



DATE: September 30, 2021

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

FROM: William Waters, Director Community Sustainability

MEETING: October 5, 2021 & October 13, 2021

SUBJECT: **PZB/HRPB 21-00400001 (Ordinance 2021-09)**: Consideration of an ordinance to Chapter 23 "Land Development Regulations" regarding changes to the development appeal process.

BACKGROUND/ PROPOSAL:

The proposed amendments would modify the appeal process by providing for the appeal of Planning & Zoning Board (PZB) and Historic Resources Preservation Board (HRPB) decisions to the circuit court. Appeals have required legal review standards and process. As such, local governments have been moving towards development appeals being heard by circuit court, as provided by Florida Statutes. The proposed ordinance would modify the development approval appeal process, but would retain the local appeal authority relating to appeals of administrative decisions of the development review official (DRO).

The proposed amendments would modify the following sections of the LDRs in Chapter 23 of the City's Code of Ordinances:

- Article 2, Section 23.2-1 - City Commission
- Article 2, Section 23.2-7 - Historic Resources Preservation Board
- Article 2, Section 23.2-8 – Planning and Zoning Board
- Article 2, Section 23.2-9 – Summary illustration of authority
- Article 2, Section 23.2-15 – Notice Requirements for Public Hearings
- Article 2, Section 23.2-16 - Quasi-judicial Procedures
- Article 2, Section 23.2-17 – Appeals
- Article 2, Section 23.2-27 - Waiver
- Article 2, Section 23.2-29 - Condition Use Permits
- Article 2, Section 23.2-30 -Site Plan Review
- Article 5, Section 23.5-1 - Signs
- Article 5, Section 23.5-4 - Historic Preservation

ANALYSIS:

The proposed amendments will remove the requirement for affected parties and applicants to first appeal to the City Commission prior to circuit court. Circuit courts are the final appellant authority in land development decisions in Florida as provided by Florida Statute. Removal of the requirement to first appeal to the City Commission would allow for applicants and affected parties to go directly to the final appellant authority. Appeals also have specific required legal review standards and procedures, including due process considerations. Florida's circuit courts are

specifically tasked in the Florida Statutes with this type of review. However, the proposed ordinance retains local appeal authority by the appropriate review board for appeals of the decision of the DRO, including appeals of the DRO's interpretation of the land development regulations.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt PZB/HRPB 21-00400001 (Ordinance 2021-09).

POTENTIAL MOTION:

I move to **RECOMMEND/NOT RECOMMEND** TO THE CITY COMMISSION TO ADOPT the proposed LDR text amendments included in 21-00400001 (Ordinance 2021-09).

Attachments

- A. Draft Ordinance 2021-09