
INTEROFFICE MEMORANDUM

TO: PLANNING AND ZONING MEMBERS
VIA: BUD BENTLEY, ASSISTANT TOWN MANAGER *BB*
FROM: JEFF BOWMAN, ZONING AND CODE SUPERVISOR *JB*
SUBJECT: PROPOSED AMENDMENTS TO THE NOTICE OF INTENT REGULATIONS - STAFF REPORT FOR THE JULY 20, 2011 P&Z MEETING
DATE: 7/6/2011

Brief Synopsis of Agenda Item

This item was discussed by the Town Commission with direction that Staff and the Town Attorney look at options for modifying the NOI procedure to shorten the process. Because the NOI procedure is itself a Land Development Regulation, an NOI for possible modifications to the process was approved at the January 25, 2011 Commission meeting.

Enacting a change to our Land Development Regulation would take an additional two (2) to three (3) months over what the statutory procedures provides. Amending Land Development Regulations pursuant to state statute involves a minimum of a public hearing, a 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 that stage, the proposed change is not normally well-defined.

We looked at several alternatives to the current NOI process, including exempting minor changes from the NOI process. We ended up keeping all Land Development Regulations changes in the NOI process but recommended:

1. Altering the process to save one month in the process. This is accomplished by the Commission holding a public hearing on the proposed resolution rather than adopting the resolution and then holding a later public hearing.
2. Adding language clarifying that multiple ordinances can be adopted under an NOI.
3. That the Commission would determine at what date development applications must conform to pending changes in regulations.
4. That the Commission may extend the time frame of the NOI and may amend the resolution authorizing the NOI.

The draft ordinance (**Exhibit 1**) is attached for your review.

Please call (954-776-3611) if you have any questions or would like to discuss our recommendations.

Attachments: Exhibit 1

AGENDA ITEM #1.

PROPOSED AMENDMENTS
TO THE
NOTICE OF INTENT REGULATIONS

EXHIBIT #1

ORDINANCE 2011-14

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE SEA, AMENDING SECTION 30-531, OF THE CODE**
3 **OF ORDINANCES TO AMEND REQUIREMENTS**
4 **RELATED TO NOTICE OF INTENT PROCEDURES;**
5 **PROVIDING FOR CODIFICATION, SEVERABILITY,**
6 **CONFLICTS AND AN EFFECTIVE DATE**

7
8
9 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code of
10 Ordinances (the "Code") are periodically necessary in order to ensure that the Town's land
11 development regulations are current and consistent with the Town's planning and regulatory
12 needs; and

13 **WHEREAS**, Section 30-531 "Notice of Intent", of the Code, provides an administrative
14 procedure for notifying the public and the development community when the Town undertakes
15 changes in the land development regulations, and for assuring that those development
16 applications filed during the time that such regulations are being developed will have to comply
17 with the eventually adopted regulations; and

18 **WHEREAS**, the Town Commission desires to revise the Notice of Intent provisions to
19 streamline them and provide greater flexibility in the timing of the adoption process for land
20 development regulations so that the Town Commission and/or Planning and Zoning Board can
21 accommodate additional research and community input without violating or needing to modify
22 the Notice of Intent; and

23 **WHEREAS**, Section 30-531 of the Code requires issuance of a Notice of Intent prior to
24 the processing of any amendment to the land development regulations in Chapter 30 of the Code,
25 and such notice was given of this amendment on January 25, 2011; and

ORDINANCE 2011-__

26 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has
27 reviewed this Ordinance at a duly noticed hearing on May 18, 2011 and recommended its
28 adoption; and

29 **WHEREAS**, the Town Commission conducted a first and second reading of this Ordinance
30 at duly noticed public hearings, as required by law, and after having received input from and
31 participation by interested members of the public and staff, the Town Commission has determined
32 that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the
33 Town, its residents, and its visitors.

34 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
35 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:**

36 **SECTION 1. Recitals.** The foregoing "Whereas" clauses are ratified and confirmed as
37 being true, correct and reflective of the legislative intent underlying this Ordinance and are
38 hereby made a specific part of this Ordinance.

39 **SECTION 2. Amendment.** Section 30-531, Notice of Intent, of Chapter 30, Unified
40 Land Development Code, is hereby amended¹ as follows:

41 **Section 30-531. Issuance of notice of intent; effect on proposed development.**

- 42 (a) *Statement of intent.*
- 43 (1) The Town, from time to time, will propose changes to the Land
44 Development Code of the Code of Ordinances of the Town of Lauderdale-
45 By-The-Sea.
- 46 (2) The purpose of this section is to provide an administrative procedure for
47 the public and the development community to be notified of certain
48 changes in the land development regulations, as defined herein, which
49 may impact proposed plans for development within the Town of
50 Lauderdale-By-The-Sea as early in the Code revision process as possible.
51 This will to best ensure that affected parties do not unnecessarily expend
52 time, money and resources on any proposed development projects which
53 will be subject to but in conflict with such amendments to land
54 development regulations.
55

¹ Words in ~~strike-through~~ type are deletions; words in underlined type are additions.

ORDINANCE 2011-__

56 (3) It is further the purpose of this section to ensure that ~~upon the issuance of~~
57 ~~the notice of intent, as hereinafter provided~~ subsequent to the date or point
58 in the development approval process at which the proposed development
59 regulations apply as designated in the Notice of Intent, no proposed land
60 development project affected by a pending regulatory change shall be
61 approved by any Town Officer, Official, Commission, Board, Agency or
62 Body, whether elected or appointed, unless it said proposed land
63 ~~development project~~ (i) conforms with the pending regulatory change
64 and/or (ii) the proposed land development project approval is conditioned
65 on such conformance pursuant to the pending regulatory change as
66 currently drafted or as finally approved, whichever is appropriate.

67
68 (b) *Regulations subject to notice of intent.*

- 69 (1) Pending regulations subject to the notice of intent procedure, as provided
70 within this section, shall include development regulations as defined by
71 F.S. § 163.3213, as amended from time to time, and comprehensive plan
72 amendments which are a condition precedent to land development
73 regulatory changes.
- 74 (2) Land development regulations which provide only for regulations of
75 residential accessory uses shall not be subject to this section.

76
77 (c) *Definitions. As used in this section:*

78 *Affected parties* includes persons owning property or persons owning or operating
79 a business within the boundaries of the Town of ~~Lauderdale By The Sea~~ whose
80 development application or application for a permit or license is pending.

81 *Development activity* means application for a master plan, site plan, rezoning,
82 building permit, variance, or business tax receipt.

83 (d) *Notice of intent authorization/effective date/ratification by Town Commission.*

- 84 (1) The Town Commission shall conduct a public hearing regarding the
85 investigation, study, development, drafting or consideration of changes to
86 any land development regulation and shall, by resolution, either approve
87 or disapprove, the further processing of the proposed regulation which is
88 the subject matter of the notice of intent.
- 89 (2) At the time the Town Commission approves the resolution, authorizes, by
90 resolution, the investigation, study, development, drafting or consideration
91 of a changes to any land development regulation that requires issuance of
92 a notice of intent, a notice of intent of the pending regulatory change shall
93 be issued. The effective date of the notice of intent shall be deemed to be
94 the date of said authorization approval by the Town Commission.
- 95 (3) Changes to the Code which implement the authorized changes may be
96 adopted in a single ordinance or multiple ordinances during the effective
97 period, including any time extensions, of the notice of intent.

ORDINANCE 2011-__

98 (2) ~~At the next Commission meeting following the notice of intent, members~~
99 ~~of the public shall have the opportunity to address the Town Commission~~
100 ~~in a public hearing format relative to a filed notice of intent. After the~~
101 ~~public hearing the Town Commission by majority vote shall either~~
102 ~~approve or disapprove the further processing of the proposed regulation~~
103 ~~which is the subject matter of the notice of intent.~~

104
105 (e) *Statement of purpose.* The notice of intent shall include:

- 106 (1) A statement of purpose;
- 107 (2) A brief description of the pending regulatory change which shall include
108 as much specificity as possible including an indication of the provisions of
109 the existing code that may require modification; recognizing however, that
110 changes may occur as the pending regulation proceeds through the
111 drafting, review, public meeting and public hearing process; ~~and. The~~
112 ~~description shall include a statement of the possible effect that the pending~~
113 ~~regulation may have on development. In addition, the description shall~~
114 ~~provide an indication of the provisions of the existing code that may~~
115 ~~require modification;~~
- 116 (3) A statement of the projected time frame for the adoption of any
117 ordinance(s) addressing the pending regulation(s), which shall be within
118 one year from the date of approval of the notice of intent if not specified
119 by the Commission.;
- 120 (4) A statement specifying the date, or point in the development approval
121 process, at which. of the point in the development approval process at
122 which all applications must either i) conform to the pending regulation(s),
123 or ii) be conditioned upon future compliance with the pending
124 regulation(s). the pending regulation would apply.

125
126 (f) *Posting of notice.*

- 127 (1) The notice of intent shall be posted, on the Town's website, and in a
128 conspicuous location in the development services department; and in a
129 ~~conspicuous location in Town Hall.~~
- 130 (2) From and after the issuance of the notice of intent, applicants for
131 appropriate licenses, permits, and other applicable development
132 applications, including but not limited to plats, site plans, rezonings,
133 variances, business tax receipts, and building permits, ~~shall be provided~~
134 ~~written notice of the pending land development regulatory changes which~~
135 ~~may potentially affect the applicant. Applicants shall shall be notified of~~
136 notices of intent relevant to their application be provided written notice by
137 certified or regular mail and through the availability of notices in the
138 development department, posting of notices on the Town's website, and
139 the by posting of the notices of intent as prescribed herein. To the extent
140 that affected parties have comments, they ~~may shall be afforded the~~
141 ~~opportunity to file written opinions or objections with the Development~~
142 Services Director.

ORDINANCE 2011-___

143 (3) Neither the failure of the Town to provide ~~written-posted~~ notice nor the
144 failure of an applicant for development to observe the posted notice ~~nor~~
145 ~~the failure of the Town to provide posted notice~~ shall invalidate the
146 applicability of this article to said applicant for development approval.

147
148 (g) *Implementation time frame.*

149 (1) A pending regulatory change that is subject to the notice of intent
150 procedure shall be considered by the Town Commission at a public
151 hearing within a the time period(s) prescribed in by the Town ~~at the time~~
152 ~~of the filing of the notice of intent.~~

153 (2) If additional time is required for study and deliberation, ~~due to the scope~~
154 ~~of the proposed regulatory changes or arising from procedural issues, upon~~
155 ~~a majority vote of the Town Commission~~ may amend the authorizing
156 resolution up to two times, to extend the time prescribed by the Town in
157 the notice of intent for a combined maximum of six additional months~~may~~
158 ~~be extended for an additional period of time approved by the Town~~
159 ~~Commission upon expiration of the initial period of time stated in the~~
160 ~~notice of intent.~~

161 (3) If no final action has been taken by the Town Commission within the time
162 limits set forth herein, the notice of intent will expire.

163 (h) *Effect on pending or proposed development permits.*

164 (1) ~~A notice of intent shall have no effect on any application for development~~
165 ~~activity (a master plan, site plan, rezoning, variance, building permit, or~~
166 ~~business tax receipt) pending for approval on December 12, 2000 or~~
167 ~~approved on or before December 12, 2000.~~

168 (2) ~~Except as provided in [subsection] (1) above, n~~No application for
169 development activity (a master plan, site plan, rezoning, variance, building
170 permit, or business tax receipt) shall be accepted for processing by the
171 Town following the date specified by the Town Commission in the Notice
172 of Intent, issuance of a notice of intent unless (i) said application conforms
173 with the pending regulatory change and/or (ii) the application is
174 conditioned on such conformance pursuant to the pending regulatory
175 change as currently drafted or as finally approved, whichever is
176 appropriate.

177
178 (i) *Evidence of general Strict compliance not required.* Evidence of general
179 compliance with the procedures and requirements of this section of the Code shall
180 be sufficient to preventsustain the land development regulation from being
181 invalidated for the failure to strictly comply with this section upon adoption.

182
183 (j) *Copies to Planning and Zoning Board.* The Planning and Zoning Board shall be
184 provided with a copy of all notices of intent upon issuance.
185

186 **SECTION 3. Codification.** This Ordinance shall be codified in accordance with the
187 foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall
188 become and be made a part of the Town of Lauderdale-by-the-Sea Code of Ordinances; and that the
189 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be
190 changed to "section", "article" or such other appropriate word or phrase in order to accomplish such
191 intentions.

192 **SECTION 4. Severability.** If any section, sentence, clause, or phrase of this Ordinance
193 is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding
194 shall in no way affect the validity of the remaining portions of this Ordinance.

195 **SECTION 5. Conflicting Ordinances.** All prior ordinances or resolutions or parts thereof
196 in conflict herewith are hereby repealed to the extent of such conflict.

197 **SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon
198 passage on second reading.

199 Passed on the first reading, this ___ day of _____, 2011.

200 Passed on the second reading, this ___ day of _____, 2011.

201
202
203
204

Mayor Roseann Minnet

205
206
207
208
209
210
211

Mayor Minnet
Vice-Mayor Dodd
Commissioner Clottey
Commissioner Sasser
Commissioner Vincent

First Reading	Second Reading
_____	_____
_____	_____
_____	_____
_____	_____

212 Attest:

213 _____

