



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Legal Lots of Record

Meeting	File No.	Application Type
November 17, 2025	PZ-000166-2025	Amendment to the Land Development Regulations
Applicant	Property Owner	Authorized Agent
City of Delray Beach	Not applicable.	Not applicable.

### Request

Provide a recommendation to the City Commission on Ordinance No. 25-25, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 1.3.2, "Nonconforming Lots of Record," Section 4.1.4, "Use of Lots of Record," Section 4.3.1, "Application of District Regulations," Section 4.4.3, "Single Family Residential (R-1) Districts," Section 4.7.8, "Other Incentives," and Appendix A, "Definitions" to amend regulations related to the use of lots of record.

### Background Information

On October 1, 1990, a Citywide rezoning was adopted. Among the many changes that were made by the ordinance, minimum requirements for lot dimensions and square footage were adopted in the Single-Family (R-1) zoning districts that did not match the lot sizes of many lots that existed, either by plat or by an extended history of use, thereby rendering them non-conforming because all lots must meet the minimum development standards for lots in that zoning district.

For example, a new subdivision in the R-1-A zoning district requires 60-foot wide interior lots / 80-foot wide corner lots, and 7,500 square feet of area to meet the minimum standards. However, many existing lots are only 40 or 50 feet wide and are significantly smaller in total lot area and dimensions, as detailed in the table at right.

R-1-A ZONING DISTRICT				
	REQUIRED LOT DIMENSIONS	EXISTING LOT DIMENSIONS		
<b>Lot Size</b>	7,500 square feet	4,000 – 7,000 square feet		
<b>Lot Width</b>	60 feet - interior 80 feet - corner	40 – 50 feet (interior and corner)		
<b>Lot Depth</b>	100 feet	100 – 140 feet		
MINIMUM SETBACK REQUIREMENTS				
	Front	Side Street	Side Interior	Rear
<b>R-1-A Zoning</b>	25 feet	15 feet	7.5 feet	10 feet

Many lots, in their current configuration, pre-date the establishment of the current development standards in the Single-Family (R-1) zoning districts, which often creates a need for relief requests, either in the form of a waiver from minimum lot dimensions or a variance from the building setback requirements. This creates significant challenges when a property owner seeks to build a home that adheres to the development standards that are appropriate for much larger lot sizes. A house constructed on a nonconforming corner lot, that meets setbacks could be a maximum of 17.5 feet wide; for comparison, a standard parking space is 18 feet long. Thus, relief is also often needed because the current minimum setbacks were established based upon the minimum square footage, width, and depth requirements that do not match the actual conditions of existing lots within the zoning district. Waivers have recently been approved for properties at 302 SE 4<sup>th</sup> Street, 822 N Lake Street, and 228 SE 3<sup>rd</sup> Avenue

The alternative to requesting setback relief would be to acquire and combine adjacent properties (through a plat) so that they meet the minimum square footage requirements, which would result in the creation of only one housing unit rather than two.

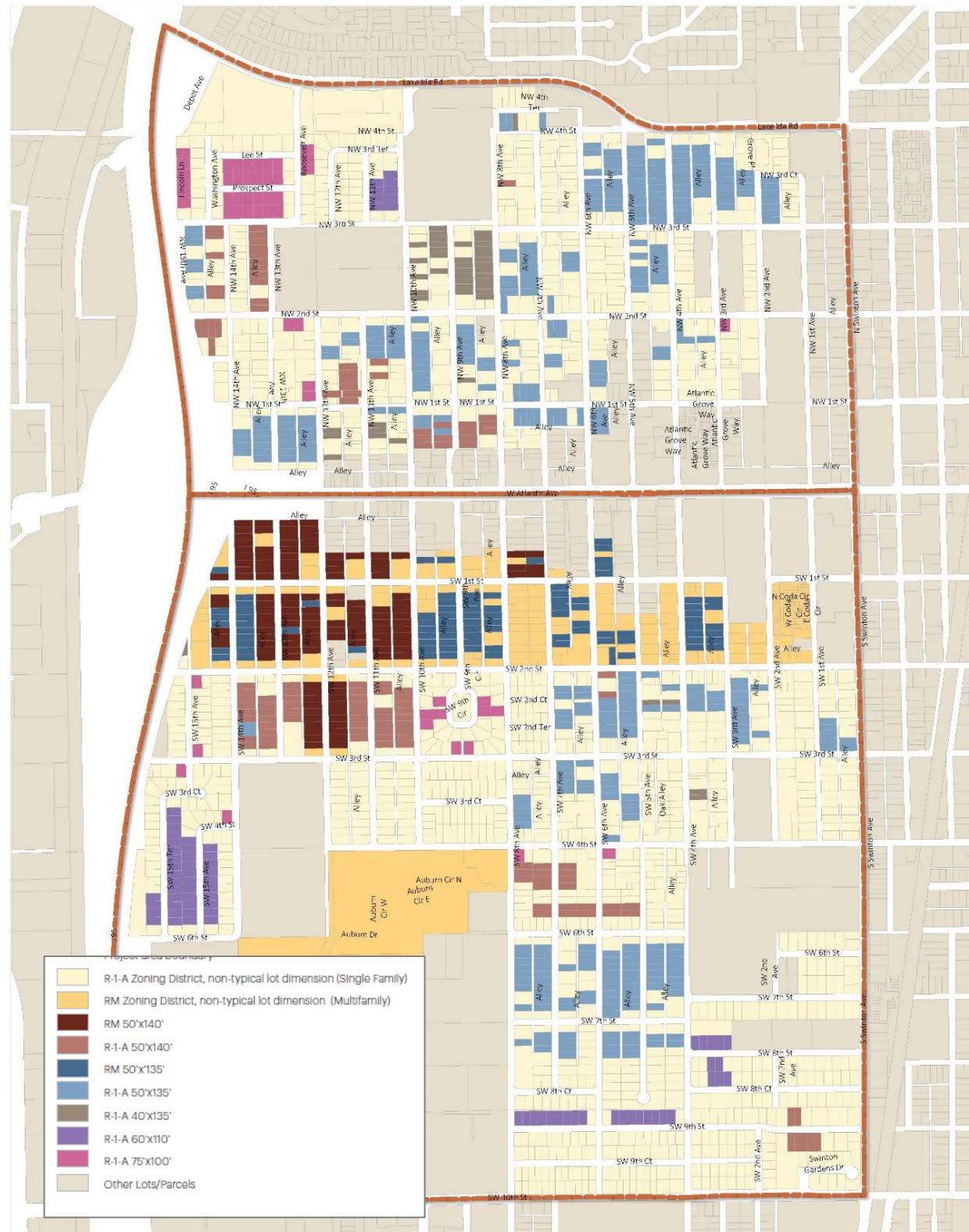
#### Project Contact:

Barbara Pinkston, Senior Planner;  
Rebekah Dasari, AICP, Principal Planner

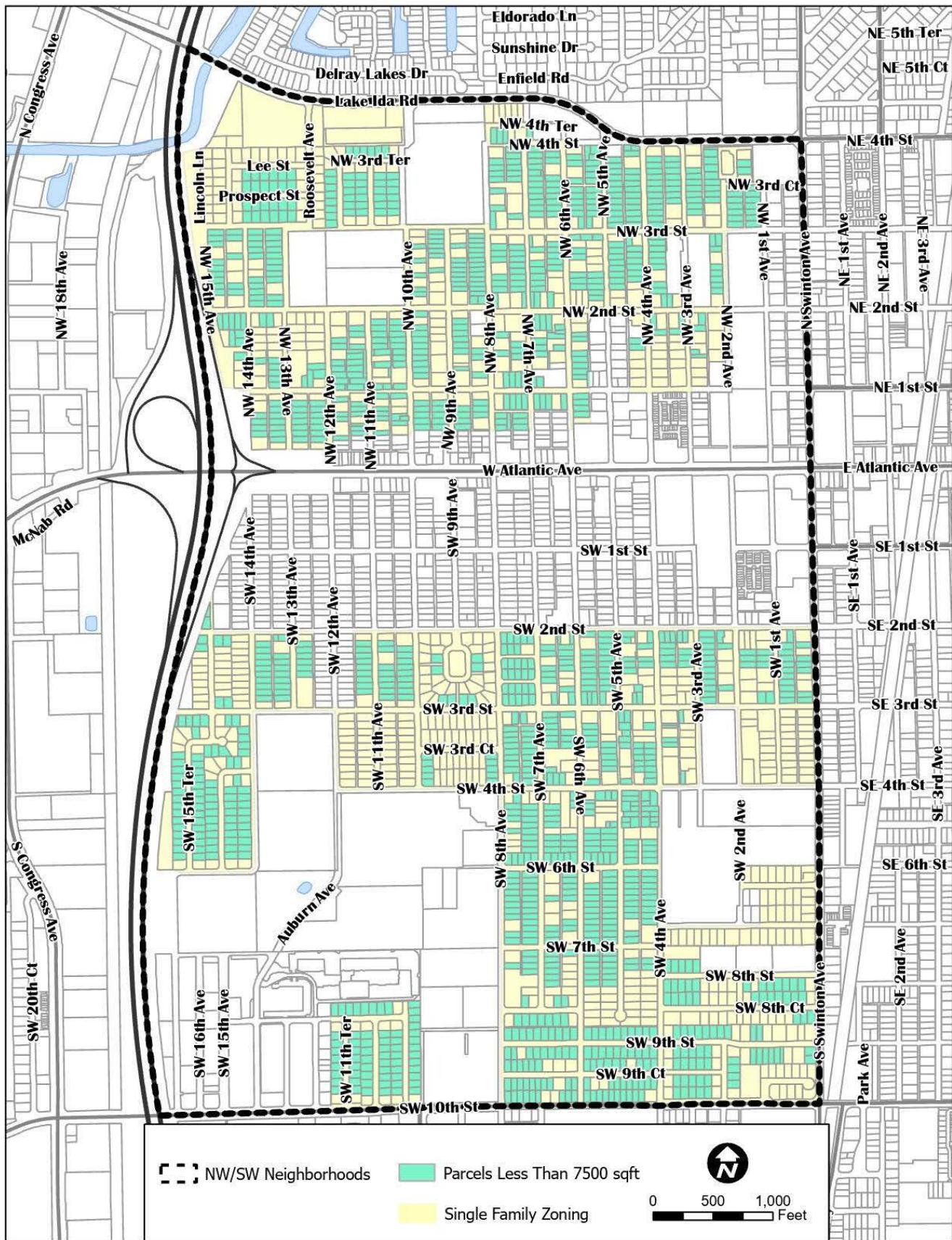
#### Attachments:

- Ordinance No. 25-25

The following maps indicate the scope of the issue within the Northwest / Southwest neighborhood in particular, and in other neighborhoods platted early in the city's history.



Map Source: Opticos ADU Study



Map Source: City GIS Data

## Lots of Record

LDR Section 4.1.4 affords certain flexibility to owners of nonconforming platted lots, which are considered "Lots of Record." Appendix A, "Definitions" defines a Lot of Record as follows:

"A lot which is part of a subdivision recorded in the office of the Clerk of the Circuit Court of Palm Beach County, Florida. Whenever a portion of an existing lot of record is replatted and contained in a new plat, that portion of the lot on the original plat which has not been replatted and included in the new plat shall not be considered a lot of record" (Appendix A).

LDR Section 4.1.4 allows the development of legal (platted) lots of record at least 50 feet wide for use by any income level. It also allows lots at least 4,000 square feet in size, greater than 40 feet and less than 50 feet in width, to be developed as workforce housing, pursuant to Ordinance No. 20-06 which was adopted in 2006. Allowing lots between 40 and less than 50 feet of frontage that (prior to Ordinance No. 20-06) were considered unbuildable was a way to incentivize the development of workforce housing on lots.

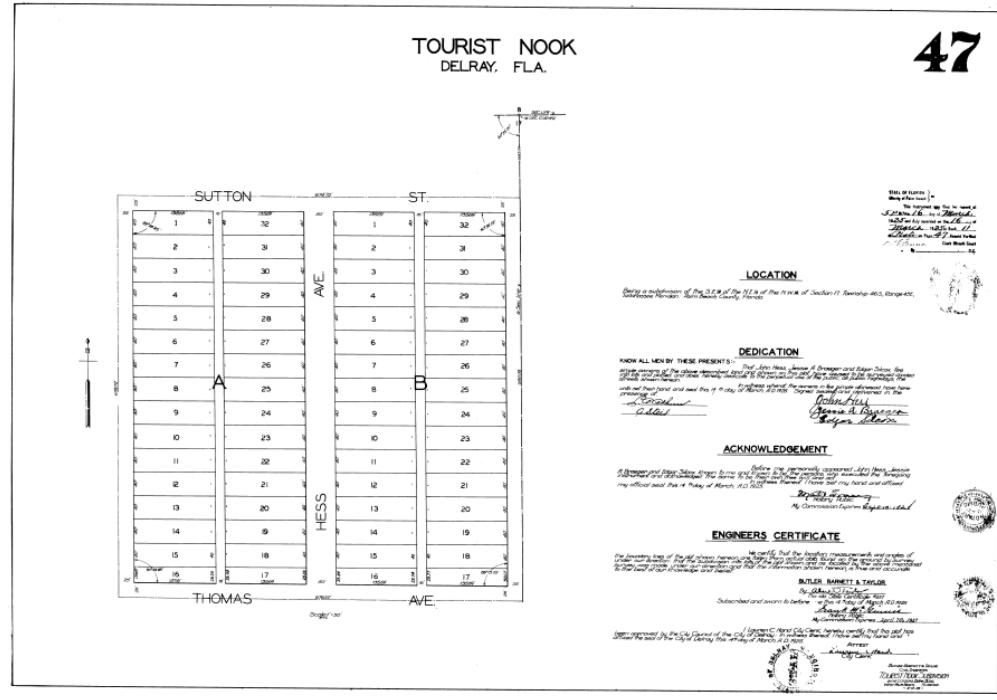
This regulation plays an important role in allowing property owners to exercise their development rights, but there are still several issues with this regulation. If a nonconforming legal lot of record with 40 to less than 50 feet of frontage was previously developed with a residential structure, and a property owner wants to rebuild and continue to use the lot, they are required to request a waiver. A more significant issue relates to lots (primarily in the Northwest / Southwest neighborhoods that have never been platted, and do not meet current lot standards. This issue is discussed in the following section.

## Unplatted Lots in the Northwest / Southwest Neighborhoods

The issues relative to nonconforming lots of record is compounded in the Northwest and Southwest neighborhoods where a significant number of lots have never been platted. As these lots are not considered lots of record in the LDR, the provision in LDR Section 4.1.4 is not available to any property owner with a nonconforming unplatted lot, even if it has existed in that configuration for several generations of ownership.

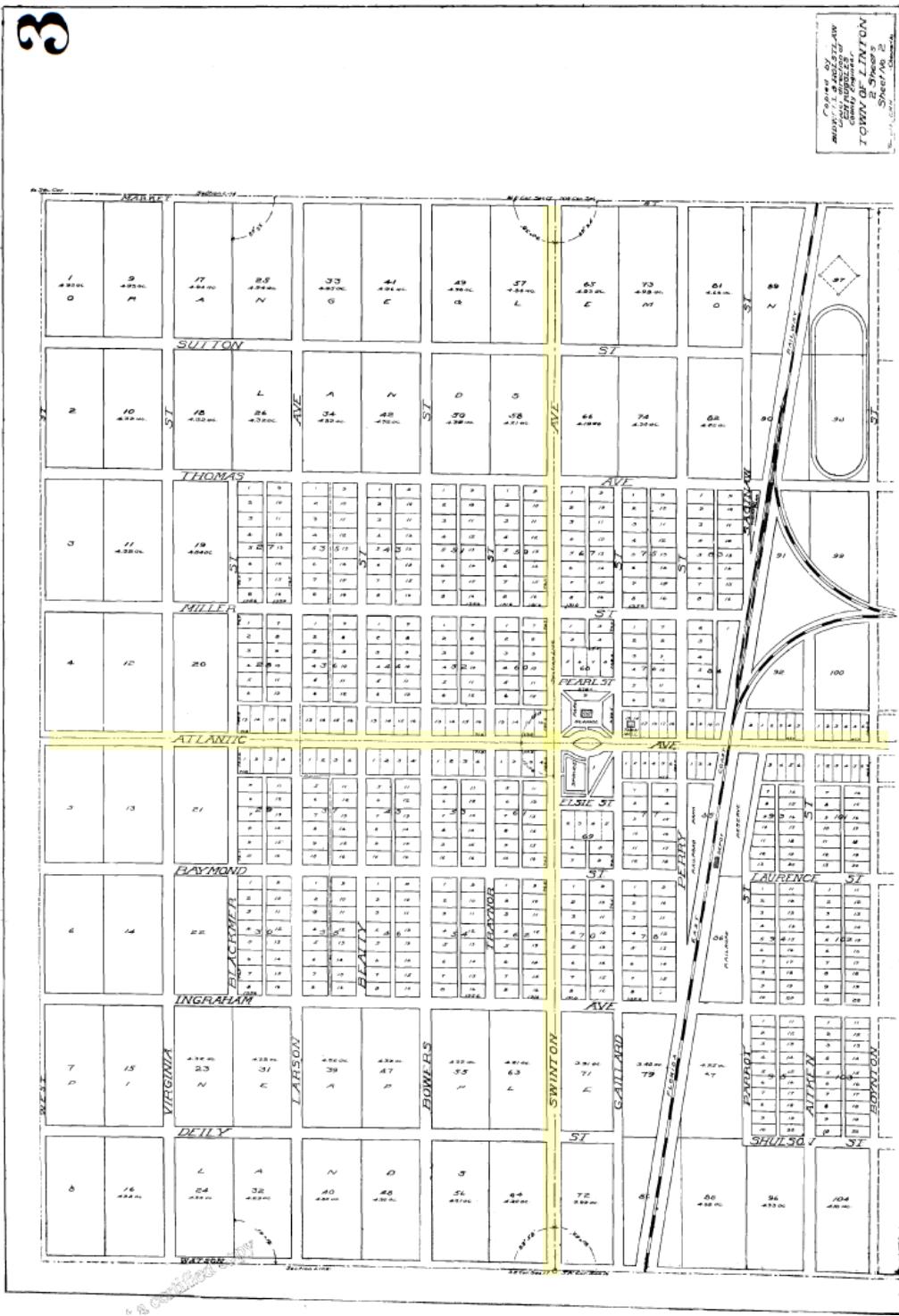
Prior to integration people of color were only allowed to live in designated areas. In Delray Beach this segregated space was located west of Swinton Avenue, south of Lake Ida Road, north of SW 10 Street, and east of I-95; identified as the Northwest and Southwest neighborhoods in the West Atlantic Master Plan. Lots in this area are a part of a much larger subdivision of platted land (such as the Town of Delray or the Model Land Company Plat), with tracts of land divided into blocks. Over time some of these blocks were replatted and subdivided into individual lots to accommodate the construction of single or multi-family dwellings. However a large number of these lots were never replatted and relied upon metes and bounds measurements, which is a method of describing the boundaries of land by directions (bounds) and distances (metes) from a known point of reference for real estate transactions.

In the Tourist Nook Plat recorded in 1925 (shown at right), the lots on the west side of NW 8<sup>th</sup> Avenue are all platted into 40' X 136' lots. These property owners could develop these lots as workforce housing, but not market rate. This is helpful in preserving lots for attainable housing, but it also limits the ability of any owner of a Legacy Property that wants to



convey their property to an heir, whose income would not qualify them for income-limited housing, as an inheritance – or to sell without a limit on the profit they can earn from the sale. “Legacy families” is a term used to refer to families with historical residency in the Northwest / Southwest neighborhood, and by extension, “Legacy Property” refers to properties owned by these families.

Another example of nonconforming lots is the property within the Town of Linton Plat recorded in 1910 (shown below, with Swinton Avenue and Atlantic Avenue highlighted in yellow). The individual blocks are shown, but most individual lots are not platted. In such cases, lots were sold off using metes and bounds measurements and were often never replatted.



For unplatted, nonconforming lots such as those in the Town of Linton plat, property owners would be required to plat the lots, and to request and receive relief for the nonconforming lot size, and from the workforce housing requirement. The application fee for a minor plat is \$1,655 and the fee for a major plat is \$3,450 – which does not include the costs of hiring professional assistance to process the applications and prepare the plat documents, which would significantly increase the cost of making a lot developable. In addition, there is no guarantee that any requested relief would be approved, which increases the risk to an individual property owner if the request is not approved. In comparison the application fee for a plat exemption (which the proposed amendment would allow for Legacy Properties) is \$750.00 plus any professional fees incurred by the property owner for a survey and sketch of the lot configuration.

Thus, the proposed amendment is designed to both recalibrate regulations for lots throughout the city that are currently considered lots of record, and to convey the same rights to property owners of unplatted nonconforming lots (primarily) in the Northwest and Southwest neighborhoods, that property owners in other neighborhoods are more likely to have.

## Description of Proposal

The proposed changes are summarized below; Ordinance No. 25-25 is attached with the full text of the amendment.

### Appendix A, "Definitions"

The following definition is amended.

LOT OF RECORD. A lot ~~which that is 1) part of a subdivision recorded in the office of the Clerk of the Circuit Court of Palm Beach County, Florida, or 2) a parcel of land defined by metes and bounds that was previously developed and has existed in its current configuration since October 1, 1990.~~ Whenever a portion of an existing lot of record is replatted and contained in a new plat, that portion of the lot on the original plat ~~which that has not been replatted and included in the new plat shall not be considered a lot of record and shall not be presumed to satisfy the definition of lot as contained in this section in the LDR or in F.S. 172.03 177.031.~~

The following new definitions are proposed.

LEGACY PROPERTY. A parcel of land located in the Northwest or Southwest Neighborhood that has been under the ownership of the same family for a minimum of 30 years. This status shall expire if the property is sold or otherwise transferred to a non-family member.

NONCONFORMING LOT OF RECORD. A nonconforming lot may mean a lot of record that was lawfully created prior to October 1, 1990, but does not comply with the minimum lot development standards of the zoning district.

NONCONFORMING LOT. A parcel of land that does not comply with the minimum lot development standards of the zoning district.

### Section 1.3.2, "Nonconforming Lots of Record"

- The definition of a lot of record is removed in this section for addition in the Definitions.

### Section 4.1.4, "Use of Lots of Record"

- Language is added to allow redevelopment of nonconforming lots of record in R-1-A zoning under the following conditions:
  - Lots previously developed with a single-family residence may be redeveloped **without requiring relief or being subject to workforce housing requirements.**
  - If two adjoining lots of record were developed with a single structure under the same ownership, and the lots do not meet the district development standards, the property owner can develop both lots, but one must be workforce housing.
  - A Legacy Property developed prior to October 1, 1990 may redevelop as a single-family residence using the plat exemption process, and is not subject to workforce housing requirements.
- Revising language related to lots that are required to develop as workforce housing to improve clarity; this includes relocating language relative to setback relief and design standards for workforce housing to Section 4.7.8 and Section 4.4.3.
- Eliminating relief procedures; redundant, and located elsewhere in the LDR.
- Improvements to language that is difficult to interpret.

### Section 4.3.1, "Application of District Regulations"

- Adds language that a lot created prior to October 1, 1990, may be used without relief if it meets the definition of a lot of record.
- Eliminates relief procedures; redundant, and located elsewhere in the LDR.

### Section 4.4.3, "Single Family Residential (R-1) Districts"

Modified development standards are proposed for nonconforming lots of record with at least 4,000 square feet within the Northwest / Southwest neighborhoods providing a workforce housing unit, or if the property is defined as a Legacy Property.

- Side street or alley. 10 foot minimum.
- Side Interior. 5-foot minimum
- Open air front porches that are at least 6 feet in depth may encroach into the front setback up to 6 feet.

### Section 4.7.8, "Other Incentives"

- Adds language noting the availability of setback relief.
- Adds specific design features that must be used in single-family affordable housing products.

## Review and Analysis

### LDR Section 1.1.6, Amendments

*The text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

The recommendation of the Planning and Zoning Board will be provided to the City Commission, where the amendments will be reviewed at two public meetings.

### LDR Section 2.4.7(A)

*Amendments to the Land Development Regulations may be initiated by the City Commission, City Administration, or by a member of the public.*

The proposed amendment is initiated by the City.

### LDR Section 2.4.7(A)(5), Findings

*For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.*

The following Goals, Objectives, and Policies (GOPs) of the adopted Comprehensive Plan are applicable to the proposed amendment:

### Private Property Rights Element

Objective PPR 1.1 Private Property Rights *Respect judicially acknowledged and constitutionally protected private property rights in local decision-making.*

Policy PPR 1.1.1 *Consider the right of a private property owner to:*

*Physically possess and control interests in their own property, including easements, leases, or mineral rights.*

- *Use, maintain, develop, and improve property for their own personal use or for the use of any other person, subject to state law and local ordinances.*
- *Maintain privacy and exclude others from the property to protect the owner's possessions and property.*
- *Dispose of their own property through sale or gift.*

The proposed amendment will allow property owners in the Northwest and Southwest neighborhoods to utilize their property as intended for single-family purposes. It would also provide the opportunity to utilize their buildable land as equity or collateral to help secure construction loans or for any other needed purpose.

## Neighborhoods, Districts, and Corridors Element

Objective NDC 2.8 Innovative Housing Strategies Use innovative housing planning practices to provide a wide range of housing types at price points that serve the city's diverse population.

Policy NDC 2.8.3 Continue to utilize workforce housing programs and incentives, such as but not limited to, increased density and smaller lot sizes where appropriate and compatible in the Land Development Code to encourage the provision of workforce housing in the city.

Policy NDC 2.8.4 To protect the long term viability of workforce housing, include provisions in the Land Development Regulations that establish a long-term period of affordability of at least 40 years, income qualifications, maximum unit cost or rent; reassess the provisions of the Land Development Regulations within one year of the completion of new housing assessment studies.

Policy NDC 2.8.6 Monitor the progress of workforce/affordable housing programs and incentives to identify successful initiatives and to adjust underperforming programs or incentives or regulations.

Objective NDC 3.5 Update Land Development Regulations Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.

The amendments will allow property owners to construct housing that may or may not be for used by individuals who income qualify for workforce housing. A legacy family that owns property may not qualify for workforce housing and would therefore be unable to live in a home that they would build on their own property, without seeking relief. In other cases, this would assist agencies that build workforce housing to do so thereby ensuring housing for that segment of the population is easier to build.

## Housing Element

Policy HOU 1.1.9 Encourage plans and investments to protect and/or restore the socioeconomic diversity and cultural stability of established neighborhoods.

Policy HOU 3.2.7 Diversify affordable housing options by allowing the construction of non-conventional single-family residences on non-conforming lots of record located east of Interstate 95.

GOAL HOU 4 INNOVATION AND DIVERSITY OF HOUSING TYPES PROMOTE INNOVATIVE, UNIQUE AND DIVERSE HOUSING TYPES TO ENHANCE LIVABILITY AND SUSTAINABILITY.

GOAL HOU 5 EQUITABLE OPPORTUNITY SUPPORT THE PROVISION OF THE HOUSING OPPORTUNITIES AND CHOICES FOR INDIVIDUALS AND HOUSEHOLDS OF ALL AGES, RACES, ETHNICITIES, CULTURAL BACKGROUNDS AND SPECIAL NEEDS.

GOAL HOU 6 AFFORDABILITY ADDRESS HOUSING NEEDS FOR HOUSEHOLD TYPES OF ALL INCOME LEVELS TO MEET FUTURE POPULATION GROWTH TO THE YEAR 2035.

Policy HOU 6.3.3 Identify strategies the City and its partners can employ to promote equitable and inclusive neighborhoods.

The amendments will result in a variety of housing opportunities for different household types. There would be a mix of workforce housing made available for deserving residents as well as non-workforce housing constructed by families with Legacy Properties that will continue to live on their land.

## Economic Prosperity Element

GOAL ECP 5 EQUITY AND ECONOMIC INCLUSION ADDRESS POVERTY AND EQUITY THROUGH ECONOMIC INCLUSIONARY POLICIES AND PROGRAMS THAT REDUCE DISPARITIES AND SET HIGHER STANDARDS FOR SUSTAINABLE AND EQUITABLE DEVELOPMENT.

Policy ECP 8.2.4 *Diversify affordable housing options by amending the Land Development Regulations to permit the construction of non-conventional single-family residences on non-conforming lots of record located east of Interstate 95. [Complete by 2025]*

The proposed language will ensure an even playing field for all property owners in the City. Allowing homes to be constructed on non-conforming lots will ensure the inclusion of property owners wishing to construct a home. The plat exemption process would further ensure equity by not requiring the additional upfront costs (waivers, plats, professional assistance) that could be utilized later during the design and construction process.

#### Review By Others

The **City Commission** is anticipated to review the proposed LDR Amendments in December 2025 and January 2026.

#### Options for Board Action

- A. Recommend **approval** to the City Commission of Ordinance No. 25-25, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 1.3.2, "Nonconforming Lots of Record," Section 4.1.4, "Use of Lots of Record," Section 4.3.1, "Application of District Regulations," Section 4.4.3, "Single Family Residential (R-1) Districts," Section 4.7.8, "Other Incentives," and Appendix A, "Definitions" to amend regulations related to the use of lots of record, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 25-25, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 1.3.2, "Nonconforming Lots of Record," Section 4.1.4, "Use of Lots of Record," Section 4.3.1, "Application of District Regulations," Section 4.4.3, "Single Family Residential (R-1) Districts," Section 4.7.8, "Other Incentives," and Appendix A, "Definitions" to amend regulations related to the use of lots of record, finding that the amendment, as amended, and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. No. 25-25, a City-initiated amendment to the Land Development Regulations (LDR), amending Section 1.3.2, "Nonconforming Lots of Record," Section 4.1.4, "Use of Lots of Record," Section 4.3.1, "Application of District Regulations," Section 4.4.3, "Single Family Residential (R-1) Districts," Section 4.7.8, "Other Incentives," and Appendix A, "Definitions" to amend regulations related to the use of lots of record, finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

#### Public and Courtesy Notices

X Courtesy Notices are not applicable to this request.

N/A Public Notices are not required for this request.