

Staff Report

File #: LN-141

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Meeting Date: JUNE 23, 2021

NONCONFORMING STRUCTURE TEXT AMENDMENT

Request: Text Amendment to Section 155.7304.B
Project Planner Jean Dolan (954-786-4045 / jean.dolan@copbfl.com)

Summary:

The City of Pompano Beach is using the small-scale amendment process to correct the underlying land use for the Hillsboro Light Towers and The Claridge condominiums built in 1972-73 in an underlying commercial land use category. Hillsboro Light Towers is located at 2639 North Riverside Drive and The Claridge Condominium is located at 1340 South Ocean Boulevard. Neither the City or County have been able to identify how these residential buildings were built in the commercial land use category which has been these properties' designation for as far back as the records are available (1977). Since this incorrect land use designation is causing problems for the property owners when transferring and insuring their condo units, the City is moving forward to correct the erroneous land use designation on both the City and County Land Use Plans.

The Claridge has 198 units on approximately 3.2 gross acres for a gross density of 62 du/acre and Hillsboro Light Towers has 72 units on approximately 1.1 gross acres for a gross density of 71 du/acre. The City intends to adopt a land use category with a fixed number of units in a dashed line to allow only the number of units that exist to be entitled via the corrected residential land use designation.

The properties in question also have commercial zoning designations. Hillsboro Light Towers is zoned B-2 and the Claridge is zoned B-3. Both properties are nonconforming with these zoning districts as they have greater density and building heights than allowed. There are no standard zoning districts that would allow for these two buildings as currently built except for one of the PD districts. Staff cannot rezone a property to PD because it requires a Master Plan and a specific set of standards to govern the future reconstruction of the

property.

To solve this problem of nonconforming structures with a conforming use, staff is proposing an amendment to the nonconforming section of the zoning code (155.7304.B) which will allow the properties to remain in their current B-2 and B-3 zoning districts while ensuring they can be rebuilt as currently configured if damaged over 50% of their value.

The proposed zoning code amendment is attached for consideration.

Staff Conditions:

Staff requests the Board makes a motion to recommend approval of this amendment.

155.7302. ENLARGEMENT OR ALTERATION

A. Nonconforming Structure Used for Conforming Use

A nonconforming structure used for a conforming use shall not be enlarged or structurally altered in any way that increases the nonconformity. (For example, a structure that has a side yard setback of five feet where the Code requires a minimum side yard setback of ten feet cannot be enlarged so as to further encroach into the required side yard.) Enlargement, expansion, or alteration of the structure in a way that complies with applicable dimensional standards, or alteration of the structure in a way that decreases the degree of nonconformity, is permitted. Repairs and maintenance to the nonconformity that are required to keep the nonconformity in a safe condition are permitted.

B. Nonconforming Structure Used for Nonconforming Use

A nonconforming structure used for a nonconforming use shall not be enlarged or structurally altered in any way, including enlargement, expansion, or alteration of the structure in a way that complies with applicable dimensional standards, or alteration of the structure in a way that decreases the degree of nonconformity. A nonconforming structure used for a nonconforming use shall comply with the Minor Repairs and Maintenance standards in Section [155.7205.B](#), Minor Repairs and Maintenance. (Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-73](#), passed 7-23-13)

155.7303. RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless the entire structure thereafter conforms to the requirements of this Code.

(Ord. 2012-64, passed 9-11-12)

155.7304. RECONSTRUCTION OR REPAIR AFTER DAMAGE

Except as otherwise provided in Section [155.7305](#), Exceptions for Nonconforming Structures in Transit Oriented District, the reconstruction or repair of a damaged nonconforming structure shall be subject to the following provisions.

A. Damage up to 50 Percent of Value

If a nonconforming structure is damaged by any means to an extent whereby the cost of restoring the structure to its before-damaged condition would be 50 percent or less of the structure's fair market value before the damage, the structure may be reconstructed or repaired if:

1. The reconstruction or repair does not increase, expand, enlarge, or extend the degree of nonconformity; and
2. The reconstruction or repair is actually begun within one year after the damage and is diligently pursued to completion.

B. Damage Greater than 50 Percent of Value

1. Except as otherwise provided in subsection 2. Below, if a nonconforming structure is damaged by any means to an extent whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the structure's fair market value before the damage, the structure shall not be reconstructed or repaired except in conformity with the provisions of this Code.
2. Exceptions

a. A multifamily residential development that exceeds the allowed density of a nonresidential zoning district but is in compliance with the underlying residential land use category, shall be permitted to be restored to the condition it was in if such structure(s) located on the development site is damaged by any means by more than fifty percent (50%) of its replacement value or more than fifty percent (50%) of the gross floor area of the existing structure(s), in accordance with the following:

i. The total number of dwelling units to be provided in the rebuilt structure(s) shall not exceed the total number of dwelling units previously existing in the same structure prior to the destruction.

ii. The dimensions of the rebuilt structure(s) on the development site shall be permitted based on what previously existed in the same structure(s) prior to the destruction and shall not result in an increase in nonconformity as it relates to all other provisions of the city's zoning regulations.

iii. Such redevelopment shall meet all applicable public safety codes in effect at the time of redevelopment including the building code, aviation-related height limitations, flood elevation, hurricane evacuation, natural resource protection including those related to beaches, marine resources and sea level rise.

C. Determination of Structure Value

Fair market value of a structure shall be based on a market appraisal submitted by the applicant that is performed by a certified appraiser, at the applicant's expense. On determining that the applicant's market appraisal is inaccurate, the Development Services Director may reject it and base the structure's value on the average of values determined by the applicant's market appraisal and a second market appraisal performed by a certified appraiser at the city's expense. (Ord. 2012-64, passed 9-11-12; Am. Ord. 2013-75 , passed 9-24-13)