listed as

an exception to the zoning district height (these would be subject to the maximum district height of 35 feet).

6. Section 4.3.4(J): “Restroom facilities in nonresidential districts, stair towers, elevator and vestibule in nonresidential zoning districts”, were grouped together to allow a maximum roof area of 20% when combined instead of a total of 30%.
7. Section 4.6.18(B): Two subsections are included to provide regulations for the screening of flat roofs and appurtenances.

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.

City Attorney Review:
Approved as form and legal sufficiency.

Funding Source/Financial Impact:
N/A

Timing of Request:
Second Reading is anticipated for March 3, 2021.