



Agenda Item No.

DEVELOPMENT REVIEW REPORT

The matter before the Planning and Zoning Board and City Commission is an Ordinance amending the Land Development Regulations Article IV., Development Review Requirements, and pertaining to public and constructive notice. The matter is before the Planning and Zoning Board and City Commission because the Land Development Regulations provide that the Planning and Zoning Board is charged with making a recommendation on LDR amendments to the City Commission, who makes the final determination. *The Planning and Zoning Division recommends the Board forward the record to the City Commission with a recommendation the Ordinance be adopted.*

I. BACKGROUND

Florida's land use law is based, in part, on the constitutional principles of due process which require land owners to be apprised of regulations which may affect their property rights. As a practical matter, planning regulations are most effective when they have active involvement of the public and the support of broad public consensus. When a local government implements a land use regulation or processes a land development application it must inform all known parties of interest by a reasonably reliable means, and may then inform the rest of the world by "notice by publication" – such as purchasing a notice in a local newspaper multiple times over a period of several weeks.

On August 31st, 2009, the City Commission adopted Ordinance 09O-07-130, which amended the Land Development Regulations (LDR) by comprehensively addressing public notice issues (See Attachment A). Recently, a title error in the legal description and the existing zoning district of property undergoing a zoning district map amendment was discovered subsequent to second reading and adoption by the City Commission. The body of the ordinance, however, properly referenced the affected properties. As a result, a third reading of the Ordinance and the associated public notice costs to the City and applicant had to be

incurred. In order to avoid additional public hearings and costs associated with errors, staff is proposing an ordinance that would add a new subsection 1.9.5 concerning constructive notice. Constructive notice is a legal fiction that signifies that a person or entity should have known, as a reasonable person would have, even if they have no actual knowledge of it. For example if it is not possible to serve notice personally then a summons may be posted on a court house bulletin board or legally advertised in an approved newspaper. The person is considered to have received notice even if they were not aware of it.

In addition, while reviewing the LDR public notice provisions, staff discovered that the requirement for published notice in a newspaper of general circulation and posting of the notice at City Hall. Staff notes that although these notice provisions were not codified in the LDR, in practice the Planning and Zoning office has been operating as if they were in effect. Consequently, all the LDR public notice provisions are being amended to address the oversight.

II. PROPOSED ORDINANCE

Attachment B is an Ordinance amending the Land Development Regulations Article IV., Development Review Requirements, and pertaining to public notice; amending Part 1.0., General application filing, review and final determination, Section 1.9., Public notice requirements by creating Subsection 1.9.4., Published notice; creating Subsection 1.9.4., Constructive Notice; amending Part 2.0., Zoning Map amendments, Section 2.10., Public notice, Subsection 2.10.3., amending Part 3.0., Procedures for obtaining relief from the Land Development Regulations, Section 3.1., Variances, Subsection 3.1.2., Notifications; amending Part 4.0., Special Exception Uses, Section 4.9., Notice of hearing; amending Part 5.0., Development Plan/Site Plan Review, Section 5.1., Approval of site plan; application for building and engineering permits, Subsection 5.1.2; creating Part 6.0., Plat and Subdivision Plan Review, Section 6.22., Public notice requirements; amending Part 8.0., Development Agreements, Section 8.8., Public notice requirements; creating Part 9.0., Brownfield Redevelopment, Section 9.8., Public notice requirements, Subsection 9.8.3., Other notice; providing for findings and conclusions; providing for conflicts; providing for codification; providing for an effective date (Sponsored by the City Manager).

III. DATA & ANALYSIS

- A. Florida statutes. Section 163,3202, Florida Statutes, requires a local government to adopt land development regulations that implement their adopted Comprehensive Plan. Paragraph 163.3202(2)(b), Florida

Statutes, requires the land development regulations contain provisions addressing the use of land and water. Paragraph 163.3213(2)(b), Florida Statutes, defines a "Land development regulation" as an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include a general zoning code, but shall not include a zoning map, an action which results in zoning or rezoning of land, or any building construction standard adopted pursuant to and in compliance with the provisions of chapter 553.

Staff concludes the Ordinance is a land development regulation because it governs the notice procedures regulating the use of land.

B. Article IV, Part 2.0. standards. Article IV., Part 2.0., Section 2.4 addresses those factors to be considered when reviewing a zoning district amendments, and Sections 2.9 and 2.10 focus respectively on procedural and notice requirements.

1. **Amendment factors.** LDR Article IV., Part 2.0., Section 2.4., requires the Board and City Commission to consider and evaluate zoning changes in relation to all pertinent factors but with reference to six (6) specific factors. The proposed Ordinance are evaluated below against the six (6) identified factors.

a. *The character of the district and its peculiar suitability for particular uses.* This factor does not apply because the Ordinance pertains to public notice requirements and not to a particular land use or zoning district.

b. *Conservation of the value of buildings and encouraging the most appropriate use of land and water throughout the City.* Staff concludes this factor does not apply to procedural requirements. The Ordinance neither conserves nor wastes the value of buildings. In addition, the Ordinance neither encourages nor discourages the appropriate use of land and water.

c. *The applicable portions of the adopted City Comprehensive Plan and programs such as land use, trafficways, recreation, schools, neighborhoods, drainage and housing and so forth.* Staff finds the Ordinance is generally consistent with Future Land Use Element (FLUE), Objective 2.20., Land Development Regulations, which provides in part "Maintain

Land Development Regulations ... promoting well-planned, orderly, compatible, and attractive development.”

- d. *The need of the City for land areas for specific purposes to serve population and economic activities.* Staff concludes this factor does not apply to procedural matters. It does not address the need for land areas or particular land uses.
 - e. *Whether there have been substantial changes in the character of development in or near an area under consideration for rezoning.* Staff concludes this factor specifically applies to zoning district map and not zoning regulation amendments.
 - f. *The facts and opinions presented to the Planning and Zoning Board through hearings.* This Development Review Report includes data and analysis and written findings of fact and conclusions to support staff's recommendation on the proposed Ordinance.
2. **Procedure.** LDR Article IV., Part 2.0., Section 2.9., addresses the procedure for zoning district map or zoning regulation amendments. It requires the Board to make a recommendation to the City Commission at a duly noticed public hearing on changes to the zoning district map and zoning regulations and for the Board to forward its recommendation to the City Commission.

Staff has placed the Ordinance on the Planning and Zoning Board regular February 2015 public hearing agenda, being held on February 24th, 2015. At that duly noticed public hearing, the Board will consider the Ordinance, this Development Review Report, all other relevant and substantial competent evidence presented at the hearing, make a recommendation, and forward to the City Commission their recommendation on the Ordinance and all supporting evidence.

3. **Amendment notice.** LDR Article IV., Part 2.0., Section 2.10., addresses public notice. Subsection 2.10.1., requires a change in zoning be published in a newspaper of general circulation in Broward County at least 10 days prior to the date of the hearing.

Staff has caused a legal notice of the Planning and Zoning Board public hearing to be published in the Sun-Sentinel, a newspaper of general circulation within the City and Broward County, on or before

February 14th, 2015, or at least 10 days before the public hearing date. The Ordinance is identified within the published legal notice. Proof of publication is on file with staff and is included herein by reference. Thus, staff concludes the Ordinance has been duly noticed consistent with the standards and requirements of LDR Article IV., Part 2.0., Section 2.10.

4. **Other notice.** Staff has caused the notice to be posted at City Hall and on the City's website.

IV. ATTACHMENTS

Attachment A: Ordinance No. 09O-07-130

Attachment B: Proposed Ordinance

V. FINDINGS AND CONCLUSIONS

Based upon the information contained in this Development Review Report, the following findings of fact and conclusions of law are offered:

- A. Staff finds the LDR Article IV., Part 1.0., has general provisions regarding public notice of LDR amendments and development order application. In addition, Parts 2.0 through 5.0, Part 8.0., and Part 9.0 have specific notice provisions pertaining to the type off development review.
- B. Staff finds the LDR notice provisions need to be amended to provide for published notice, City posted notice, and constructive notice. The proposed Ordinance makes those revisions.
- C. Staff finds that LDR Article IV., Part 2.0., Section 2.4., requires a proposed LDR amendment be evaluated against six (6) specific factors. Staff finds the Ordinance has been evaluated against the six (6) identified factors and concludes the factors do not apply to Ordinances regulating procedural matters.
- D. Staff finds the Ordinance amending the LDR is scheduled for a duly noticed Board public hearing on February 24th, 2015. At that public hearing, the Board will review and forward a recommendation to the City Commission on the Ordinance.

- E. Staff finds the Ordinance has been published in the legal notice section of the Sun-Sentinel, a newspaper of general circulation within the County, at least 10 days before the Board public hearing. In addition, the notice has been posted at City Hall

VI. ALTERNATIVE ACTIONS

The Board/LPA has one of the following alternative actions at its disposal:

- A. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the Ordinance be adopted.
- B. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support the Board's recommendation, and forward the record to the City Commission with the recommendation that the Ordinance not be adopted.
- C. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support any necessary conditions, and forward the record to the City Commission with the recommendation that the Ordinance be adopted with conditions.
- D. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, identify any additional data and analysis needed to support the Ordinance, and forward the record to the City Commission with the recommendation that the Ordinance be tabled for up to six months in order to allow staff time to provide the identified data and analysis needed to make an informed recommendation on the Ordinance.

VII. RECOMMENDED ACTION

- A. PZD recommendation. Staff recommends the Planning and Zoning Board enter into the record this Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the Ordinance be adopted.

- B. Planning and Zoning Board recommendation. The Ordinance is scheduled on the agenda for the regular February 2015 Board hearing, being held on February 24th, 2015.

- C. City Commission action. First reading of the Ordinance is tentatively scheduled on the agenda for the March 30th, 2015 City Commission public hearing. If approved or approved with conditions on first reading, the adoption hearing on the Ordinance is tentatively scheduled on the agenda for the April 13th, 2015 City Commission public hearing.

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ORDINANCE NO. 090-07-130

AN ORDINANCE OF THE CITY COMMISSION OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR), ARTICLE IV., DEVELOPMENT REVIEW REQUIREMENTS PERTAINING TO PUBLIC NOTICE SIGNS AND THEIR RE-ORGANIZATION; RENUMBERING ARTICLE IV., PART 1.0., GENERAL APPLICATION FILING, REVIEW AND FINAL DETERMINATION, SECTION 1.9., PUBLIC NOTICE PROCESSING FEE AS SUBSECTION 1.9.2.; RE-TITLING ARTICLE IV., PART 1.0., SECTION 1.9. AS PUBLIC NOTICE REQUIREMENTS AND REQUIRING POSTED SIGNS BE PROFESSIONALLY PREPARED BY A REPUTABLE SIGN, PRINTING OR SIMILAR COMPANY; CREATING SUBSECTION 1.9.1., MAILED NOTICE; CREATING SUBSECTION 1.9.3., PROPERTY POSTED NOTICE; AMENDING ARTICLE IV., PART 2.0., ZONING MAP AMENDMENTS, SECTION 2.10., PUBLIC NOTICE; AMENDING PART 3.0., PROCEDURES FOR OBTAINING RELIEF FROM THE LAND DEVELOPMENT REGULATIONS, SECTION 3.1., VARIANCES, SUBSECTION 3.1.2., NOTIFICATIONS; AMENDING PART 4.0., SPECIAL EXCEPTION USES, SECTION 4.9., NOTICE OF HEARING; AMENDING PART 5.0., DEVELOPMENT PLAN/SITE PLAN REVIEW, SUBSECTION 5.1.2.; AMENDING PART 8.0., DEVELOPMENT AGREEMENTS, SECTION 8.8., PUBLIC NOTICE REQUIREMENTS; AMENDING PART 9.0., BROWNFIELD REDEVELOPMENT, SECTION 9.8., PUBLIC NOTICE REQUIREMENTS; ADDING CROSS-REFERENCES TO SUBSECTIONS 1.9.1 AND 1.9.3 THROUGHOUT THESE SECTIONS AS APPROPRIATE; PROVIDING FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA)

WHEREAS, the City Commission adopted its Comprehensive Plan as is required by the Regional Government Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 11th, 1990, the City Commission implement its adopted Comprehensive Plan as is required by Section 163.3202, Florida Statutes, by adopting the City of Lauderhill Land Development Regulations; and

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WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and

WHEREAS, this Ordinance consolidates the public hearing requirements into one main section and cross-references that section; and

WHEREAS, this Ordinance also requires that posted signs be professionally prepared by a reputable sign, printing or similar company; and

WHEREAS, at their duly noticed meeting and public hearing of June 30th, 2009, the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA) entered the Development Review Report on the proposed Ordinance into the record, adopted the findings and conclusions supporting the Ordinance's adoption, and recommended the City Commission adopt the Ordinance; and

WHEREAS, at their duly noticed meeting and public hearing of July 13th, 2009, the City Commission considered the record, adopted findings and conclusions, and approved the Ordinance on first reading; and

WHEREAS, at their duly noticed meeting and public hearing of August 31st, 2009, the City Commission on second reading adopted the Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. Section 1.9 renumbered. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., Public notice processing fee, is renumbered as set forth below.

1.9.2. Public mailed notice processing fee. The Planning and Zoning Department is authorized to charge an applicant a reasonable processing fee for recovering the City's cost of preparing and mailing any public hearing notices. The fee shall be based on the staff time and costs involved in preparing and mailing public hearing notices. If such fee is not paid in full prior to the public hearing, the Planning and Zoning Department shall request the application be removed from the public hearing agenda.

SECTION 2. Section 1.9 created. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., is re-titled as set forth below.

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Sec. 1.9. Public notice requirements.

SECTION 3. Subsection 1.9.1. created. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsection 1.9.1, is created as set forth below.

1.9.1. Mailed notice. In connection with hearings on petitions or applications for a zoning district map amendment, a variance, a special exception use, a site plan, a development agreement or a brownfield area designation, all owners of property within three hundred (300) feet of the land subject to such petition or application shall be given notice of such hearing by mail. Such notice shall be mailed at least ten (10) days prior to the date of the hearing. For the purposes of this notification, an owner of property shall be deemed to be the person who, with his address, is so shown on the latest tax rolls of the Broward County Property Appraiser. Notice by mail to the president or other officer of a condominium association shall constitute notice to all owners of condominiums therein.

SECTION 4. Subsection 1.9.3. created. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsection 1.9.3, is created as set forth below.

1.9.3. Property posted notice. In cases in which the applicant is seeking a zoning district map amendment, a variance, a special exception use, a site plan, a development agreement or a brownfield area designation, the applicant will supply at the applicant's cost a sign professionally prepared by a reputable sign, printing or similar company, which sign will be three (3) feet by three (3) feet in size and of a durable material. The applicant is required to post the sign on the property for which approval is sought at least ten (10) days before the public hearing. No permit shall be required for such sign. The sign shall be posted upon the property so as to face, and be visible from, the street upon which the property is located. The sign shall state the following:

"Notice of Public Hearing for (a zoning district map amendment, a variance, a special exception use, a site plan, a development agreement or a brownfield area designation). The date, time, and place of the public hearing must be included on the sign. For information, call 954 730-3050."

The applicant shall provide a notarized affidavit to the Planning and Zoning Department stating that the sign was posted on the appropriate date and that the sign remained posted for the duration of the time required for posting, and that the applicant will remove the sign within five

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(5) business days after the Public Hearing. The applicant shall provide a photograph of the sign in place on the property.

SECTION 5. Section 2.10. amended. Land Development Regulations Article IV., Development Review Requirements, Part 2.0., Zoning Map amendments, Section 2.10., Public notice, Subsection 2.10.3., is amended as set forth below.

Sec. 2.10. Public notice.

2.10.1. Notice of hearings before the Planning and Zoning Board in connection with changes in zoning district classification or changes in district regulations shall be published in a newspaper of general circulation in Broward County at least ten (10) days prior to the date of the hearing. Such notice shall specify the place and time of the hearing, and the matter to be considered at such hearing.

2.10.2. Petitioners for changes in zoning district regulations shall be given notice of hearing by letter addressed to such petitioner at the address given in such petitions, and mailed at least ten (10) days prior to the date of the hearing.

~~2.10.3. In connection with hearings on petitions for change in the zoning district classification, all owners of property within three hundred (300) feet of the land subject to such petition shall be given notice of such hearing by mail. Such notice shall be mailed at least ten (10) days prior to the date of the hearing. For the purposes of this notification, an owner of property shall be deemed to be the person who, with his address, is so shown on the latest tax rolls of the Broward County Property Appraiser. Notice by mail to the president or other officer of a condominium association shall constitute notice to all owners of condominiums therein. In cases in which the applicant is seeking a change in designation and not a text change, the applicant will supply a sign which will be three (3) feet by three (3) feet in size. The applicant is required to post the sign on the property for which approval is sought. The sign shall be of a material approved by the Community Development Director. The applicant shall provide a notarized affidavit to the Community Development Department stating that the sign was posted on the appropriate date and that the sign remained posted for the duration of the time required for posting. The applicant shall provide a photograph of the sign in place on the property. No permit shall be required for such sign. The sign shall be posted upon the property so as to face, and be visible from, the street upon which the property is located. The sign shall state the following:~~

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~~"Notice of Public Hearing for (City to provide wording to reflect designation change). The date, time, and place of the meeting will also be included on the sign. For information, call 730-3050."~~

The mailed public notice and property posted notice described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsections 1.9.1. and 1.9.3 are applicable.

2.10.4. All hearings for rezoning before the City Commission shall be noticed according to state statute.

SECTION 6. Subsection 3.1.2 amended. Land Development Regulations Article IV., Development Review Requirements, Part 3.0., Procedures for obtaining relief from the Land Development Regulations, Section 3.1., Variances, Subsection 3.1.2., Notifications, is amended as set forth below.

~~3.1.2. *Notifications.* In connection with hearings on petitions for variances, all owners of property within three hundred (300) feet of the premises for which the variance is requested shall be given notice of such hearing by mail. Such notice shall be mailed at least ten (10) days prior to the date of the hearing. A written notice to the president or other officer of a condominium shall constitute notice to all owners thereof. For the purpose of this notification, an owner of property shall be deemed to be the person who, with his or her address, is so shown on the latest tax rolls of the Broward County Property Appraiser. At least ten (10) days prior to the hearing a sign shall be supplied by the applicant at the applicant's expense and posted upon the property by the applicant so as to face, and be visible from, the street upon which the property is located, said sign to be a minimum of three (3) square feet in size and shall state the following:~~

~~"NOTICE OF PUBLIC HEARING"
"VARIANCE"~~

~~and shall set forth the date, time and location of the meeting at which the petition shall be heard. The sign shall be of a material approved by the Community Development Director. The applicant shall provide a notarized affidavit to the Community Development Department stating that the sign was posted on the appropriate date and that the sign remained posted for the duration of the time required for posting. The applicant shall provide a photograph of the sign in place on the property. No permit shall be required for such sign. The mailed public notice and property posted notice described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsections 1.9.1. and 1.9.3 are applicable.~~

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SECTION 7. Section 4.9. amended. Land Development Regulations Article IV., Development Review Requirements, Part 4.0., Special Exception Uses, Section 4.9., Notice of hearing, is amended as set forth below.

Sec. 4.9. Notice of hearing. The mailed public notice and property posted notice described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsections 1.9.1. and 1.9.3 are applicable.

- ~~A. In connection with hearings on petitions for special exception uses, all owners and occupants of property within three hundred (300) feet of the premises for which the special exception is requested shall be given notice of such hearing by mail. In the event a condominium building shall be located within three hundred (300) feet of premises for which a site plan approval is requested, notice by mail to the president or other officer of the association shall constitute notice to all owners thereof. Such notice shall be mailed or posted at least ten (10) days prior to the date of the hearing. For the purposes of this notification, an owner shall be deemed to be the person who, with his or her address, is shown on the latest tax rolls of the Broward County Property Appraiser, while the person who is the occupant of the property shall be deemed to be the person who has his or her name listed with the City as the occupant because of utility payments made to the City, or because of other available information known to the City.~~
- ~~B. At least ten (10) days prior to the hearing, a sign shall be supplied by the applicant at the applicant's expense, and posted upon the property by the applicant so as to face, and be visible from, the street upon which the property is located, said sign to be a minimum of three (3) square feet in size. The sign shall be of a material approved by the Community Development Director. The applicant shall provide a notarized affidavit to the Community Development Department stating that the sign was posted on the appropriate date and that the sign remained posted for the duration of the time required for posting. The applicant shall provide a photograph of the sign in place on the property. No permit shall be required for such sign. The sign shall state the following:~~

~~"Notice of Public Hearing for
(City to fill in use for which application has been made).
Please call 730-3050 for additional information."~~

~~In addition, the sign shall set forth the date, time, and location of the public hearing.~~

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SECTION 8. Subsection 5.1.2. amended. Land Development Regulations Article IV., Development Review Requirements, Part 5.0., Development Plan/Site Plan Review, Subsection 5.1.2., is amended as set forth below.

~~5.1.2. No building permit except as provided in Article IV, Sections 1.5.1, 1.5.2 of the Land Development Regulations shall be issued for any construction or any alteration of existing land and water covered by this Section until such time as the proposed development has been approved by the Planning and Zoning Board of the City with respect to the conditions and criteria set forth in this Section. It shall be the duty of the Planning and Zoning Board to review the plans at a public hearing and shall approve or disapprove the proposed site plan or development plan. All owners of property within three hundred (300) feet of the premises for which the site plan approval is requested shall be given notice of such hearing by mail. Said notice shall be mailed at least ten (10) days prior to the date of hearing. For purposes of this notification, an owner of property shall be deemed to be the person who, with his or her address, is so shown in the latest tax rolls of the Broward County Property Appraiser. In the event a condominium shall be located within three hundred (300) feet of premises for which a site plan approval is requested, notice by mail to the president or other officer of the association shall constitute notice to all owners thereof. At least ten (10) days prior to the date of the hearing a sign shall be supplied by the applicant at the applicant's expense and posted upon the property by the applicant so as to face, and be visible from, the street upon which the property is located, said sign to be a minimum of three (3) square feet in size and shall state the following:~~

~~"NOTICE OF PUBLIC HEARING"
"SITE PLAN APPROVAL"~~

~~and shall set forth the date, time and location of the meeting at which the petition shall be heard. The sign shall be of a material approved by the Community Development Director. The applicant shall provide a notarized affidavit to the Community Development Department stating that the sign was posted on the appropriate date and that the sign remained posted for the duration of the time required for posting. The applicant shall provide a photograph of the sign in place on the property. No permit shall be required for such sign. The mailed public notice and property posted notice described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsections 1.9.1. and 1.9.3 are applicable.~~

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SECTION 9. Section 8.8. amended. Land Development Regulations Article IV., Development Review Requirements, Part 8.0., Development Agreements, Section 8.8., Public notice requirements, is amended as set forth below.

Sec. 8.8. Public notice requirements. Before holding any of the three (3) public hearings required for entering into, amending, or revoking a development agreement, the public notice requirements set forth below must be satisfied.

8.8.1. The notice of intent to consider a development agreement shall be advertised approximately ~~seven (7)~~ ten (10) days before each public hearing in a newspaper of general circulation and readership in Broward County.

8.8.2. The mailed public notice and property posted notice described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsections 1.9.1. and 1.9.3 are applicable. ~~The notice of intent to consider a development agreement shall be mailed to all affected property owners approximately seven (7) days before the first public hearing. The day, time, and place at which the second and third public hearings which will be held shall be announced at the first public hearing.~~

8.8.3. ~~The notice of intent to consider a development agreement shall be posted, at the developer's expense, on the land the so as to face, and be visible from, any street upon which the property is located approximately seven (7) days before the first public hearing and to remain posted throughout the effective date of the development agreement. The sign shall be a minimum nine (9) square feet in size and shall state the following:~~

~~NOTICE OF PUBLIC HEARING DEVELOPMENT AGREEMENT APPROVAL~~

~~and shall set forth the date, time and location of the public hearings at which the development agreement shall be heard. The developer shall provide a notarized affidavit to the Chief Planning and Zoning Official stating that the sign was posted on the appropriate dates and that the sign will remain posted for the duration of the time required for the posting. The developer shall provide a photograph of the sign in place on the property. No permit shall be required for such sign.~~

SECTION 10. Section 9.8. amended. Land Development Regulations Article III., Zoning Districts, Part 9.0., Brownfield Redevelopment, Section 9.8., Public notice requirements, is amended as set forth below.

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Sec. 9.8. Public notice requirements.

9.8.1. *City initiated brownfield area designations.* At least ten (10) days before the public hearing, the Department shall confirm compliance with the public notice requirements set forth below.

- A. *Publication.* Notice of the public hearing shall be placed in a newspaper of general circulation in the area and in ethnic newspapers or local community bulletins.
- B. *Mailed Notice.* Notice shall be mailed to all property owners and homeowners, business, civic, condominium or similar organizations within five hundred (500) feet of the proposed brownfield area boundary. In the case of condominium associations, each condominium owner is not required to be provided with individual notice, notice provided to the chief elected officer of the condominium association shall be considered sufficient.
- C. *Posted Notice.* Notice of the public hearing shall be posted within the area proposed for designation on the Brownfield Map.

9.8.2. *Owner-initiated brownfield area designation and site rehabilitation agreement.* At least ten (10) days before the public hearing, the Department shall confirm compliance with the public notice requirements set forth below.

- A. *Publication.* Notice of the public hearing shall be placed in a newspaper of general circulation in the area and in ethnic newspapers or local community bulletins and the notice shall be at least sixteen (16) square inches in size.
- B. *Mailed Notice.* Mailed notice shall be as provided for in paragraph 9.8.1.B.
- C. *Posted Notice.* ~~Notice of the public hearing shall be posted, at the owner's expense, on the land so as to face, and be visible from, any street upon which the property is located. The notice must be posted at least ten (10) days before the public hearing and must remain posted until such time as the City Commission makes a final determination on the application. The sign shall be a minimum nine (9) square feet in size and shall state the following:~~

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NOTICE OF PUBLIC HEARING
BROWNFIELD SITE DESIGNATION

~~The sign shall set forth the date, time and location of the public hearing. The owner shall provide a notarized affidavit to the Department stating that the sign was posted on the appropriate dates and that the sign will remain posted for the duration of the time required for the posting. The owner shall provide a photograph of the sign in place on the property. A sign permit shall be not be required for such sign. The property posted notice described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Subsection 1.9.3 are applicable.~~

SECTION 11. Findings and Conclusions. The Development Review Report prepared by the Planning and Zoning Department is attached hereto, is incorporated herein, and are hereby adopted as the findings of fact and conclusions of law to support the Ordinance amending Land Development Regulations.

SECTION 12. Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 13. Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderdale, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

SECTION 14. Effective Date. This Ordinance shall take effect immediately upon its adoption.

DATED this 31st day of August, 2009.

PASSED on first reading this 13th day of July, 2009.

PASSED AND ADOPTED on second reading this 31st day of August, 2009.



PRESIDING OFFICER

ATTACHMENT A

ATTEST:

Andrea M. Anderson
CITY CLERK

FIRST READING

SECOND READING

MOTION
SECOND

M. BATES
H. BENSON
H. BERGER
D. HOLNESS
R. KAPLAN

Benson
Holness
Yes
Yes
Yes
Yes
Yes

Holness
Bates
Yes
Yes
Yes
Yes
Yes

ATTACHMENT B

ORDINANCE NO. 15O-03-###

AN ORDINANCE OF THE CITY COMMISSION OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR) AND PERTAINING TO PUBLIC NOTICE; AMENDING LDR ARTICLE IV., DEVELOPMENT REVIEW REQUIREMENTS, PART 1.0., GENERAL APPLICATION FILING, REVIEW, AND FINAL DETERMINATION, SECTION 1.9., PUBLIC NOTICE REQUIREMENT BY CREATING SUBSECTION 1.9.4., PUBLISHED NOTICE; CREATING SUBSECTION 1.9.5., CONSTRUCTIVE NOTICE; AMENDING PART 2.0., ZONING MAP AMENDMENTS, SECTION 2.10, PUBLIC NOTICE; AMENDING ARTICLE IV., PART 3.0., PROCEDURES FOR OBTAINING RELIEF FROM THE LDR, SECTION 3.1., VARIANCES, SUBSECTION 3.1.2, NOTIFICATIONS; AMENDING PART 4.0., SPECIAL EXCEPTION USE, SECTION 4.9., NOTICE OF HEARING; AMENDING PART 5.0., DEVELOPMENT PLAN/SITE PLAN REVIEW, SUBSECTION 5.1.2; CREATING PART 6.0., PLAT AND SUBDIVISION REGULATIONS, SECTION 6.22., PUBLIC NOTICE REQUIREMENTS; AMENDING PART 8.0., DEVELOPMENT AGREEMENTS, SECTION 8.8., PUBLIC NOTICE REQUIREMENTS; CREATING PART 9.0., BROWNFIELD REDEVELOPMENT, SECTION 9.8., PUBLIC NOTICE REQUIREMENTS, SECTION 9.8.3., OTHER NOTICE; ADDING CROSS-REFERENCE TO PART 1.0., SECTION 1.9. THROUGHOUT THESE SECTIONS AND SUBSECTIONS AS APPROPRIATE; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE (SPONSORED BY THE CITY MANAGER).

WHEREAS, the City Commission adopted its Comprehensive Plan as is required by the Local Government Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

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WHEREAS, on June 11th, 1990, the City Commission implement its adopted Comprehensive Plan as is required by Section 163.3202, Florida Statutes, by adopting the City of Lauderhill Land Development Regulations; and

WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and

WHEREAS, Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., addresses Public notice requirements; and

WHEREAS, Section 1.9 inadvertently failed to include published and City posted notice but such notice has been provided in the Planning and Zoning office practice; and

WHEREAS, minor bona fide errors in complying with the LDR's public notice requirements creates uncertainty on the legality of the decision-making bodies final determination, can result in undue delay in the proceeding with the development, and can lead to costly litigation; and

WHEREAS, in order to avoid the above-described concerns, the LDR is being amended to add new provisions pertaining to published, City posted, and constructive notice; and

WHEREAS, at their duly noticed meeting and public hearing of February 24th, 2015 the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA) entered the Development Review Report on the Ordinance into the record, adopted the findings and conclusions supporting the Ordinance's adoption, and forwarded the record to the City Commission with a recommendation that the Ordinance be adopted and incorporated into the Land Development Regulations; and

WHEREAS, at their duly noticed meeting and public hearing of March 30th, 2015, the City Commission considered the record, adopted findings and conclusions, and approved the Ordinance on first reading; and

WHEREAS, at their duly noticed meeting and public hearing of April 13th, 2015, the City Commission on second reading adopted the Ordinance incorporating revisions to the Land Development Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

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SECTION 1. Published notice. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., Public notice requirements, Subsection 1.9.4., is created as set forth below.

1.9.4. Published notice. At least ten (10) calendar days before a public hearing on any development order application, notice of the public hearing shall be placed in a newspaper of general circulation in the area as is required by general law. The notice also shall be posted in City Hall, either physically posted or on the City's website or both.

SECTION 2. Constructive notice. Land Development Regulations Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9., Public notice requirements, Subsection 1.9.5., is created as set forth below.

1.9.5. Constructive notice.

- A. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
 - 1. Errors in the legal description provided that the street address, tax folio identification number, or commonly known description is correctly identified elsewhere within the notice; or
 - 2. Errors in describing the current zoning district of the property as is displayed in the Official Zoning District Map; or
 - 3. Typographical or grammatical errors that do not impede communication of the notice to affected parties.
- B. Failure of a party to receive written notice shall not invalidate subsequent action in all cases; however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property or properties shall be strictly adhered to.
- C. If questions arise at the hearing regarding the adequacy of notice, the body directing the hearing shall direct the City Attorney to

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make a formal finding as to whether there is substantial compliance with the notice requirements of this Section, and such findings shall be made available to the decision making body before final action on the request.

SECTION 3. **Section 2.10. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 2.0., Zoning Map amendments, Section 2.10., Public notice, Subsection 2.10.3., is amended as set forth below.

Sec. 2.10. Public notice.

2.10.3. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 4. **Subsection 3.1.2 amended.** Land Development Regulations Article IV., Development Review Requirements, Part 3.0., Procedures for obtaining relief from the Land Development Regulations, Section 3.1., Variances, Subsection 3.1.2., Notifications, is amended as set forth below.

3.1.2. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 5. **Section 4.9. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 4.0., Special Exception Uses, Section 4.9., Notice of hearing, is amended as set forth below.

Sec. 4.9. Notice of hearing. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1. and 1.9.3~~ Section 1.9 are applicable.

SECTION 6. **Subsection 5.1.2. amended.** Land Development Regulations Article IV., Development Review Requirements, Part 5.0., Development Plan/Site Plan Review, Section 5.1., Approval of site plan; application for building and engineering permits, Subsection 5.1.2., is amended as set forth below.

5.1.2. No building permit except as provided in Article IV, Sections 1.5.1, 1.5.2 of the Land Development Regulations shall be issued for any construction or any alteration of existing land and water covered by this Section until such time as the proposed development has been approved

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by the Planning and Zoning Board of the City with respect to the conditions and criteria set forth in this Section. It shall be the duty of the Planning and Zoning Board to review the plans at a public hearing and shall approve or disapprove the proposed site plan or development plan.

SECTION 7. Section 6.22. created. Land Development Regulations Article IV., Development Review Requirements, Part 6.0., Plat and Subdivision Plan Review, Section 6.22., Public notice requirements, is created as set forth below.

Sec. 6.22. Public notice requirements. The public notice requirements described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9 are applicable.

SECTION 8. Section 8.8. amended. Land Development Regulations Article IV., Development Review Requirements, Part 8.0., Development Agreements, Section 8.8., Public notice requirements, is amended as set forth below.

Sec. 8.8. Public notice requirements. Before holding any of the three (3) public hearings required for entering into, amending, or revoking a development agreement, the public notice requirements set forth below must be satisfied.

8.8.1. The notice of intent to consider a development agreement shall be advertised approximately seven (7) ten (10) days before each public hearing in a newspaper of general circulation and readership in Broward County.

8.8.2. The ~~mailed public notice and property posted notice requirements~~ described in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, ~~Subsections 1.9.1 and 1.9.3~~ Section 1.9 are applicable.

SECTION 9. Section 9.8. amended. Land Development Regulations Article III., Zoning Districts, Part 9.0., Brownfield Redevelopment, Section 9.8., Public notice requirements, Subsection 9.8.3., Other notice, is created as set forth below.

Sec. 9.8. Public notice requirements.

9.8.1. *City initiated brownfield area designations.* At least ten (10) days before the public hearing, the Department shall confirm compliance with the public notice requirements set forth below.

A. Publication. Notice of the public hearing shall be placed in a newspaper of general circulation in the area and in ethnic newspapers or local community bulletins.

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- B. Mailed Notice. Notice shall be mailed to all property owners and homeowners, business, civic, condominium or similar organizations within five hundred (500) feet of the proposed brownfield area boundary. In the case of condominium associations, each condominium owner is not required to be provided with individual notice, notice provided to the chief elected officer of the condominium association shall be considered sufficient.
 - C. Posted Notice. Notice of the public hearing shall be posted within the area proposed for designation on the Brownfield Map.
- 9.8.2 *Owner-initiated brownfield area designation and site rehabilitation agreement.* At least ten (10) days before the public hearing, the Department shall confirm compliance with the public notice requirements set forth below.
- A. Publication. Notice of the public hearing shall be placed in a newspaper of general circulation in the area and in ethnic newspapers or local community bulletins and the notice shall be at least sixteen (16) square inches in size.
 - B. Mailed Notice. Mailed notice shall be as provided for in paragraph 9.8.1.B.

9.8.3. *Other notice.* The City Hall posted and constructive notice provisions in Article IV., Development Review Requirements, Part 1.0., General application filing, review and final determination, Section 1.9 shall apply.

SECTION 10. Findings and Conclusions. The Development Review Report prepared by the Planning and Zoning Department is attached hereto, is incorporated herein, and are hereby adopted as the findings of fact and conclusions of law to support the Ordinance amending Land Development Regulations.

SECTION 11. Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 12. Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderhill, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

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SECTION 13. **Effective Date.** This Ordinance shall take effect immediately upon its adoption.

DATE this _____ day of _____, 2015.

PASSED on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

PRESIDING OFFICER

ATTEST:

CITY CLERK

FIRST READING

SECOND READING

MOTION
SECOND

M. BATES
H. BENSON
H. BERGER
K. THURSTON
R. KAPLAN

