

MEMORANDUM

TO: Tom Harmer, Town Manager

FROM: Allen Parsons, AICP,
Director, Planning, Zoning and Building Department

REPORT DATE: October 22, 2021

MEETING DATE: November 1, 2021

SUBJECT: Ordinance 2021-08, Application for Amendment to Chapter 160, Comprehensive Plan for 551 Broadway Street, 7009, and 7017 Longboat Drive North and Ordinance 2021-09, Application for Rezoning, 551 Broadway, 7009, and 7017 Longboat Drive North

Recommended Action

Forward Ordinance 2021-08 and Ordinance 2021-09 to the December 6, 2021 Regular Meeting for second reading and public hearing.

Background

The applicant requests to redevelop an existing, non-conforming density, 6-unit apartment building, into four (4) generally conforming single-family dwelling units located on a single property. The subject property, which has street addresses of 551 Broadway Street, 7009 and 7017 Longboat Boat Drive North, is considered a single undivided lot per Zoning Code Sec. 158.131(B)(1)(a)(2)(b)¹ because it is comprised of three (3) nonconforming lots with continuous frontage on Longboat Drive North.

The subject property was determined to meet the timing eligibility provisions associated with Conformance Overlay Redevelopment District (CORD) developments (Sec. 158.132(D)(1)), which provides an additional year² (2 years total) to obtain CORD approval before a use may be considered abandoned. As part of the completeness review of a CORD application, it is the burden of the applicant to demonstrate a site's legal nonconformities. The applicant provided demonstration of use of the property via a copy of a rental agreement (dated March 1, 2021) and various repairs at the property. In addition to these applicant materials, staff reviewed Town utility billing for the subject property and the property has had its water and sewer utility bills consistently paid. In addition, staff does not have records indicating abandonment of the property by way of Code Enforcement indicating that the property was not maintained or other evidence of abandonment.

¹ 158.131(B)(1)(a)(2)(b) "Two or more nonconforming lots or combinations of lots shall be considered undivided if: 1. As of July 21, 2976, the lots were in continuous frontage in single ownership, of record in the appropriate county were located; and 2. The lots are deficient in the requirements for lot width or area."

² Nonconforming uses otherwise are considered to be abandoned after a use has ceased for one year.

The application seeks to apply the CORD to the subject property. The CORD Overlay District option is relatively new, and this is the first application since this nonconforming density³ redevelopment provision was established by the Town Commission in 2019. CORD is one of three options to allow existing legally nonconforming residential or tourism properties that exceed the current allowable density, to rebuild or redevelop utilizing a site's nonconforming density.

Nonconforming density redevelopment Option 1 provides for the reconstruction of nonconforming density properties, but limits the improvements to essentially the same limits of the structure(s) that are being replaced, including the same building cubic content (i.e. building footprint & height), location, and number of units. This option is permissible for Site Development Plan review and approval.

Nonconforming density redevelopment Option 2 provides for the reconstruction of nonconforming density properties, but requires that the redevelopment meet *all* of the requirements of the Zoning Code (i.e. setbacks, height, daylight plane, lot coverage, open space etc.), with the exception of density. This option, however, is limited to multi-family and tourism zoned properties. The subject site is a single-family Zoning District, zoned R-6SF and therefore is not eligible for nonconforming density redevelopment Option 2. This option is permissible by Site Development Plan review and approval.

Nonconforming density redevelopment Option 3, the CORD Overlay District, provides for the reconstruction of nonconforming density properties, and allows applicants the ability to seek modifications to the requirements of the Zoning Code. This Option requires approval of a Comprehensive Plan Amendment (to the Future Land Use Map, applying the CORD Overlay District designation, which makes the subject property conforming for density), a Rezoning (applying the CORD Zoning Overlay District⁴) and Site Development Plan approval.

On September 21, 2021, the Planning & Zoning Board (P&Z Board) recommended approval to the Town Commission to: 1) amend the Comprehensive Plan's Future Land Use Map and apply the CORD Overlay District designation to the underlying High Density Single-Family Mixed Residential (RH-6) land use designation; and 2) Rezone the property to apply the CORD Zoning Overlay District to the subject site's Single-Family High-Density Residential Zoning District (R-6SF) Zoning District. The P&Z Board also took final action on the third required component of a CORD application by approving the associated Site Development Plan (subject to Town Commission approval of the Future Land Use Map and rezoning requests) allowing for the development of four (4) single-family dwelling units, on a single property that will be retained under common ownership.

³ Nonconforming density is the condition where more dwelling or tourism units are located on a property than would be allowed by the current zoning regulations. Such densities were allowed under the zoning regulations at the time development occurred but because of subsequent changes in those regulations, such densities would no longer be permitted.

⁴ An overlay district (or overlay zone) applies an additional layer of standards to all areas within a defined overlay boundary, regardless of the underlying base zoning district.

The CORD redevelopment option was created with the recognition that many nonconforming density properties could have challenges meeting all Zoning Code requirements due to the mismatch between densities, site constraints and Zoning Code requirements more calibrated to lower densities.

This application of a CORD Overlay District is intended to apply to existing residential, tourism, or mixed-use projects that were legally established prior to March 12, 1984, which do not comply with the existing maximum density provisions in the Comprehensive Plan.

The CORD Zoning District is applied as a Zoning Overlay District, which can modify or adjust underlying Zoning District standards to allow the redevelopment of nonconforming density properties and, upon approval, confers upon them conforming status.

The CORD Overlay District is intended to allow for the preservation of nonconforming density on various properties throughout the Town, and enable them to become conforming, while providing for flexibility of design and modification of Zoning District controls, which can be difficult to meet on properties that were developed with more density than their underlying Zoning Districts would currently allow.

The applicant in this case proposes to retain 4 of the 6 non-conforming residential units on the subject property, and is not seeking any relaxation or modifications to the underlying Zoning District standards. The underlying R-6SF Zoning District would otherwise permit 2 dwelling units based on the combined size of the subject properties.

The Town's longstanding non-conforming provisions allow existing developments that are legally nonconforming due to the current number of dwelling or tourism units to be reconstructed to the same number of units, and the same type of principal use(s) in existence prior to reconstruction. The overarching intent of CORD is to allow for retaining non-conforming density while reducing or eliminating other nonconformities (e.g. setbacks, open space, etc.) with a preference that properties develop according to their Zoning District requirements to the greatest extent possible.

Upon approval, the applicant proposes to extinguish the existing platted lots on the property and establish a land condominium or other form of joint ownership over the entirety of the property in which units shall be part of such condominium association or joint ownership organization. This type of ownership is similar to other projects in the Town such as Land's End, Laguna, and Bonaire. The P&Z Board added a condition to the Site Development Plan Order, as well as a recommendation to the Rezone (Ordinance 2021-09), requiring this commitment from the Applicant. The condition also requires that the condominium association or joint ownership organization maintain all common areas associated with the property, including but not limited to the bulkhead.

Staff Analysis

The Town adopted its first Zoning Code and Zoning Map in 1955, the same year the Town incorporated. This request is a proposal to change the Zoning and Future Land Use designation of this 1950's era developed property, located at 551 Broadway Street (known as Broadway Street Apartments), to permit its redevelopment, while maintaining some (4 units out of 6) of the density that was subsequently rendered non-conforming.

The applicant is proposing this change in order to redevelop the property's existing and long-standing 6-unit Apartment use while bringing the property into conformance with both the Comprehensive Plan Future Land Use Map for the property and the corresponding implementing zoning designation. To accomplish this, the applicant has also filed an application for Site and Development Plan to construct four single-family homes on the property.

As noted, the existing 6-unit apartments would not be permitted under the current Comprehensive Plan and zoning designation. In addition to the existing nonconforming density of the property, there are nonconformities of front, side, and rear yard setbacks, and off-street parking. In addition, there have been subsequent changes to Building Code requirements, wind and hurricane resistance, and FEMA flood resistance standards.

Utilizing the CORD overlay, the applicant will be reducing the density from 6 multiple dwelling units, to 4 single-family dwelling units on the property. Correspondingly, this redevelopment will meet all of the applicable current zoning requirements such as; yard setbacks, height, daylight plane, lot coverage, open space, and off-street parking. The proposed project will be more in keeping with the surrounding development in terms of being comprised of single-family homes of similar scale to those that are allowed in the neighborhood.

The CORD Overlay has a number of Zoning Development Standards (Sec. 158.085). The Development Standards provide that "no CORD shall be approved unless it complies with the following standards listed below in order of importance, highest to lowest, such that the control with the highest importance is the control with the greatest need for reduction or elimination of any nonconformities (and least likely of relaxation or modification) and the control with lower importance has a lesser need for reduction or elimination (and more likely of relaxation or modification)". Staff provides the following assessment (in **bold**).

1. **Building Setbacks.** The proposed minimum side, rear, and waterfront building setbacks, as measured from the boundaries of the CORD request, shall to the greatest extent possible, conform to the setbacks allowed by the underlying Zoning District from the existing nonconforming development condition. For any buildings that would exceed the underlying Zoning District height, each building must have a minimum street setback of at least 2.5 times the overall height of the building, with a vegetative street buffer with sufficient density and height to minimize the visibility of the buildings from the right-of-way. Waivers to this required street setback may be granted if the Town Commission determines that

the Waiver is necessary to meet the intent of the Comprehensive Plan and this Chapter to enable redevelopment of properties that are nonconforming to density and is in the public interest. (The following language is bolded) **The project would meet the requirements of the underlying zoning of the property, with the exception of density.**

2. *Open space.* The open space of the property proposed for Zoning Map Amendment shall conform to the greatest extent possible to the open space permitted in the underlying Zoning District from the existing nonconforming development condition. However, open space shall not be less than 20 percent of the lot area. (The following language is bolded) **The project meets the open space requirements of the underlying zoning of the property.**
3. *Lot Coverage.* The lot coverage of the property proposed for Zoning Map Amendment shall conform to the greatest extent possible to the lot coverage permitted in the underlying Zoning District from the existing nonconforming development condition. (The following language is bolded) **The project meets the lot coverage requirements of the underlying zoning of the property.**
4. *Building Height.* The height of structure(s) on property proposed for Zoning Map Amendment to the CORD shall conform to the greatest extent possible to the height of the underlying Zoning District, in which the property is located, subject to the following:
 - a. For properties with existing structures that are at or below the allowable height of the underlying Zoning District, the maximum height shall be the height allowed by the underlying Zoning District.
 - b. For properties with existing structure(s) that exceed the allowable height of the underlying Zoning District, the Town Commission may approve Waivers allowing for height(s) above the maximum height of the underlying Zoning District, provided that proposed height(s) represent a decrease in nonconforming height. The applicant shall demonstrate how reduction(s) in height on the property, to the greatest extent possible, will be more in conformity with the Zoning District standards than the prior nonconforming height(s). (The following language is bolded) **The project meets the height requirements of the underlying zoning of the property.**
5. *Maximum building length, distance between buildings, and distance between buildings and driveways.* These development criteria may be modified to allow redevelopment of existing nonconforming structures, but shall not be reduced in a manner that jeopardizes public safety. (The following language is bolded) **Not Applicable, applies only to projects of ten or more units.**
6. *Off-Street Parking.* Off-street parking shall meet the standards and requirements of the Parking Section of the Land Development Code. The Town Commission may reduce the number of required parking spaces upon submittal by the applicant of a parking study demonstrating a reduction in parking need. The parking study shall be based on competent, substantial evidence, which may

include, but is not limited to, utilization of professional standards, formulas or studies from sources such as the Urban Land Institute (ULI), the Institute of Transportation Engineers (ITE), or similar organizations. (The following language is bolded) **The project meets the parking requirements of the underlying zoning of the property.**

7. *Beach and Bay Access.* For all proposed CORD overlays, the number of existing beach and/or bay access points shall not be decreased below the number existing at the time of the CORD Overlay District application. All public beach and/or bay access points shall be recorded as easements in the public record and copies provided to the Town Clerk. (The following language is bolded) **The project will not affect beach or bay access.**
8. *Natural Shoreline.* For proposed CORD overlays located west of Gulf of Mexico Drive, the same percentage of natural shoreline area as a percentage of the total shoreline as it exists at the time of CORD Overlay District application shall be preserved or provided. (The following language is bolded) **The project is not located along the shoreline of the Gulf of Mexico.**
9. *Development of Amenities and Tourism Units.* Amenities such as parks, open space, playgrounds, pools, marinas, docks, beach and Bay accesses, and tennis/pickle-ball courts must be completed prior to issuance of Building Permits of more than 40 percent of the total number of authorized residential or tourism units. For mixed-use developments, all proposed tourism units must be completed prior to the issuance of any certificates of occupancy for any residential unit. (The following language is bolded) **The project does not include Tourism Units or associated amenities.**
10. *Cubic Content.* Redevelopment utilizing the CORD does not restrict the cubic content of structures to the prior extent of previously existing structures. (The following language is bolded) **The project will increase the cubic content from the existing structures, but is reducing the density of the property as well as bringing into conformity the yard setbacks, off-street parking, Building Code, wind and hurricane resistance, and FEMA flood resistance standards that exist presently on the property.**
11. *Density.* The proposed density shall not exceed the total density allowed by the underlying Zoning District of the property proposed for Zoning Map Amendment to CORD, or the density of the existing nonconforming development that is proposed for redevelopment. Owners may elect to reduce the number of nonconforming units in order to achieve compliance with the CORD development standards. If a referendum is required to increase density pursuant to the Town Charter, a formal application for a CORD Zoning Map Amendment and Site Development Plan may not be submitted until such referendum for the increase has been approved. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the CORD Zoning Map Amendment process. (The following language is bolded) **The project does not exceed the density of the**

existing nonconforming development, and reduces the density from 6 to 4 dwelling units consistent with the CORD amendment process.

In addition to the Development Standards above, the Town Commission's approval, approval with changes or special conditions, or denial of a CORD application, shall be based on the application, evidence and testimony presented in the public hearing, and all of the following Review Criteria (Sec. 158.087). Staff provides the following assessment (in **bold**):

- In what respects the CORD is or is not consistent with the intent of a CORD Zoning District as provided in this Section. (The following language is bolded) **The CORD rezoning is consistent with the intent of a CORD by retaining, but reducing non-conforming density, while eliminating other nonconformities (e.g. setbacks, open space, etc.) with development in accordance to Zoning District requirements.**
- Whether the proposed request decreases existing nonconforming characteristics to the greatest extent possible. (The following language is bolded) **All non-conformities will be eliminated on the property with the exception of density, which is being brought more into conformity with the zoning of the property.**
- The adequacy, location and amount of open space in the plan. (The following language is bolded) **The project will meet the open space requirements.**
- Whether the proposed request is compatible with surrounding properties and is consistent with the character of the surrounding area. (The following language is bolded) **The proposed project may be viewed as being more in keeping with the surrounding neighborhood by providing a compatible development of single-family homes in scale with underlying Zoning Code allowances for all aspects except for density.**
- Whether the proposed placement of the building allows for improved scenic views from adjacent properties and/or opens scenic view corridors from the street. (The following language is bolded) **The property is not located on the oceanfront or bayfront. Scenic views would limited to those of a canal, which are similarly obscured by other single-family homes.**
- Whether the proposed request will cause an increase or decrease in shadow effects on surrounding properties, the street, and the public beach, if applicable for building heights greater than underlying Zoning District standards. (The following language is bolded) **The height of the proposed residences will not be greater than the underlying zoning standards.**
- Whether the existing or proposed vegetative street buffer is sufficient to minimize the mass and scale of the building from the right-of-way. (The following language is bolded) **Single-family residences are proposed. The site development plan includes a landscape plan that provides for landscaping throughout the entire property and incorporates existing trees on the property.**

- The physical design of the plan and the manner in which the design makes adequate provision for public services, provides adequate control over vehicular traffic and parking, and addresses the amenities of light and air, recreation and visual enjoyment. (The following language is bolded) **Single-family residences are proposed. Adequate parking and open space are provided in compliance with the underlying Zoning District standards.**
- For phased developments, the plan must provide sufficient safeguards to protect the public interest, and the residents and owners of the CORD through the completion of the project. (The following language is bolded) **Not Applicable.**
- Whether the proposed development is not contrary to the interests of the Town and/or does not adversely impact or affect the public interest. (The following language is bolded) **Utilizing the CORD Overlay District, the applicant will be reducing the density from 6 multiple dwelling units, to 4 single-family dwelling units on the property. Correspondingly, this redevelopment will be meeting all of the applicable current zoning requirements such as; yard setbacks, height, daylight plane, lot coverage, open space, and off-street parking. The proposed project will be more in keeping with the surrounding development in terms of being single-family in character rather than being redeveloped as a 6-unit multifamily development.**

On September 21, 2021 P&Z Board approved Site Development Plan Order 2021-04 contingent upon the Owner obtaining an amendment to the Comprehensive Plan - Future Land Use Map and Rezoning allowing the redevelopment of the property, and with an added stipulation as follows:

A land condominium or other form of joint ownership shall be formed over the entirety of the property and all units shall be part of such condominium association or joint ownership organization. The condominium association or joint ownership organization shall maintain all common areas associated with the property, including but not limited to the bulkhead.

The Site Development Plans for the property depict the development of four individual single-family dwelling units, each comprised of approximately 2,500 square feet of living space on two levels above parking. Correspondingly, this redevelopment will be meeting all of the zoning requirements such as; yard setbacks, height, daylight plane, lot coverage, open space, and off-street parking.

As provided for in the architectural renderings and description, the proposed residences have a “tropical-modern” aesthetic. Deep roof overhangs provide passive shading for the large expanses of glass, drawing inspiration from the regional vernacular of the “Sarasota School of Architecture.” The homes are depicted with accents of composite wood, dark bronze window frames and white stucco walls.

Architectural Rendering



Planning & Zoning Board Recommendation

The Planning & Zoning Board held a public hearing on September 21, 2021 and recommended approval (7-0) to the Town Commission Comprehensive Plan Amendment Ordinance 2021-08, and approval (7-0) Rezone Ordinance 2021-09, and took final action by approving (7-0) the Site Development Plan Order 2021-04 subject to Town Commission approval of the Future Land Use Map and rezone requests.

Staff Recommendation

Forward Ordinance 2021-08 and 2021-09 to the December 6, 2021 Regular Meeting for second reading and public hearing.

Attachments

- A. Ordinance 2021-08 (Available in Town Clerk's Office)
- B. Ordinance 2021-09 (Available in Town Clerk's Office)
- C. Site Plan Order 2021-04 (Available in Town Clerk's Office)
- D. Applicant's Applications (Available in Town Clerk's Office)
- E. September 21, 2021 Planning & Zoning Board Staff Report and Meeting Minutes (Available in Town Clerk's Office)
- F. PowerPoint Presentation (Available in Town Clerk's Office)

End of Agenda Item