



# AGENDA ITEM REQUEST FORM

## Development Services

Department Submitting Request

**Jeff Bowman**

Department Director

### REGULAR COMMISSION MTG Meeting Dates - 7:00 PM

- Jan 25, 2011
- Feb 22, 2011
- Mar 22, 2011

### DEADLINE TO Town Clerk

- Jan 14 (5:00 pm)
- Feb 11 (5:00 pm)
- Mar 11 (5:00 pm)

\*Subject to Change

### ROUNDTABLE MEETING Meeting Dates - 7:00 PM

- Jan 11, 2011
- Feb 8, 2011
- Mar 8, 2011

### DEADLINE TO Town Clerk

- Dec 30 (5:00 pm)
- Jan 28 (5:00 pm)
- Feb 25 (5:00 pm)

- |  |   |                                       |                                       |
|--|---|---------------------------------------|---------------------------------------|
| <input type="checkbox"/> Presentation          | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent      | <input type="checkbox"/> Ordinance    |
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input type="checkbox"/> New Business |

**SUBJECT TITLE: Public Hearing on the Notice of Intent (Exhibit "A" Resolution 2011-01), addressing proposed Amendments to the Land Development Code Regarding Conditional Uses, Development Review Procedures, Generator Regulations, Notice of Intent (NOI) Process, Regulations of Walls and Fences, Architectural Standards and Review Criteria, and Wine Bars.**

**EXPLANATION:** All proposed development regulations are subject to the Notice of Intent procedures of Section 531 of the Town Code. Following review by the Commission at its January 11, 2011 Roundtable meeting, Staff has prepared a Notice of Intent (NOI) and adopting Resolution addressing: 1) Conditional Uses; 2) Development Review Procedures; 3) Generator Regulations; 4) Notice of Intent Process; 5) Regulations of Walls and Fences; 6) Architectural Standards and Review Criteria; and 7) Wine Bar uses. These subjects are intentionally stated in a general manner, based on past experiences where a more precise statement of the proposed changes in NOIs prevented us from addressing additional needed revisions to the Code that emerged through the ordinance drafting, Commission review and public hearing process.

At this time, the specific changes being contemplated to these regulations include the following, and any inter-related sections of the Land Development Code:

**1. Amend Section 30-261 and 30-271 to include Conditional Uses within the Business Districts.**

**Explanation:** While amending the Code to expand uses within the Business Districts (Ordinance 2010-15), and through additional research and analysis, several uses have been identified for possible inclusion in the Business Districts as "Conditional Uses." "Conditional Uses" were outside the scope of the Permitted Business Uses Notice of Intent which governed Ordinance 2010-15, and staff was directed to bring back the changes at a later time under a new Notice of Intent.

**2. Amend Chapter 30, Unified Land Development Code to address Conditional Use procedures, and possibly to revise other development review procedures.**

**Explanation:** There is no uniform approach to Conditional Use approvals and the concept is described in different ways in different parts of the Code. Staff and the Town Attorney recommend creating conditional use procedures in one section of the code that would apply to all conditional use approvals, with clear processes and criteria. This will eliminate redundancy and provide clarity. The scope of the change may include synthesizing conditional use procedures referenced in various sections of Chapter 30 (i.e. passive recreational rooftops, sidewalk cafés, and drive-through), and ideally providing one set of procedures in a



centralized location. (Staff and the Town Attorney intend to examine whether variations on the process and criteria for different uses would be advisable.) If changes are recommended, they would be proposed as part of this NOI with conflicts in the existing Code highlighted for policy guidance by the Commission.

3. **Amend Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts.**

**Explanation:** The current code limits the size of generator fuel tanks to 250 gallons. Florida Statute 553.509 requires multi-family dwellings 75 ft or taller and containing a public elevator to provide an alternate power source for emergency lighting, fire alarms and elevator service over a five day period following a natural disaster. Staff has received information indicating that a 250 gallon tank is not sufficient for large multi-family or commercial buildings to be able to meet the requirements of the statute. Therefore, the Town's code needs to be amended to reflect the statutory requirements for larger buildings. Review will include staff evaluation for potential revisions to the buffering or aesthetic requirements for such tanks.

4. **Amend Article IX, Notice of Intent of Land Development Regulations, Section 30-531.**

**Explanation:** The Notice of Intent (NOI) section provides an administrative procedure for notifying the public and the development community when the Town undertakes changes in the land development regulations. This ordinance was adopted in 2000, and requires the Town to pass a resolution stating the Town's intent to propose amendments to land development regulations, which is customarily opened for public comment. The Code also requires that a public hearing be held on the resolution at the Town Commission meeting following its adoption, that the Town post the Notice of Intent at Town Hall and at Development Services, and that the Town then create, review, and adopt an ordinance within the prescribed time frames of the NOI. If there are additional recommendations beyond the scope of the NOI, then the Code requires a new NOI be drafted and the process repeated. If the timeframe for adoption is delayed or accelerated beyond the prescribed timeframe, then the NOI must be amended by the Town Commission.

Enacting a change to a land development regulation subject to this process can add two (2) months to the three (3) months it otherwise takes to follow minimum statutory procedures. Amending or repealing the land development regulations pursuant to state statute involves a minimum of a public hearing before and recommendation by the Planning and Zoning Board and two readings of an Ordinance by the Town Commission, at least one of which must involve a public hearing. Thus, the statutory process allows the public the opportunity to learn about the change and provide their input at three (3) public meetings. The NOI process allows for public input at an earlier point in the process than does the statutory procedure but, at this stage, the proposed change is normally not well-defined.

This item was discussed at the December 14<sup>th</sup> Commission meeting and the Town Commission directed that Staff and the Town Attorney look at options for modifying the NOI procedure. Because the NOI procedure is itself a land development regulation, this change is being taken through the NOI process. Revising or repealing the NOI procedures would provide greater flexibility in the timing of the adoption process and also allow the Town Commission or Planning and Zoning Board to table or continue discussion of an ordinance to another meeting or to a workshop, before it is passed, without violating or needing to modify the Notice of Intent. The Town could also consider altering the scope of the process, so that less significant changes are exempted from the process or can move through it more quickly.



5. **Amend Section 30-313 regarding fencing and cement or concrete walls.**

**Explanation:** The Code's requirements pertaining to concrete walls were discussed at the December 7<sup>th</sup> Commission meeting, with direction to send the subject to the Planning and Zoning Board to consider the types of finishes and decorative features that could enhance the attractiveness of such walls. Additionally, this section of the Code requires that all fences have the finished side facing out. If a property owner's neighbor has an existing fence or hedge along their property, it is not possible to erect an abutting fence with the finished side out. This issue also needs to be addressed.

6. **Amend Section 30-9 and Section 30-124 (15) Architectural Standards and Review Criteria.**

**Explanation:** The Town's Master Plan contains many recommendations regarding architectural design elements that are not referenced in the LDR's and, in some cases, are contradictory to what is contained in the LDR's. In addition, there are provisions in the Code for an Architectural Review Board which does not exist. Over the next several months, the Town is bringing in a series of speakers to talk to us, our residents and business owners about design considerations and, from that process, it is expected that a desire to rewrite the architectural standards and review criteria will emerge. We believe it advisable to have an NOI in place that authorizes us to proceed with such a review while the public interest is engaged. The intent of the NOI would be to revise and better define the Town's architectural design standards, and the manner in which they are reviewed and applied.

7. **Amend Section 30-261 and Section 30-271 to provide for Wine Bars within the Business Districts.**

**Explanation:** At its January 11, 2011 Roundtable, the Commission directed staff to evaluate the impacts and feasibility of providing for wine bar uses within either of the Business Districts. The intent of this NOI is to provide the opportunity for staff to research the feasibility, optimal regulatory framework, and impacts of providing for these uses in some way within the Business Districts and provide for input from the community and Planning and Zoning Board. Staff will also evaluate whether changes to the alcoholic beverage regulations in Chapter 3 are needed related to any proposed changes (not a land development regulation).

The proposed enactment period is lengthy, so that ample time is provided for public input and the Town is not constrained by short time limits for adoption. The enactment periods have been written so that the revisions can be adopted anytime within the time periods described and that multiple ordinances on a general topic can be brought forward for adoption.

**RECOMMENDATION:** It is recommended that the Commission hold the public hearing and approve the further processing of the proposed regulations which are the subject matter of the Notice of Intent.

**EXHIBITS:** A. Resolution 2011-01 and Notice of Intent

Reviewed by Town Attorney  
 Yes  No

Town Manager Initials *CS*

File: NOI Agenda Memo 7 items (Public Hearing)

**RESOLUTION NO. 2011-01**

**A RESOLUTION OF THE TOWN COMMISSION OF THE  
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA  
PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT  
CONCERNING PENDING LAND DEVELOPMENT  
REGULATIONS**

**WHEREAS**, Section 30-531 of the Code of Ordinances of the Town of Lauderdale-By-The-Sea (the "Code") provides for a procedure for the public and the development community to be notified of changes to the Town's land development regulations through the issuance of a notice of intent of pending land development regulations; and

**WHEREAS**, pursuant to Section 30-531(b) of the Code, the Town Commission shall authorize the investigation, study, development, drafting and consideration of all proposed amendments to the Town's land development regulations, and related comprehensive plan amendments; and

**WHEREAS**, the Town Commission, in the process of revising the permitted uses in business districts in Ordinance 2010-15, identified uses for possible inclusion in the business districts as "Conditional Uses" which require issuance of a notice of intent pursuant to Section 30-531(h) of the Code; and

**WHEREAS**, there is a need to provide a uniform approach to Conditional Use procedures and possibly to revise other development review procedures as needed; and

**WHEREAS**, an evaluation of the size of fuel storage tanks for generators within the Multi-family and Business Districts should be conducted to ensure the ability of facilities to comply with Florida Statutes; and

**WHEREAS**, the Town Commission has directed that the Notice of Intent procedures be reviewed to provide notice to the public while streamlining the Land Development Code

26 amendment process and providing flexibility in the adoption process to accommodate research  
27 and public input; and

28       **WHEREAS**, the Town Commission has directed a review of regulations addressing  
29 Walls and Fences; and

30       **WHEREAS**, the Town is working with Town residents and businesses and design  
31 professionals to develop a vision for the future of the Town; and

32       **WHEREAS**, revision of the architectural standards and review criteria to address this  
33 vision and achieve consistency between the Town's Master Plan and Land Development  
34 Regulations is being considered; and

35       **WHEREAS**, the Town Commission desires to study the potential for, and impacts of,  
36 providing for wine bar uses in certain zoning districts; and

37       **WHEREAS**, Section 30-531(f) of the Code provides for posted written notice of the  
38 pending amendments; and

39       **WHEREAS**, pursuant to Section 30-531(d) of the Code, the Town Commission shall  
40 hold a public hearing at the next Commission meeting following issuance of a notice of intent.  
41 and by majority vote shall either approve or disapprove the further processing of the proposed  
42 amendments.

43       **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF**  
44 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**

45  
46       **SECTION 1. Authorization.** Pursuant to Section 30-531 of the Code of Ordinances,  
47 the Town Commission authorizes the investigation, study, development, drafting and  
48 consideration of the proposed comprehensive plan amendments, as described in the Notice of  
49 Intent of Pending Comprehensive Plan Amendments attached hereto as Exhibit "A."

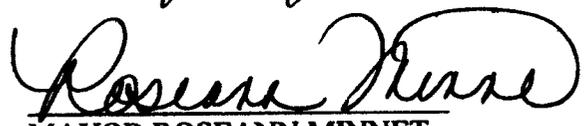
50           **SECTION 2. Effective date of notice.** The Town Commission hereby finds that the  
51 effective date of the Notice of Intent of Pending Land Development Regulations shall be January  
52 25, 2011.

53           **SECTION 3. Public hearing.** The Town Commission shall hold a public hearing  
54 concerning the Notice of Intent of Pending Land Development Regulations on February 22,  
55 2011, and approve or disapprove of the further processing of the proposed regulations.

56           **SECTION 4. Effective date of resolution.** This Resolution shall become effective  
57 immediately upon passage and adoption.

58           **PASSED AND ADOPTED** this 25<sup>th</sup> of January, 2011.

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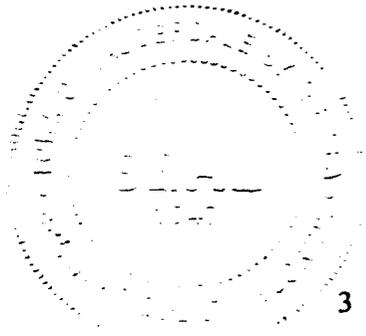
  
MAYOR ROSEANN MINNET

ATTEST:

  
June White, CMC Town Clerk

Approved as to form:

  
Susan L. Trevarthen, Town Attorney



**Exhibit "A"**  
**Notice of Intent of Pending Land Development Regulations**  
**Effective January 25, 2011**

**1. Statement of Purpose:** In accordance with Section 30-531 of the Code of Ordinances, the Town hereby issues this **Notice of Intent** to notify the public of proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"). Upon Town Commission approval of the further processing of the proposed regulations, the amendments will be scheduled for hearing and adoption by ordinance.

**2. Description of Proposed Amendments to Chapter 30 "Unified Land Development Regulations" of the Code of Ordinances:**

- a. Amending Section 30-261 and Section 30-271 to include Conditional Uses within the Business Districts.
- b. Amending Chapter 30 to address Conditional Use procedures and possibly to revise other development review procedures as needed.
- c. Amending Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts and address additional regulations related to generators.
- d. Amending Article IX, Notice of Intent of Land Development Regulations, Section 30-531 to streamline the Land Development Code amendment process and provide flexibility in the adoption process.
- e. Amending Section 30-313 regarding fencing and cement or concrete walls.
- f. Amending Section 30-9 and Section 30-124 (15) Architectural Standards and Review Criteria.
- g. Amending Section 30-261 and Section 30-271 to provide for wine bars within the Business Districts.
- h. Amending any code sections relating to the above referenced issues and sections as necessary to address the subject matter.

**3. Projected Time Frame for Adoption of Regulations and Plan Amendments:**

- |   |   |
|---|---|
| a. Public Hearing and Town Commission Approval to Proceed with Proposed Amendments: | <u>February 22, 2011</u>                |
| b. Planning and Zoning Board Meetings:  | <u>February, 2011 – September, 2011</u> |
| c. Adoption of Ordinances   | <u>February, 2011 – September, 2011</u> |

**4. Application of Pending Regulations:**

The proposed regulations shall become effective and applicable to development within the Town following second reading and adoption by ordinance.