



AGENDA
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD REGULAR MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, FEBRUARY 01, 2023 -- 6:00 PM

ROLL CALL and RECORDING OF ABSENCES:

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA

APPROVAL OF MINUTES:

- A. [January 18, 2023 Planning & Zoning Board Meeting Minutes](#)

CASES:

SWEARING IN OF STAFF AND APPLICANTS

PROOF OF PUBLICATION

- 1) [Ordinance 2023.02](#)

WITHDRAWALS / POSTPONEMENTS

PUBLIC HEARINGS:

BOARD DISCLOSURE

UNFINISHED BUSINESS:

NEW BUSINESS:

- A. [PZB Project Number 22-01500008: Consideration of a variance by Yolanda Silva at 731 South M Street to allow the installation of a shed between the principal structure and the public street. The subject site is zoned Single Family Residential \(SF-R\) and has a future land use designation of Single Family Residential \(SFR\).](#)
[Item was continued from the January 18, 2023 meeting.](#)
- B. [Ordinance 2023-02: Consideration of an ordinance amending Chapter 23 "Land Development Regulations," Article 2 "Administration," Division 3 "Permits," Section 23.2-39 "Affordable/Workforce Housing Program" to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy downs provisions.](#)

PLANNING ISSUES:

- A. Quarterly presentation by PZB member to City Commission on board activities - Discussion of content of 5 minute update to City Commission and selection of member to present update.

PUBLIC COMMENTS (3 minute limit)

DEPARTMENT REPORTS:

BOARD MEMBER COMMENTS:

ADJOURNMENT:

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

NOTE: ALL CITY BOARDS ARE AUTHORIZED TO CONVERT ANY PUBLICLY NOTICED MEETING INTO A WORKSHOP SESSION WHEN A QUORUM IS NOT REACHED. THE DECISION TO CONVERT THE MEETING INTO A WORKSHOP SESSION SHALL BE DETERMINED BY THE CHAIR OR THE CHAIR'S DESIGNEE, WHO IS PRESENT AT THE MEETING. NO OFFICIAL ACTION SHALL BE TAKEN AT THE WORKSHOP SESSION, AND THE MEMBERS PRESENT SHOULD LIMIT THEIR DISCUSSION TO THE ITEMS ON THE AGENDA FOR THE PUBLICLY NOTICED MEETING. (*Sec. 2-12 Lake Worth Code of Ordinances*)

Note: One or more members of any Board, Authority or Commission may attend and speak at any meeting of another City Board, Authority or Commission.



**MINUTES
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD REGULAR MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, JANUARY 18, 2023 -- 6:01 PM**

ROLL CALL and RECORDING OF ABSENCES: Present were: Juan Contin, Chairman; Dan Walesky, Vice-Chair; Mark Humm; Edmond LeBlanc; Alexander Cull; Evelin Urcuyo. Absent: Zade Shamsi-Basha. Also present were: Abraham Fogel, Senior Community Planner; Scott Rodriguez, Principal Planner; Erin Sita, Assistant Director for Community Sustainability; Elizabeth Lenihan, Board Attorney; Sherie Coale, Board Secretary.

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA

Motion: D. Walesky moves to approve the agenda as presented, E. LeBlanc 2nd.

Vote: Ayes all, unanimous.

APPROVAL OF MINUTES:

A. December 14, 2022 Regular Meeting Minutes

Motion: M. Humm moves to approve December 14, 2022 Regular meeting minutes as presented, A. Cull 2nd.

Vote: Ayes all, unanimous.

CASES:

SWEARING IN OF STAFF AND APPLICANTS Board Secretary administered oath to those wishing to give testimony.

PROOF OF PUBLICATION Provided in the meeting packet

1) 731 South M Street

WITHDRAWALS / POSTPONEMENTS: None

CONSENT: None

PUBLIC HEARINGS:

BOARD DISCLOSURE: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

A. PZB Project Number 22-01500008: Consideration of a variance by Yolanda Silva at 731 South M Street for the installation of a shed between the principal structure and the public street. The subject site is zoned Single Family Residential (SF-R) and has a future land use designation of Single Family Residential (SFR).

This item will be continued to the February 1, 2023, Planning and Zoning Board (PZB) meeting.

Motion: D. Walesky moves to continue PZB 22-01500008 to the February 1, 2023 Regular Board meeting, E. Urcuyo 2nd.

Vote: Ayes all, unanimous.

B. PZB Project Number 22-00000024: A request by 1017 Lake Ave, LLC., for The Bohemian at 101 South East Coast Street for the establishment of a mural on the western building façade to replace existing signage and for the approval of a previously installed mural painted on the northern garage façade. The subject site is zoned Transit Oriented Development East (TOD-E) and has a future land use designation of Transit-Oriented Development (TOD).

Staff: A. Fogel present case findings and analysis. This is a request for the already installed mural as well as a new mural replacing existing signage. Since the development was approved as a Planned Development, it was conditioned there would be limited commercial signage. Similar to a previous project in which the Board determined that not all of the mural was construed to be a commercial message.

In particular the text BOHO. Board should determine

Board: How will the existing Bohemian signage be removed. Suggestion to sandblast to maintain the look.

Owner: Kemissa Colin of 1017 Lake Ave Affiliated Development LLC - 613 NW 3rd Ave Ft. Lauderdale. Artist states he intends to paint over.

Staff: When the signage was originally approved it was conditioned that only 20% of the mural would contain commercial messaging and 80% artwork. It was installed as presented at that meeting, not as conditioned. Similar to a recent brewery mural approval, is BOHO is different enough to constitute a mural? Or is it signage and be reduced to meet the 80/20 requirement?

Board: Struggle to see it as more of an art piece rather than signage. Or is it the nickname of the building, an identity, not selling or attracting potential buyers. Would look nice without the BOHO. Is it branding?

Owner: As there is no other place in the building where there is a reference to BOHO, it is not being used for marketing or branding.

Board: Different from other murals in that it is not all over the building façade. Should stick to the 20% and work with staff to revise so that the BOHO message is reduced.

Staff: Any increase in the mural area would require the mural to come back before the Board.

Motion: D. Walesky moves to approve PZB 22-00000024 with staff recommended Conditions of Approval; A. Cull 2nd.

Vote: Ayes all, unanimous.

PLANNING ISSUES: City Commission updates and designee to provide report. The Board will meet again prior to the first quarterly report. Discussion at the next Board meeting will include what will be brought forward to the Commission and who will present.

PUBLIC COMMENTS (3 minute limit) None

DEPARTMENT REPORTS: None

BOARD MEMBER COMMENTS: Thanks for Workforce Housing information.

ADJOURNMENT: 6:34 PM

Public Notice

Legal Notice No. 41549

ORDINANCE 2023-02

PLEASE TAKE NOTICE that the City of Lake Worth Beach's Planning and Zoning Board (PZB) will conduct a meeting at 7 N Dixie Highway, Lake Worth Beach on **February 1, 2023** at 6:00 pm or soon thereafter, and the Historic Resources Preservation Board (HRPB) will also conduct a meeting on **February 8, 2023** at 6:00 pm or soon thereafter to consider the following ordinance:

ORDINANCE 2023-02 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 SECTION 23.2-39 "AFFORDABLE /WORKFORCE HOUSING PROGRAM," PROVIDING FOR CLARIFICATION ON COMBINATION OF INCENTIVES, QUALIFICATIONS FOR AFFORDABILITY AND PARTICIPATION IN OTHER ENTITY PROGRAMS AND PROVIDING FOR ADDITIONAL AFFORDABILITY BUY DOWN PROVISIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

The public can view the meeting via YouTube at <https://www.youtube.com/c/CityofLakeWorthBeach>. The agenda and back-up materials are available at: <https://lakeworthbeachfl.gov/government/commission-agendas-and-minutes/>

Public comment will be accommodated in person at the meeting, or virtually prior to the meeting through the web portal: <https://lakeworthbeachfl.gov/virtual-meetings/>. If you are unable to access the web portal, please email pzoning@lakeworthbeachfl.gov for a comment to be read into the record by a staff member. Written responses or comments can be sent to the Department for Community Sustainability Planning and Zoning Division, 1900 2nd Avenue North, Lake Worth Beach, FL 33461 and must arrive before the hearing date to be included in the formal record.

For additional information, please contact City Staff at 561-586-1687 or email pzoning@lakeworthbeachfl.gov. If a person decides to appeal any decision made by the Board, Agency, or Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the provisions of the American with Disabilities Act (ADA) this document may be requested in an alternative format. **Persons in need of special accommodation** to participate in this proceeding are entitled to the provision of certain assistance. **Please call 561-586-1687 or email pzoning@lakeworthbeachfl.gov no later than five (5) days before the hearing if assistance is required.**

Publish: The Lake Worth Herald
January 19, 2023

PLANNING AND ZONING BOARD REPORT

PZB Project Number 22-01500008: Consideration of a variance by Yolanda Silva at 731 South M Street to allow the installation of a shed between the principal structure and the public street. The subject site is zoned Single Family Residential (SF-R) and has a future land use designation of Single Family Residential (SFR).

Meeting Date: January 18, 2023

Property Owner/Applicant: Yolanda Silva

Address: 731 South M Street

PCNs: 38-43-44-21-15-215-0160

Size: 0.15-acre lot / ±1,400 square feet of existing structures

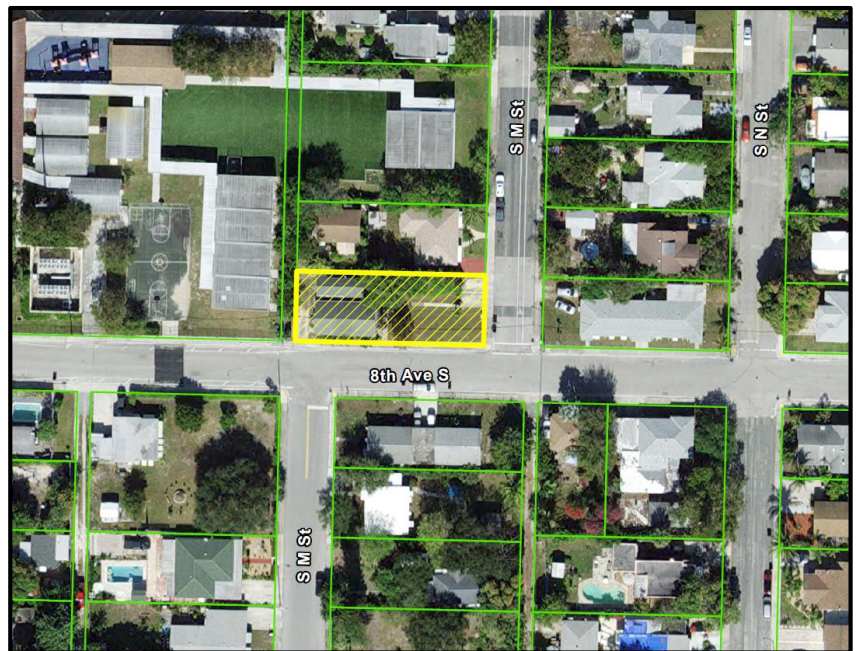
General Location: Northwest corner of South M Street and 8th Avenue South

Existing Land Use: Two-Family Residential

Current Future Land Use Designation: Single Family Residential (SFR)

Zoning District: Single Family Residential (SFR)

Location Map



RECOMMENDATION

The documentation and materials provided with the application request were reviewed for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs) and for consistency with the Comprehensive Plan and Strategic Plan. The proposed variance request is consistent with the variance criteria in the LDRs. Therefore, staff is recommending approval of the subject variance application.

PROJECT DESCRIPTION

The applicant, Yolanda Silva, is requesting a variance to allow a 10'x12', 120 sf shed (accessory structure) within the front yard at 731 South M Street. The site, 731 South M St, is a single-family zoned property located on the Northwest corner of South M Street and 8th Avenue South. The lot currently houses a 924 square foot primary residence and a 480 square foot accessory dwelling unit. The subject site is surrounded by single-family zoned properties to the north, east, and south and an elementary school to the west zoned Public (P).

COMMUNITY OUTREACH

Staff has not received letters of support or opposition from adjacent or nearby neighbors.

BACKGROUND

The subject site is a 6,750 square foot residential lot. Below is a timeline summary of the residential property based on Palm Beach Property Appraiser's records and City records:

- 1945 – Permit #7098 was issued for the construction of two (2) single-family residences.
- 1946 – Permit #7295 was issued for the construction of a garage/ washroom.
- 1950 – The garage was enlarged and converted into a dwelling unit per permit #1207.
- August 28, 1997 – One (1) of the three (3) single-family residences located on the property caught fire.
- September 2, 1997 – The structure where the fire occurred was deemed unsafe by the building official.
- December 19, 1997 – The property received a building permit for the demolition of the unsafe structure.
- November 4, 2022 – A variance application was submitted to the Department of Community Sustainability for the location of the shed.
- January 5, 2023 – A search of the City's database shows that there are no active code cases associated with this property.

ANALYSIS

Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Single Family Residential (SFR). Per Policy 1.1.1.2, the SFR future land use area is intended primarily to permit development of single-family structures at a maximum of 7 dwelling units per acre. Single-family structures are designed for occupancy by one family or household. Single-family homes do not include accessory apartments or other facilities that permit occupancy by more than one family or household. Residential units may be site-built (conventional) dwellings, mobile homes or modular units. There are currently two single-family residences on the subject property that are legal non-conforming structures and uses. The variance being sought does not change the use of the property, which will remain two family. Therefore, the proposal is generally consistent with Policy 1.1.1.2 of the Comprehensive Plan. The subject variance is associated with the placement of a shed in front of the principal structure, which is a minor change to the appearance of the property overall. As such, review of the strategic plan is not applicable to an improvement of this scale.

Based on the analysis above, the proposed variance is consistent with the goals, objectives, and policies of the City of Lake Worth Beach’s Comprehensive Plan and staff recommends that the PZB approve the subject request.

Consistency with the City’s Land Development Regulations

Per Section 23.2-26, variances are authorized for height, area, size of structures, size of yards, parking requirements, and other area requirements and open spaces. The Department of Community Sustainability is tasked in the Code to review variance applications for consistency with the City’s LDRs, for compliance with the findings for granting variances (analyzed in the next section), and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

Staff Analysis: The proposed shed is generally consistent with the LDR requirements for accessory structures with the exception of the location. The proposed shed location, which is between the principal structure and the public right-of-way, is in conflict with LDR Sections 23.1-12 and 23.3-7. Shed is consistent with the side setback and lot coverage requirements of the single family residential (SFR) zoning district. The applicant has requested relief from the code limitations by applying for the variance.

Zoning Analysis		
Development Standard	Base Zoning District Single-Family Residential (SFR)	Provided
Lot Size (min)	5,000 sf	6,750 sf
Lot Width (min)	50’	50’
Accessory Structure Setbacks (Shed)	Front	41’
	Rear	82’
	Side	5’
Impermeable Surface Coverage (max)	55%	41.05%
Structure Coverage (max)	35%	22.75%

Variance Requests		
LDR Citation	Required	Proposed
Accessory Structure Location (Section 23.1-12)	May not be constructed between any principal structure and a public street right-of-way.	Shed to be constructed in the front yard, between the principal structure and a public street right-of-way.
Accessory Structure Location (Section 23.3-7)	Shall be allowed within the rear or side yards of a double front or corner lot between the main structure and a public street, provided that minimum setbacks are maintained.	Shed to be constructed in the front yard, between the principal structure and a public street right-of-way.

The data and analysis below review the application against the regular findings for approval of all variance requests:

Section 23.2-26(b) Regular findings of approval

The land development regulations require all variance requests to be analyzed for consistency with Section 23.2-26(b). Staff has reviewed the application against this section and the analysis is outlined as follows:

1. Special circumstances or conditions exist which are peculiar to the land or building for which the variance is sought and do not apply generally to nearby lands and buildings, and is not the result of action of the applicant.

Staff Analysis: Based on the siting of the structure, the rear (west) setback of the principal structure is 4.5 feet. The property owner contends that there is no space in the backyard for a shed. With the existing 4.5 feet of space and the required 5-foot rear setback for accessory uses, there is not enough space from the exterior wall of the house to the required setback to install a shed. Additionally, the side yards behind the front building line ranges between 4.6 to 5 feet which is not sufficient space to install a shed. The only feasible shed location is between the principal structure and the public street. Based on the existing siting of the structure, staff concurs that there are special circumstances or conditions that are peculiar to the land and building that do not apply generally to the nearby lands and buildings. **Meets Criterion.**

2. The strict application of the provision of these LDRs would deprive the applicant of any reasonable use of the land or building for which the variance is sought.

Staff Analysis: The subject property has accommodated a two-family use for several decades. Strict application of the LDRs would not deprive the applicant's continued use of the residences. However, a shed is a reasonable expectation for a property that contains two single-family structures for additional storage of tools and miscellaneous objects to keep the site visually pleasing. Per the City's Land Development Regulations (LDRs) Sections 23.1-12 and 23.3-7, accessory structures may not be constructed between any principal structure and a public street right-of-way. The applicant contends that a shed is an accessory structure necessary for the reasonable use of the property. **Meets Criterion.**

3. The variance proposed is the minimum variance which makes possible the reasonable use of the land or building

Staff Analysis: The property resides on the Northwest corner of 8th Avenue South and South M Street. The proposed shed will be setback approximately 41 feet from the east property line. However, the property's configuration does not allow the applicant to accommodate a shed in a location allowed by the City's current LDRs. The proposed shed will comply with the front and side setbacks as stated in LDR section 23.3-7 *Minimum front setback shall be twenty (20) feet and minimum side setback shall be ten (10) percent of lot width (5 feet for a 50-foot wide lot).* Staff finds that the proposed variance is reasonable to accommodate the proposed shed's location and size. **Meets Criterion.**

4. The granting of the variance will be in accordance with the spirit and purpose of this chapter, and will not be unduly injurious to contiguous property or the surrounding neighborhood nor otherwise detrimental to the public welfare.

Staff Analysis: Although the character of the neighborhood does not include accessory structures between the principal structure and public right of way, this request would not be unduly injurious to adjacent properties and would allow for reasonable expectation of storage in a residential zoning district due to the increased front setback of 41 feet. Staff is recommending a condition of approval to require landscaping to screen the proposed shed from the public rights of way, therefore minimizing the visual impact to the surrounding properties. The applicant states that the purpose of the proposed shed is to protect her belongings from further break-ins and additional robberies due to a lack of safe storage for tools. **Meets Criterion.**

CONCLUSION AND CONDITIONS

Based on staff's analysis, the variance request complies with all the variance criteria outlined above. Therefore, staff is recommending approval of this application with conditions:

1. The shed shall not exceed the maximum of 144 square feet as consistent with LDR Section 23.3-7.
2. The shed shall comply with all minimum setback requirements as established in LDR section 23.3-7.
3. Shed shall have a landscape screen as approved by the city horticulturist to minimize visual impact to the surrounding properties. The landscape screen shall include also include a shade tree, if feasible. The landscape plan shall be included with the building permit for the proposed shed.
4. A full zoning review will be completed at the time of building permit. Note that additional comments may arise.

BOARD POTENTIAL MOTION:

I MOVE TO APPROVE PZB PROJECT NUMBER 22-01500008 with staff recommended conditions for a **variance** to the accessory structure location to allow the installation of a shed between the principal structure and the public street, for the property at 731 South M Street. The application meets the variance criteria based on the data and analysis in the staff report.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 22-01500008 for a **variance** to the accessory structure location to allow the installation of a shed between the principal structure and the public street. The project does not meet the variance criteria for the following reasons [Board member please state reasons.]

Consequent Action: *The Planning & Zoning Board's decision will be the final decision for the Variance. The Applicant may appeal the Board's decision directly to circuit court.*

ATTACHMENTS

- A. Application Package (survey & supporting documents)



DATE: January 23, 2023

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: February 1 & 8, 2023

SUBJECT: **Ordinance 2023-02:** Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy downs provisions.

PROPOSAL / BACKGROUND/ ANALYSIS:

The recently adopted (10/6/2022) Ordinance 2022-12 created the City’s Affordable/Workforce Housing Program to encourage the development of affordable and/or workforce housing units within the City. The program allows several incentives, including a 15% density bonus and additionally flexibility in unit size, parking requirements and financial incentives provided that no less than 15% of the total dwelling units are deed restricted as affordable. The City Commission has subsequently directed staff to develop additional affordability buy down options. Further, in the recent implementation of the ordinance, staff has identified some minor housekeeping changes that would provide additional clarity on the program’s implementation.

The proposed ordinance would amend the recently adopted new section of the LDR in Chapter 23 of the City’s Code of Ordinances:

- Article 2, Section 23.2-39 – Affordable/Workforce Housing Program

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2023-02.

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in Ordinance 2023-02.

Attachments

- A. Draft Ordinance 2023-02

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

ORDINANCE 2023-02 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING PROGRAM,” PROVIDING FOR CLARIFICATION ON COMBINATION OF INCENTIVES, QUALIFICATIONS FOR AFFORDABILITY AND PARTICIPATION IN OTHER ENTITY PROGRAMS AND PROVIDING FOR ADDITIONAL AFFORDABILITY BUY DOWN PROVISIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City wishes to amend Chapter 23, Article 2 “Administration,” to amend, Section 23.2-39 – Affordable/Workforce Housing Program to provide for additional buy down options for the affordable/workforce housing program within the City of Lake Worth Beach; and

WHEREAS, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Planning and Zoning Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the Historic Resources Preservation Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the City Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the City, its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this ordinance as if set forth herein.

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97

Section 2: Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Section 23.2-39 “Affordable/Workforce Housing Program” is hereby amended to read as follows:

Sec. 23.2-39. – Affordable/Workforce Housing Program.

- a) *Intent.* The Affordable/Workforce Housing Program is intended to implement Objective 3.1.2 of the city comprehensive plan future land use element and provisions therein regarding affordable and workforce housing. The Affordable/Workforce Housing Program provides for a density bonus and a reduction in overall housing unit areas for developments that incorporate residential units with restrictive covenants that meet the requirements of the program.

- b) *Purpose.* The purpose of the Affordable/Workforce Housing Program is to encourage the inclusion of affordable and workforce housing units within both residential and mixed-use projects as well as planned developments of all types to provide for broader and more accessible housing options within the City. The Affordable/Workforce Housing Program offers the following as “Program Incentives”;
 - 1. Tier One: may apply to all development projects consistent with the provisions of this section
 - (a) Up to a fifteen percent (15%) increase in overall project density;
 - (b) Up to a fifteen percent (15%) reduction in the gross area requirements based on unit type;
 - (c) Up to a twenty five percent (25%) reduction in required parking, provided that each residential dwelling unit is provided at least one (1) parking space. This reduction may not be combined with other parking reduction provisions of these LDRs;
 - (d) Any additional density and/or other benefits provided under this tier shall require that those units benefiting from the provisions be restricted as affordable/workforce housing meeting the requirements of this section through a restrictive covenant.
 - (e) Additional financial incentives may be considered on a case by case basis by the applicable decision-making entity if the project provides more affordable/workforce units that the minimum required.
 - 2. Tier Two: applies to all projects utilizing other city incentive and/or bonus program(s)
 - (a) For all projects utilizing any other city incentive or bonus program(s), fifteen percent (15%) of the total number of dwelling units within the project must be restricted as affordable/workforce dwelling units meeting the requirements of this section through a restrictive covenant.
 - ~~(b) Any combination of Tier One incentives with other city incentive and/or bonus program(s) related to density, intensity and/or height shall require that all units benefiting from these increases and/or incentives~~

98 ~~be restricted as affordable/workforce dwelling units meeting the~~
99 ~~requirements of this section through a restrictive covenant.~~

100 3. Tier One and Tier Two Combination: applies to all projects that combine the Tier
101 One Incentives with other available city incentives

102 (a) For all projects combining a Tier One density incentive with other City incentive
103 and/or bonus program(s) related to density, all units benefitting from the
104 additional density incentive under Tier One shall be restricted as
105 affordable/workforce dwelling units meeting the requirements of this section
106 through a restrictive covenant in addition to the units required to be restricted
107 under (Tier Two) other city incentive and/or bonus program(s).

108
109 c) *Application and Review Process.*

110
111 1. *Application.* All development proposals seeking increased density of up to
112 fifteen percent (15%) and/or reductions in overall unit sizes of up to fifteen
113 percent (15%) shall submit an affordable/workforce housing program
114 application as provided by the department of community sustainability. The
115 application shall accompany the standard City of Lake Worth Beach Universal
116 Development Application for the development proposal. The
117 affordable/workforce housing program application shall include all of the
118 following:

119
120 (a) A project fact sheet with building specifications including the number of
121 additional units, unit types and unit sizes proposed.

122
123 (b) The affordability criteria for each unit proposed to be included in the project.

124
125 (c) Draft restrictive covenant should the City's version not be submitted.

126
127 (d) Any other additional information (d) ensure the timely and efficient evaluation
128 of the project by city staff to ensure that the requirements of the
129 Affordable/Workforce Housing Program are being met.

130
131 (e) Intent to meet the requirements of the Affordable/Workforce Housing
132 Program through participation in another entity's program, including
133 relevant program criteria and restrictive covenant.

134
135 2. *Review/decision.* The development review official shall review the application
136 along with the zoning approvals otherwise required of the development
137 proposal under these LDRs. Development applications that require further
138 review or approval by a decision-making board shall also include the
139 development review official's recommendation regarding the award of
140 additional density and/or unit size reduction under the Affordable/Workforce
141 Housing Program. Any decision on the award shall be made by the planning
142 and zoning board, the historic resources planning board, or the city commission
143 as applicable. A decision on an award may be appealed under the procedures
144 applicable to the development application with which it is associated. No waiver
145 or variance may be granted regarding the award. The award of bonus density,

146 height or intensity under the Affordable/Workforce Housing Program shall be
147 based on the following criteria:

- 148
- 149 (a) Is the award calculated correctly, consistent with the density and unit size
150 reduction(s) that are allowed under the Affordable/Workforce Housing
151 Program, including that the affordable/workforce housing unit type mix be
152 reflective of the overall unit type mix for the entire project;
- 153
- 154 (b) Do the proposed income restrictions meet the intent of the
155 Affordable/Workforce Housing Program;
- 156
- 157 (c) Do the proposed annual rents and/or mortgage costs meet the intent of the
158 Affordable/Workforce Housing Program; and
- 159
- 160 (d) Do the proposed restrictive covenants to maintain affordability meet the
161 intent of the Affordable/Workforce Housing Program?
- 162

163 d) *Qualifying income restrictions.* The following provisions outline the required
164 income limits and overall percentage of household income to qualify units as being
165 affordable/workforce under the Affordable/Workforce Housing Program. All
166 income values shall be based on the then current area (County) median household
167 income published annually by the US Department of Housing & Urban
168 Development. Whether with a rental unit or for a fee simple, for sale unit, the
169 overall housing expense (rent, mortgage, property taxes, and insurances) for the
170 unit shall not exceed thirty percent (30%) of the income limit provided for each unit
171 type, based upon the number of bedrooms.

- 172
- 173 1. For a studio unit, the annual gross household income shall not exceed forty five
174 percent (45%) of area median income and minimum household size is one (1)
175 person, not to exceed two (2) people.
- 176
- 177 2. For a one-bedroom unit, the annual gross household income shall not exceed
178 sixty five percent (65%) of the area median income and minimum household
179 size of one (1) person, not to exceed two (2) people.
- 180
- 181 3. For a two-bedroom unit, the annual gross household income shall not exceed
182 eighty five percent (85%) of the area median income and minimum household
183 size of two (2) people, not to exceed two (2) people per bedroom.
- 184
- 185 4. For a three-bedroom unit, the annual gross household income shall not exceed
186 one hundred and five percent (105%) of the area median income and minimum
187 household size of three (3) people, not to exceed two (2) people per bedroom.
- 188
- 189 5. For a four or more-bedroom unit, the annual gross household income shall not
190 exceed one hundred and twenty five percent (125%) of the area median income
191 and minimum household size of four (4) people, not to exceed two (2) people
192 per bedroom.
- 193

194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241

6. For fee simple ownership, the limits provided above may be increased by fifteen (15%) based on unit type and shall include the overall housing expense.

7. Alternatively, if participating in another entity's program, the income restrictions may adhere to the following guidelines singularly or in combination, predicated that the restrictions meet the requisite criteria of the alternative program selected.
 - a. "Affordable Housing Eligible Households" means a household with an annual gross household income at or less than eighty percent (80%) of the Area Median Income, calculated as percentages of the Median Family Income for Palm Beach County, as published annually by the US Department of Housing and Urban Development.

 - b. "Workforce Housing Eligible Households" means a household with an annual gross household income within the following income categories: Moderate (80%-100%) and Middle (101%-140%) of the Area Median Income, calculated as percentages of the Median Family Income for Palm Beach County, as published annually by the US Department of Housing and Urban Development.

- e) *Additional restrictions.* The following requirements outline the restrictive covenant that shall be recorded and maintained on each unit awarded under the Affordable/Workforce Housing Program.
 1. The restrictive covenant shall be in a legal form acceptable to the department of community sustainability and the city attorney's office or as otherwise provided by the city and shall require each unit awarded be maintained at the awarded level of affordability, in accordance with the Affordable/Workforce Housing Program, for a minimum of twenty-five (2025) years.

 2. The restrictive covenant shall include the more restrictive program requirements, which shall govern the project if other affordable/workforce housing incentives are combined with use of the Affordable/Workforce Housing Program.

 3. The restrictive covenant shall require an annual report of the project's compliance with the restrictive covenants and the requirements of the Affordable/Workforce Housing Program be provided to the City or its designee for evaluation, review and approval. Should the annual report not be submitted or should it demonstrate the project is not meeting the requirements of the Affordable/Workforce Housing Program, the project owner shall pay the city, as a penalty, an amount no less than fifteen dollars (\$15) per square foot for each unit that did not comply with the program's requirements for the previous year, or portion thereof. If the report is not submitted, the penalty payment will be calculated as though no units met the requirements of the Affordable/Workforce Housing Program for the reporting period. The per square foot penalty value may increase based on the annual U.S. Consumer Price Index (CPI) and shall

242 be reflected in the City's adopted annual Schedule of Fees and Charges. Any
243 required penalty payment shall be made within ten (10) days of notification from
244 the city of the calculated payment based on the report or failure to submit the
245 report and the annual penalty value as adopted by the city.
246

- 247 4. The restrictive covenant shall provide for extension of the affordability period,
248 as set forth in this section. If the property is qualified through its participation in
249 another entity's affordability program, a separate restrictive covenant may be
250 utilized to provide for the extension of the affordability period in accordance
251 with the terms of this section.
252

253 f) *Financial incentives.* The following are parameters for financial incentive values
254 based on unit type, which may be utilized to ensure more than the required fifteen
255 percent (15%) of the dwelling units available after the density increase incentive
256 remain affordable for a guaranteed twenty-five (25) year period as governed
257 through a covenant and/or deed restriction. Values may be paid through utilization
258 of Sustainable Bonus Incentive Values, Transfer Development Right Values or
259 cash payments from the City from the Affordable/Workforce Housing Program
260 Trust Fund, Sustainable Bonus Incentive Trust Account or the Transfer
261 Development Rights Trust Account or other legally approved funding source(s).
262

- 263 1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent of
264 the area median income, whichever is greater;
265
266 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75%
267 percent of the area median income, whichever is greater;
268
269 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100%
270 percent of the area median income, whichever is greater;
271
272 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125%
273 percent of the area median income, whichever is greater;
274
275 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or
276 150% percent of the area median income, whichever is greater;
277
278 6. For a fee simple ownership dwelling unit, an additional one-time payment of
279 \$25,000 may be provided; and
280
281 7. Payments shall be made at time of dwelling units receiving a final certificate of
282 occupancy or certificate of completion.
283

284 g) *Affordability extension(s).* The City shall have the express right, in its sole
285 discretion, to extend the affordability deed restrictions and covenants for another
286 period of no less than twenty-five (25) years) through the provision of a then current
287 economic incentive payment based on unit size. The affordability extension shall
288 be available to the City pursuant to this subsection regardless of whether the

289 original affordability period was under the Affordable/Workforce Housing Program
290 or another entity's program.

- 291
- 292 1. The City shall provide formal notice of intent to extend affordability of units a
293 minimum of six (6) months prior to the expiration of the affordability deed
294 restrictions and covenants.
 - 295
 - 296 2. The City's notice shall include the number and type of units having affordability
297 extended and the economic incentive to be provided for those units.
 - 298
 - 299 3. The affordability extension may not exceed the original number and type of
300 units governed by the Affordable/Workforce Housing Program.
 - 301
 - 302 4. There shall be no limit on the number of affordability extensions the city may
303 fund for a project.
 - 304
 - 305 5. The extension incentive payment shall follow the parameters as set forth in f)
306 of this section based on the values established for the year that the extension
307 is authorized.
 - 308
 - 309 6. Financial incentives and buy-down options, if part of the original approval, may
310 each also be extended by mutual agreement of the City and the property
311 owner(s) and payment by the City under the provisions of those sections at the
312 time of the extension.
 - 313
 - 314 7. If the original affordability period was under another entity's program, upon the
315 City's notice of intent to extend affordability the covenant and/or deed restriction
316 may be extended as-is or may be amended to comply with the provisions of the
317 Affordable/Workforce Housing Program instead of the other entity's program,
318 consistent with the provisions in the original recorded covenant and/or deed
319 restriction providing for the affordability extension.

320

321 h) Additional Buy Down Provisions for Affordability. The following are parameters for
322 additional buy down values based on unit type, which may be utilized to reduce
323 the individual unit type household income limits by an additional fifteen percent
324 (15%) in order to provide expanded affordability for a guaranteed twenty-five (25)
325 year period as governed through a covenant and/or deed restriction. Values will
326 be paid as cash payments from the City from the Affordable/Workforce Housing
327 Program Trust Fund or other legally approved funding source(s).

- 328
- 329 1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent
330 of the area median income, whichever is greater;
 - 331
 - 332 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75%
333 percent of the area median income, whichever is greater;
 - 334
 - 335 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100%
336 percent of the area median income, whichever is greater;

- 337
338
339
340
341
342
343
344
345
346
347
348
349
4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125% percent of the area median income, whichever is greater;
 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or 150% percent of the area median income, whichever is greater;
 6. For a fee simple ownership dwelling unit, an additional one-time payment of \$25,000 may be provided; and
 7. Payments shall be made at time of dwelling units receiving a final certificate of occupancy or certificate of completion.

350
351
352
353
354

i) *Policies and Procedures.* The city's director for community sustainability is hereby authorized to establish policies and procedures including covenants, accountability and reporting to ensure effective implementation of the Affordable/Workforce Housing Program and clarify the requirements and procedures as set forth herein.

355
356
357

j) *Trust Fund.* There is hereby established an Affordable/Workforce Housing Program Trust Fund. The trust fund will be a separate line item in the City's budget.

- 358
359
360
361
362
363
364
365
366
367
368
369
1. Payments required by the Affordable/Workforce Housing Program due to non-compliance with restrictive covenants shall be paid into the trust fund.
 2. Funds in the trust fund will be used to fund the financial incentives and the affordability extensions under the Affordable/Workforce Housing Program.
 3. At least once each fiscal period, the city manager shall present to the city commission a report on funds held in the trust fund, including any accrued interest, and any proposed use thereof. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the trust fund until the next fiscal period.

370
371
372
373

k) *In Lieu Payment Provision.* In some instances, projects including Density, Intensity and/or Height Bonuses may not be appropriate for participation in the Program. In these cases, the project may pay an in lieu of payment based on the following provisions;

- 374
375
376
377
378
379
380
381
382
383
384
1. The fee shall be calculated on fifteen percent (15%) of the gross area of the bonuses requested for the project.
 2. The fee shall be a one-time payment of \$50 or 0.0625% of the area median income, whichever is greater, per gross square foot.
 3. Projects eligible for an in lieu of payment may include the following:
 - i. Single or multiple use projects that do not include a residential use;
 - ii. Mixed use projects that include residential and fewer than 25 residential units;
 - iii. Residential only projects that include fewer than 15 residential units;
 - iv. Any project that includes a residential use(s) and all of the dwelling units are for sale, home ownership such as condominiums,

385 townhouses and/or single-family residences of which none are deed
386 restricted as affordable/workforce housing.

387 4. Fee payment shall be due prior to issuance of any building permits related
388 to the project.

389
390 I) *Exemptions.* Projects in specific locations are exempt from the requirements of
391 this section due to their maximum allowed density and/or to their allowed uses.

392 1. Individual residential dwelling units in the Single Family Residential (SF-R)
393 and Single Family/Two Family Residential (SF/TF) Zoning Districts unless
394 units are part of a project requesting additional densities under the
395 provisions of one of the city’s incentive programs.

396 2. Projects within the Public (P), Public Recreation and Open Space (PROS),
397 Beach and Casino (BAC), Conservation (C) and Industrial Park of
398 Commerce (I-POC) Zoning Districts.

399

400 **Section 4:** Severability. If any section, subsection, sentence, clause, phrase or
401 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
402 competent jurisdiction, such portion shall be deemed a separate, distinct, and
403 independent provision, and such holding shall not affect the validity of the remaining
404 portions thereof.

405

406 **Section 5:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in
407 conflict herewith are hereby repealed to the extent of such conflict.

408

409 **Section 6:** Codification. The sections of the ordinance may be made a part of
410 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
411 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or
412 any other appropriate word.

413

414 **Section 7:** Effective Date. This ordinance shall become effective 10 days after
415 passage.

416

417 The passage of this ordinance on first reading was moved by _____, seconded by
418 _____, and upon being put to a vote, the vote was as follows:

419

420 Mayor Betty Resch

421 Vice Mayor Christopher McVoy

422 Commissioner Sarah Malega

423 Commissioner Kimberly Stokes

424 Commissioner Reinaldo Diaz

425

426 The Mayor thereupon declared this ordinance duly passed on first reading on the
427 ____ day of _____, 2023.

428

429

430 The passage of this ordinance on second reading was moved by
431 _____, seconded by _____, and upon being put to a vote,

432 the vote was as follows:

433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454

Mayor Betty Resch
Vice Mayor Christopher McVoy
Commissioner Sarah Malega
Commissioner Kimberly Stokes
Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2023.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk