
CITY OF OCALA**Meeting Date: 7/10/2023****PLANNING & ZONING COMMISSION REPORT**

Subject: Code amendment regarding multi-family residential development within the Shopping Center zoning district.

Submitted By: Emily W. Johnson, AICP

City Council Date: August 1, 2023 (Introduction) and August 15, 2023 (Second & final reading)

STAFF RECOMMENDATION (Motion Ready): **Approve** an ordinance to amend Section 122-910 concerning multi-family dwelling unit calculations from density to include intensity in Shopping Centers.

OCALA’S RELEVANT STRATEGIC GOALS: Economic Hub

BACKGROUND: Staff has received an application to amend the Land Development Regulations, submitted by W. James Gooding III, Gooding & Batsel, PLLC (the “Agent”), on behalf of DGMGKK Investors LLC (the “Petitioner”). The Petitioner is requesting the amendment of Section 122-910 to allow for multi-family dwellings to develop consistent with the maximum intensity (as opposed to the traditional application of density calculations) established by the property’s underlying land use, or as specifically limited by the approved shopping center master plan. Intensity is measured by Floor Area Ratio (FAR), in lieu of dwelling units per acre. FAR is calculated by dividing the gross usable floor area by the total property area, and is utilized by other communities (including the City of Tampa) to calculate the development potential for multi-family residential uses.

The proposed amendment also includes clarifying language which defers to state legislation regarding the allowance of multi-family dwellings within certain zoning districts. Currently, multi-family dwellings are not allowed as part of a single retail establishment; the amendment specifies that this regulation remains in effect, unless otherwise authorized by state law.

FINDINGS AND CONCLUSIONS:

The proposed ordinance is consistent with comparable ordinances concerning similar types of uses. The proposed amendment is consistent with the City’s code of ordinances, and with the comprehensive plan.

LEGAL REVIEW: The ordinance is pending review by the City Attorney, William E. Sexton.

ALTERNATIVE:

- Approve
- Approve with changes
- Deny
- Table

SUPPORT MATERIALS:

- Redlined outline of text amendment
- Proposed ordinance

ARTICLE V. –DISTRICT REGULATIONS

DIVISION 29. – SHOPPING CENTERS AND SINGLE RETAIL STORE DEVELOPMENTS

Sec. 122-910. – Multi-family dwelling criteria in the SC zoning district.

- (a) Multi-family dwellings must be consistent with all the requirements in Division 29 – Shopping Centers/Single Retail Establishments.
- (b) Multi-family dwellings shall not be allowed as part of a single retail establishment unless otherwise authorized by state law.
- (c) ~~Outparcels or inline retail parcels that do not include multi-family dwellings shall not be calculated to determine density allowed by the land use classification.~~ Multi-family dwellings shall be permitted to develop consistent with the maximum floor area (FAR) as established by the property's underlying land use (i.e., utilizing the intensity, as opposed to density, limitation in such land use); or as specifically limited by the approved shopping center master plan.

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING MULTI-FAMILY DWELLING CRITERIA IN SC ZONING DISTRICT; CONTAINING FINDINGS; AMENDING SECTION 122-910 PROVIDING FOR MULTI-FAMILY DWELLING CRITERIA IN THE SC ZONING DISTRICT BY REVISING SUBSECTION 122-910(B) PROVIDING FOR AUTHORIZATION BY STATE LAW OF MULTI-FAMILY DWELLINGS AS PART OF A SINGLE RETAIL ESTABLISHMENT AND BY REVISING SUBSECTION 122-910(C) PROVIDING FOR MULTI-FAMILY DEVELOPMENT CONSISTENT WITH MAXIMUM FLOOR AREA RATIO OF UNDERLYING LAND USE, OR AS SPECIFICALLY LIMITED BY AN APPROVED SHOPPING CENTER MASTER PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS:

- A. City has adopted Division 29 of Article V of Chapter 122 of the City Code which, pursuant to Section 122-901, is known as the *Shopping Center Ordinance*.
- B. Pursuant to Section 122-918(a)(1) of the Shopping Center Ordinance, multi-family dwellings are permitted in shopping centers, including the Shopping Center (“SC”) zoning district, provided they comply with Section 122-910 of the Shopping Center Ordinance which contains additional criteria for multi-family dwellings in the SC zoning district.
- C. Traditionally, development potential (i.e., the amount of development permitted or required) for residential developments (such as single-family or multi-family dwellings) is measured by “density” pursuant to which a particular number of dwelling units are permitted for each acre of property, while development potential for nonresidential uses is calculated in terms of “intensity” pursuant to which development is permitted up to a particular floor area ratio (“FAR”). For example, within the Low Intensity Future Land Use under the City of Ocala Comprehensive Plan, residential development is permitted up to a maximum density of 18 dwelling units per acre, while nonresidential development is permitted up to an intensity of 0.75 FAR.
- D. The City has recognized exceptions to this practice, however, including pursuant to the City’s Form Based Code codified at Division 31 of Article V of Chapter 122 of the City Code. Pursuant to Section 122-959 of the Form Based Code, in certain areas of the City, “density/intensity is measured using the floor area ratio (FAR) for both residential and nonresidential uses.”
- E. Further, other communities (including the City of Tampa) permit the development potential for certain multi-family dwellings to be calculated using intensity.
- F. Policy 5.2 of the Comprehensive Plan provides for the City to implement an incentive program “to encourage infill, development or redevelopment in proximity to existing or planned residential uses which incentives may include density or FAR bonuses.”
- G. The Shopping Center Ordinance contains provisions (including requirements for multi-use and retail development, size and location criteria, connectivity, driveway and cross-easement requirements, design requirements, and provisions concerning out-parcels) that justify measuring development potential for multi-family dwelling units in a shopping center in the same manner –

using intensity – that are used to measure the development potential for nonresidential development in the shopping center, or measuring such potential pursuant to an approved shopping center plan.

- H. The City finds that based on the foregoing, it is appropriate to permit multi-family dwellings within the SC zoning district to develop consistent with intensity or as specifically limited by an approved shopping center master plan.
- I. Further, state law (including Section 166.04151, Florida Statutes, as amended by Chapter 2023-17 Laws of Florida) authorizes multi-family affordable housing within certain zoning districts in municipalities.
- J. The City finds it appropriate to recognize such authorization.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. Section 122-910 of the City Code is amended to read as follows:

Sec. 122-910. Multi-family dwelling criteria in the SC zoning district.

- (a). Multi-family dwellings must be consistent with all the requirements in Division 29—Shopping Centers/Single Retail Establishments.
- (b). Multi-family dwellings shall not be allowed as part of a single retail establishment unless otherwise authorized by state law.
- (c). Multi-family dwellings shall be permitted to develop consistent with the maximum floor area (FAR) as established by the property’s underlying land use (i.e., utilizing the intensity, as opposed to density, limitation in such land use); or as specifically limited by the approved shopping center master plan.

Section 2. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be held unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

[Remainder of Page Left Intentionally Blank]

Section 4. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:

CITY OF OCALA

Angel B. Jacobs
City Clerk

By: _____
James Hilty Sr.
President, Ocala City Council

Approved / Denied by me as Mayor of the City of Ocala, Florida, on _____, 2023.

By: _____
Reuben Kent Guinn
Mayor

Approved as to form and legality:

William Sexton
City Attorney