

Resilient Environment Department, Urban Planning Division

STAFF REPORT

Amendment 25-Z1: Miscellaneous Updates

I. Item Summary

A. Applicant/Agent: Board of County Commissioners

B. Commission Districts Affected: 1, 2, 3, 5, 6, 7, 8, 9

C. Proposed Modifications (Exhibit 2): Broward County Code of Ordinances, Chapter 39.-Zoning

Article II.-Definitions:

- Adds the following definitions:
 - Assisted Living Facility,
 - Community Residential Home
 - Community Residential One-Family Dwelling;
- Revises the following definitions:
 - Dwelling, One-Family,
 - Dwelling, Two-family, also Duplex.
- Deletes the following definitions:
 - Community Residential Home
 - Convalescent Home,
 - Dwelling Unit, Adult Congregate Living Facility,
 - Public or Private Facility.

Article III.-Administrative and Legal Provisions

- Section 39-11.-Zoning district maps:
 - Provides for digital zoning maps.

Article V.-Variances, Administrative Decisions and Determinations, and Appeals

- Section 39-47.-Administrative adjustment procedure:
 - Retitles the section to reflect that the requirements address administrative adjustment procedures related to landscaping requirements;
- Section 39-48.-Administrative Setback Waiver:
 - Adds new section to provide for the Director to waive any setback distance by up to ten percent (10%), but not to exceed one (1) foot.
- Section 39-49.-Zoning Verification Letters:
 - Adds new section that codifies the process used by the zoning official to issue zoning verification letters and charge the applicable fee.

Article VII.-Nonconforming Uses and Structure

- Section 39-74.-Nonconformity other than use:
 - Renames Section 39-74 to “Nonconforming structures and sites.”
 - Section 39-74(b) *Nonconforming plots*: Adds an entitlement for one (1) duplex with two (2) dwelling units on nonconforming plots within the Duplex and Attached One-Family Dwelling and Multifamily Dwelling Districts. These include the RD-4 through RD-10 and RM-5 through RM-25 zoning districts.

Article XIV. - Agricultural Estate A-1 and General Agricultural A-2 Districts

- Section 39-249. Uses permitted:
 - Replaces the Community residential facilities permitted use with the Community residential one-family dwelling use,
 - Adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities.

Article XV. – Rural and Estate Districts

- Section 39-263. Uses permitted:
 - Replaces Community residential facilities permitted use with the Community residential one-family dwelling use,
 - Adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities.

Article XVI. – Residential Zoning Districts

- Section 39-277. Residential zoning districts:
 - References Multifamily dwelling districts instead of Multiple-family dwelling districts.
- Section 39-278. Density:
 - Adds Section 39-278(d) to provide an entitlement of one (1) duplex with two (2) dwelling units on all lots of record as of September 24, 2020 within the RD-4 through RD-10 and RM-5 through RM-25 zoning districts,
 - Requires all building and structures to comply with floor area, height, setbacks, and other minimum housing standards.
- Section 39-279. Uses permitted:
 - Adds Assisted living facility to the table of Residential uses and permits them in the RM-17 to 25 zoning districts,
 - Replaces the Community residential facility with adult day care permitted as an accessory use with the Community residential homes with adult day care permitted use and adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities.
 - Adds the Community residential one-family dwelling use, adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities, and permits such uses in all residential zoning districts,
 - Deletes the Nursing home, convalescent or rehabilitation home use from all Residential zoning districts.

Article XVII. – Commercial Zoning Districts

- Section 39-295. Permitted uses:
 - Adds Assisted living facility to the table of Commercial uses, permits them in the B-3 and B-4 zoning districts, and adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities.

Article XXII. - Community Facilities Districts

- Section 39-363. Permitted uses:
 - Adds Assisted living facility to the table of Community Facilities uses, permits them in the CF zoning district, and adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities,
 - Replaces the Community residential facilities use with the Community residential home use and adds a reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities,
 - Adds Community residential one-family dwelling to the table of Community Facilities uses, permits them in the I-1 and CF zoning districts, and adds a

- reference to new Article XLI.-Community Residential Homes and Assisted Living Facilities,
- Deletes Nursing home use.
- Section 39-368. Limitations of uses:
 - Deletes Section 39-368(f) that addresses density calculations for Community Residential Facilities and Nursing Home uses.

Article XXVI.-Site Plan Procedures and Requirements

- Section 39-411.-Site plan review:
 - Amends Section 39-411(d) to clarify that Conceptual Plan Review is provided as a courtesy,
 - Amends Section 39-411(d)(1)a. to state that Courtesy Conceptual Review Plan plans are not routed for agency review and comment,
 - Clarifies that an application must be submitted with any site plan submitted for review.
- Section 39-412. Courtesy conceptual site plan meeting:
 - Amends Section 39-412(a) to provide for the Director to require an applicant to request a Courtesy Conceptual Plan Review meeting rather than file an application for Conceptual Plan Review,
 - Updates references to Conceptual Plan Review to Courtesy Conceptual Plan Review,
 - Deletes requirement to route Conceptual Plans,
 - Allows an applicant to request a Courtesy Conceptual Plan Review prior to requesting a preapplication meeting.
- Section 39-413. Site plan review procedures:
 - Requires the applicant to post sign notice of a proposed site plan on the property within 21 days after issuance of a Notice of Complete Application,
 - Provides for site plan application processing to cease and the application to be deemed withdrawn if the applicant does not submit an affidavit that the required sign has been posted within the 21-day sign posting period,
 - Provides for posted signs to be removed seven (7) days after agency approvals or seven (7) days after final disposition of the application by the County Commission.
 - Reduces the timeframe for review agencies to submit comments to the Urban Planning Division from 28 days to 21 days,
 - Reduces the timeframe for an applicant to respond to any noncompliance items included in the review agency comments from 60 days to 45 days,
 - Allows new site plan submittals at any time after a final order of denial has been issued.
 - Reduces the time frame for a site plan to be issued a final order from 180 days to 120 days after an application is deemed complete. The timeframe for issuance of the final order extends to 180 days if the Commission holds a quasi-judicial public hearing,
 - Provides for an applicant to request one (1) extension of the review period between 30 days and 180 days, provided the applicant agrees to waive the timeframes set forth in Section 125.022, Florida Statutes,
 - Allows the Director to place an application for review by the County Commission on the quasi-judicial agenda within 180 days after the application is deemed complete in the following circumstances:

- When the Director believes there is a substantive question regarding interpretation of Article XXVI.-Site Plan Procedures and Requirements as it applies to the application.
- If the application generates significant public interest.
- o Provides for an approved site plan to expire if a building permit is not issued within eighteen (18) months.
- o Allows the Urban Planning Division Director to grant up to two (2) extensions for six (6) months each if the applicant shows progress toward securing building permits or renewing expired building permits.
- o Provides that site plan applications that are substantially similar to a prior denied shall not be submitted less than one hundred eighty (180) days after the final order denial and shall require a new public participation plan.

Article XXXIX.-Central County Community Overlay District

- Repeals Section 39-637.-Adult living facilities in Roosevelt Gardens.

Article XL.- Garden Park Districts

- Section 39-656. Development standards:
 - o Adds requirement for buildings greater than thirty-five feet (35') in height or three (3) stories that are contiguous to property zoned Rd-5 to RD-10 or RM-5 to RM-6 to have a step-back beginning on the third (3rd) story of at least eight feet (8'),
 - o Requires entrances that face an arterial or collector road to be recessed at least five feet (5') from the building line.

Article XLI.- Community Residential Homes and Assisted Living Facilities

- Section 39-674. Purpose:
 - o Adds new Article to implement Chapters 419 and 429, Florida Statutes as they relate to Community Residential Homes licensed by the State of Florida.
- Section 39-675. Use Categories:
 - o Adds the following use categories:
 - Community Residential One-Family Dwelling: one to six (1-6) residents,
 - Community Residential Home: seven to fourteen (7-14) residents,
 - Assisted Living Facility: fifteen (15) or more residents.
- Section 39-676. Application Required:
 - o Requires applications for Community Residential One-Family Dwellings to:
 - Identify the number of residents and locations of all community residential homes within the Broward Municipal Services District.
 - Identify the number of residents and the community support requirements of the program,
 - o Requires applications for Community Residential Homes and Assisted Living Facilities to:
 - Identify the number of residents and community support requirements of the program,
 - Contain a statement from the Licensing Entity that indicates the licensing status and how it meets applicable licensing criteria for the safe care and supervision of the residents,
 - Identify all Community Residential Homes and Assisted Living Facilities within the Broward Municipal Services District.
- Section 39-677. Zoning Compliance:
 - o Requires Community Residential Homes and Assisted Living Facilities to comply with requirements of the zoning district in which they are located,

- Permits Community Residential One-Family Dwellings with 6 or fewer residents as a one-family dwelling, provided distance separation requirements are met.
- Section 39-678. Permitted Use Categories:
 - Permits Community Residential One Family Dwelling with 1 to 6 residents in the:
 - Agricultural zoning districts (A-1, A-2),
 - Rural and Estate zoning districts (E-1, E-2, Rural Ranches, Rural Estates),
 - Residential zoning districts (RS-2 to RS-6, RD-4 to RD-10, RM-5 to RM-25),
 - Community Facilities zoning districts (I-1).
 - Permits Community Residential Home with 7 to 14 residents in the:
 - Residential zoning districts: (RD-4 to RD-10, RM-5 to RM-25),
 - Community Facilities zoning districts: (I-1).
 - Permits Assisted Living Facilities with 15 or more residents in the:
 - Residential zoning districts (RM-17 to RM-25),
 - Community Facilities zoning districts: (I-1),
 - Commercial zoning districts (B-3, B-4).
- Section 39-679. Density
 - Provides for Community Residential One-Family Dwelling to be considered one dwelling unit,
 - Provides for Community Residential Home with seven to ten (7-10) residents to be counted as two (2) dwelling units,
 - Provides for Community Residential Home with eleven to fourteen (11-14) residents to be counted as three (3) dwelling units,
 - Provides for every bedroom of an Assisted Living Facility to count a half (0.5) dwelling unit.
- Section 39-680. Distance Separation:
 - Requires distance separation between the following facility types as follows:
 - Between two Community Residential One-Family Dwelling (1-6 Residents): 1,000 feet);
 - Between a Community Residential Home (7-14 Residents) and a Community Residential One-Family Dwelling (1-6 Residents): 1,200';
 - Between two Community Residentials Homes (7-14 Residents): 1,200';
 - Between two Assisted Living Facilities (15 or more residents): 1,200'; and,
 - Between a Community Residential Home (7-14 Residents) and an A-1, A-2, E-1, E-2, Rural Ranches, Rural Estates, or RS-2 to RS-6 zoning district: 500'.
- Section 39-681. Permit review:
 - Requires applications for proposed Community Residential Homes and Assisted Living Facilities to be processed by the Urban Planning Division within 60 days or the agency is permitted to establish the home or facility.
 - Requires approval of Community Residential Homes and Assisted Living Facilities applications that meet the following requirements:
 - All applicable zoning requirements;
 - All applicable licensing requirements.
 - Provides that an overconcentration occurs when the locations of Community Residential Homes and Assisted Living Facilities are less than those required by Section 39-680 and that facilities may not be geographically sited in a way that results in overconcentration.

D. Effect of Proposed Change.

Updates the zoning code regarding community residential homes consistent with state statute, adds definitions, adds an administrative adjustment procedure, provides for digital zoning maps, provides for zoning verification letters, and provides entitlements for residential nonconforming plots.

E. Comprehensive Plan Consistency.

Consistent: Broward Municipal Services District Element Policy BMSD 1.1.1. (See Section V. Data and Analysis, Good Planning and Zoning Practice).

II. Staff Recommendation

The Urban Planning Division staff recommend the Resilient Environment Department Local Planning Agency (LPA) find the proposed ordinance consistent with the Broward County Comprehensive Plan.

III. Background. On August 22, 2024, the Board of County Commissioners directed the Office of the County Attorney to draft an Ordinance (Item 47, Legistar 24-497) to address the following:

- allow digital mapping of zoning districts in lieu of printed maps;
- permit construction consistent with the applicable zoning category on nonconforming plots located within residential zoning districts;
- amend and create various sections to update provisions related to community residential homes and assisted living facilities consistent with state law; and,
- provide for general updating amendments.

IV. Description of Amendment.

The proposed amendment updates the zoning code consistent with the Board of County Commissioners direction.

V. Data and Analysis.

Zoning, Section 39-24 provides for the Board to amend zoning regulations whenever the public necessity, convenience, general welfare, or good planning and zoning practice requires. It further provides that the Board of shall consider public input and the recommendations of staff in considering any ordinance amending the Zoning Code.

Staff conducted an analysis in accordance with the requirements of the Broward County Code of Ordinance, Chapter 39-Zoning, Section 39-24 and finds the following:

Public Necessity:

- *Aligns site plan review time frames in keeping with the requirement of Section 125.022, Florida Statutes.*
- *Implements Chapters 419 and 429, Florida Statutes as such relate to Community Residential Homes and Assisted Living Facilities.*

Convenience:

- *Provides for digital zoning maps,*
- *Adds an administrative adjustment procedure*

General Welfare:

- *Provides for Assisted Living Facilities and Community Residential Homes;*

Good Planning and Zoning Practice:

- *Provides for zoning verification letters,*
- *Provides entitlements for residential nonconforming plots.*
- *While the proposed amendment is consistent with state statute, it is not consistent with the Broward County Comprehensive Plan's Broward Municipal Services District Element Policy BMSD 1.1.1 that allows Special Residential Facilities in Residential, Commercial, and Community future land use designations. It also is not consistent with various portions of the Broward County Land Use Plan (BCLUP) that address Special Residential Facilities, including Section 2: Permitted Uses. The provisions in state statute prevail. This inconsistency will be corrected as part of updates to both the BCLUP and BMSD Element.*

VI. Proposed Ordinance (see Exhibit 2)