



# Planning Solutions

April 8, 2024

## 200 SE 7<sup>th</sup> Avenue Land Use Map Amendment & Rezoning Applications Narrative Letter

This narrative letter associated with the Land Use Map Amendment and Rezoning Applications is respectfully submitted on behalf of 200 SE 7<sup>th</sup> Avenue, LLC for the property located at 200 SE 7<sup>th</sup> Avenue, Delray Beach, FL 33483 (PCN:12-43-46-16-B3-000-0220).

### **BACKGROUND:**

The 0.50-acre property is located at the southwest corner of SE 7<sup>th</sup> Avenue and SE 2<sup>nd</sup> Street. The property currently has an underlying Community Facilities (CF) Land Use Map designation and is also zoned Community Facilities (CF), within the Marina Historic District.



The property contains a 3,023 sf. church constructed in 1930 with a 2,366 sf. addition (classroom, office, restrooms) constructed in 1994. In 2019, a Certificate of Appropriateness (COA) and associated site plan modification were approved for the conversion of the 5,389 sf. church to a museum. The conversion to the museum occurred in 2019.

### **PROPOSAL:**

The request is to change the Land Use Map designation from Community Facilities (CF) to Low Density Residential 0-5 du/ac (LD) and Rezoning from Community Facilities (CF) to Single Family Residential (R-1-AA)

The development proposal includes the following:

- Conversion of the historically contributing museum/church into a single family residence.



- Construction of a garage at the northwest corner of the property (Future).
- Demolition of the 1-story addition and parking area south of the contributing structure (Future).
- Obtain a waiver to allow a lot width of ~65' to construct a new single family residence south of the museum/church consistent with the Land Development Regulations, Historic Preservation Design Guidelines and Secretary of Interior's Standards (Future).

**ANALYSIS:**

**LAND USE MAP AMENDMENT**

***LDR Section 2.4.5(A) Amendments to the Comprehensive Plan.***

- (1) Amendments to the Comprehensive Plan shall be processed pursuant to the Florida Community Planning Act in F.S. 163.3184 through 163.3253, as may be amended from time to time.*
- (2) Requests to amend the Land Use Map are subject to the Performance Standards in Chapter 3.*
- (3) Map amendments proposed within historic districts shall be reviewed by the Historic Preservation Board and a recommendation made to the City Commission; all other proposed Map amendments shall be reviewed by the Planning and Zoning Board and a recommendation made to the City Commission.*

The request to amend the Land Use Map (LUM) is being processed therefore as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

The proposed LUM amendment is being processed as a small-scale Comprehensive Plan amendment. *Florida Statutes F.S. 163.3187 provides that a small-scale development amendment may be adopted under the following conditions:*

- (a) The proposed amendment involves a use of 10 acres or fewer.*
- (b) The cumulative annual effect of the acreage for all small-scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year.*
- (c) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small-scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small-scale future land use map amendment shall be permissible under this section.*
- (d) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s.420.0004(3) and is located within an area of critical state concern designated by s.380.0552 or by the Administration Commission pursuant to s. 380.05(1).*

**Pursuant to LDR Section 3.1.1, Required Findings,** “...*Findings shall be made by the body which has the authority to approve or deny the development application.* These findings relate to the Land Use Map (LUM) (A), Concurrency (B), Comprehensive Plan Consistency (C), and Compliance with the Land Development Regulations (D). As indicated below, positive findings can be made with respect to LDR Sections 3.1.1 (A) – (D).

**(A) LAND USE MAP**

*Pursuant to LDR Section 3.1.1(A) Land Use Map. The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.*

The requested LD land use has a maximum density of 5 du/ac. The LD land use does not establish a maximum Floor Area Ratio (FAR) and is intended to maintain and enhance *the City's established neighborhood*



characteristics, while supporting new and revitalized housing that compliments the desired development pattern and intensity.

The requested Single Family Residential R-1-AA Zoning District, which is identified in Comprehensive Plan Table NDC-1 as a preferred implementing zoning district for the LD land use designation, *provides areas where the traditional single family detached residence can be established and maintained and be protected from the unwarranted intrusion of other inappropriate uses. Further, the Single Family Residential Districts are established in compliance with provisions of Goal HOU 2 of the Housing Element of the adopted Comprehensive Plan which calls for the preservation and maintenance of stable neighborhoods* (LDR Section 4.4.3(A). Per LDR Section 4.4.3(B) (Principal Uses and Structures Permitted) (1), a conventionally sited single family detached residence is allowed as a permitted use. Thus, the proposed conversion of the museum to residential use is permitted within the R-1-AA zoning district. The existing museum use is further discussed under *Compliance with LDRS*.

It is noted, pursuant to LDR Section 4.4.3(D) (*Conditional Uses and Structures Allowed*), the following uses are allowed as Conditional Uses within the R-1-AA zoning district:

- (1) Child care and adult day care.
- (2) Churches, or places of worship, and their attendant educational, nursery, Sunday school, recreational, and columbarium facilities. The foregoing does not allow establishment of educational and care uses such as elementary school and general day care; however, such uses may be established by a separate conditional use application for child care or rezoning to C.F., as appropriate.
- (3) Private educational facilities subject to the restrictions set forth in [Section 4.3.3](#)(HHH).
- (4) The use of common recreational facilities such as swimming pools and tennis courts, associated with a subdivision, for club or commercial purposes.
- (5) Single family detached residences in zero lot developments but only in the R-1-A and R-1-AA Districts.
- (6) Large Family Child Care Home, subject to [Section 4.3.3](#)(TT)
- (7) Family Community Residence, except as required by state law, that (1) is less than 660 linear feet from the closest existing community residence housing four or more individuals as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence, or (2) the State of Florida does not require the operator or applicant to be licensed or certified to operate the proposed community residence, has no certification from an appropriate national accrediting agency, or has not been recognized or sanctioned by Congress to operate the proposed community residence.
- (8) Transitional Community Residence, except as required by state law.

The subject property is only 0.50 acres and has limited site area to accommodate the intensity of uses for public, semi-public, and private purposes intended within the current CF zoning district, which include governmental, religious, educational, health care, social service, and special facilities. Thus, the requested Land Use Map Amendment to LD and Rezoning to R-1-AA are more appropriate for the property given the existing land use and lot characteristics of the property and surrounding residential neighborhood.

### ***Neighborhoods, Districts, and Corridors Element***

***Table NDC-1, Land Use Designation: Density, Intensity, and Implementing Zoning District***, identifies the preferred and compatible implementing zoning districts for each land use designation. The CF land use designation (existing) lists CF as a preferred implementing zoning district. The R-1-A zoning designation is not listed as an implementing zoning district for the CF land use designation. Therefore, the LUMA and a Rezoning are requested to meet the consistency requirement.

The table below provides a comparison of density and intensity limitations for both the CF and LD land use designations. As residential uses are not permitted in the CF land use designation, the proposed LUMA will increase the potential density on the parcel; the potential intensity will decrease.



Land Use Designation	Density (Standard dwelling units/acre)	Intensity (Maximum Floor Area Ratio)
CF	---	1.0
LD	Up to 5	---

The Comprehensive Plan policies listed below describe the intent and provide direction regarding the implementation of the existing and proposed land use designations.

**Neighborhoods, Districts, and Corridors Element**

**Objective NDC 1.1, Land Use Designation** *Establish compatible land use arrangements using land use categories appropriate for the diverse and difference neighborhoods, districts, and corridors throughout Delray Beach.*

Policy NDC 1.1.2 *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:*

- *Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.*
- *Uses that meet the daily needs of residents.*
- *Public open spaces that are safe and attractive.*

Policy NDC 1.1.11 *Use the implementing zoning districts identified in Table NDC-1 to provide appropriate development and improvements that further the adopted strategies of and are compatible with the assigned land use designation.*

Policy NDC 1.1.12 *Develop and redevelop remaining infill lots in residential neighborhoods using zoning that is identical or most similar to the zoning of adjacent properties or that results in same or less intense development.*

Policy NDC 1.1.14 *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

**Objective NDC 1.2, Residential Land Use Designations** *Apply the Low Density Residential and Medium Density Residential land use designations to maintain and enhance the City’s established neighborhood characteristics, while supporting new and revitalized housing that compliments the desired development pattern and intensity.*

Policy NDC 1.2.1 *Apply the most restrictive Residential land use designation that is appropriate for the neighborhood based on existing development patterns and lot sizes in the surrounding neighborhood, unless another zoning district better supports the implementation of an adopted neighborhood or redevelopment plan.*

Policy NDC 1.2.4 *Allow the Low Density Residential land use designation on small parcels that have noncommercial, neighborhood-oriented facilities, such as community clubhouses, neighborhood amenities, and places of worship.*

Policy NDC 1.2.5 *Use the Low Density Residential land use designation to create and maintain low density residential neighborhoods up to five dwelling units per acre with high quality amenities.*

**Objective NDC 3.4, Land Use Map Amendments** *Use a consistent set of standards to evaluate amendments to the Land Use Map.*



Policy NDC 3.4.1 Amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances, and the following findings can be determined:

- That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan; and,
- That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,
- That the requested land use designation is compatible with the land use designations of the surrounding area; and,
- That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.

Policy HOU 1.1.5 Accommodate Delray Beach’s existing and future housing needs through maintenance of existing residential neighborhoods, provision of infill development opportunities and redevelopment of underutilized parcels.

Policy HOU 1.1.10 Utilize infill and redevelopment programs as a way to improve the neighborhood quality of life and to promote neighborhood preservation and stabilization.

**Objective HOU 1.3 Unique Neighborhoods.** Protect existing residential areas by fostering development and redevelopment that is consistent with the unique character of the neighborhood. Policy HOU 1.3.1 Apply the most restrictive residential zoning district that is appropriate based on existing development patterns and lot sizes to these residential neighborhoods when considering requests for rezoning.

Policy HOU 1.3.1 Apply the most restrictive residential zoning district that is appropriate based on existing development patterns and lot sizes to these residential neighborhoods when considering requests for rezoning.

The subject property is adjacent to LD to the east and south, CC to the west and MD to the north. Positive findings can be made with Policy NDC 3.4.1. The requested LD land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan, and meets Concurrency standards. The proposed LD land use allows for zoning that facilitates small-scale residential development, which is compatible with the surrounding historic neighborhood in character and scale. The proposed R-1-AA allows for the establishment of single-family residences at a density consistent with the general area. The chart below summarizes the surrounding development.

Location	Development Type / Uses	Land Use Designation	Zoning District
North	Vacant – Former accessory parking lot to First Church of Christ Scientist Church	MD	RM
South	Single-family residences	LD	R-1-AA
East	Single-family residences	LD	R-1-AA
West	Auto/Tire Service	CC	CBD

**(B) CONCURRENCY**

Pursuant to **LDR Section 3.1.1(B), Concurrency**, Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund



and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach

**Traffic.** A traffic statement has been provided for the subject property in compliance with the requirements of the Palm Beach County Traffic Performance Standards Ordinance. The study's conclusions indicate the maximum 2 single family residences allowed will generate 20 average daily trips and 2 PM peak hour trips onto the surrounding roadway, which is a net reduction of 138 potential average daily trips generated by a 21,871 sf. community facility under the current CF land use map and zoning designation. Thus, the proposed land use map amendment to LD and rezoning to R-1-AA will not cause any failures to the Year 2045 Transportation System Plan. Therefore, this land use map amendment is in accordance with the goals and objectives of the Delray Beach Comprehensive Plan.

**Schools.** The Palm Beach County School District School Capacity Availability Determination (SCAD) Application has been submitted for review. A review by the Palm Beach County School District for compliance with the adopted Level of Service for School Concurrency is pending.

**Water and Sewer.** Municipal water and sewer service exists to the site via connections to the existing water and sewer mains within the adjacent rights-of-way. Pursuant to the City's Comprehensive Plan, treatment capacity is available at the South Central County Wastewater Treatment Plant for the City at build-out. The Comprehensive Plan also states that adequate water and sewer treatment capacity exists to meet the adopted LOS at the City's build-out population based on the current FLUM. The FLUM Amendment will not have a significant impact on this LOS.

**Solid Waste.** The Solid Waste Authority has indicated that its facilities have sufficient capacity to meet the needs of city residents through the depletion year in 2054. Under the LD land use designation, a maximum of 2 single-family structures are permitted. Based on Palm Beach County Waste Generation Rates, a single-family residence generates 1.99 tons of waste per year. Therefore, the proposed land use permits development that has the possibility of generating approximately 3.98 tons of waste per year, which is less than that is and can be generated under CF land use designation.

**Drainage.** Drainage currently is and will be accommodated on-site. No problems are anticipated obtaining a South Florida Water Management District permit.

**Parks and Open Space:** While there are sufficient recreation facilities to meet this LOS, pursuant to LDR Section 5.3.2, a park impact fee of \$500.00 per dwelling unit will be collected prior to issuance of a building permit for each residential unit at the time of building permit submittal.

### **(C)CONSISTENCY WITH COMPREHENSIVE PLAN**

Pursuant to **LDR Section 3.1.1(C), Consistency**, *A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within [Article 3.2](#), provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*

A review of the goals, objectives and policies of the adopted Comprehensive Plan was conducted. The applicable objectives and policies that are relevant to FLUM Amendment and Rezoning applications (NDC and Housing) are noted under LDR Section 3.1.1(A) Land Use Map above. As discussed below a finding of overall consistency can be made that the Land Use Map Amendment and Rezoning are consistent with the Goals, Objective and Policies of the Always Delray Comprehensive Plan.

In addition, positive findings with Policy NDC 3.4.1 can be determined. The requested LD land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan, and meets Concurrency standards. The proposed LD land use allows for zoning that facilitates small-scale residential



development, which is compatible with the surrounding historic neighborhood in character and scale. The proposed R-1-AA allows for the establishment of single-family residences at a density consistent with the general area.

## COMPLIANCE WITH LAND DEVELOPMENT REGULATIONS

**(D) Compliance with LDRs.** *Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.*

**Proposal:** As previously stated, the development proposal includes the following:

- Conversion of the historically contributing museum/church into a single family residence.
- Construction of a garage at the northwest corner of the property (Future).
- Demolition of the 1-story addition and parking area south of the contributing structure (Future).
- Obtain a waiver to allow a lot width of ~65' to construct a new single family residence south of the museum/church consistent with the Land Development Regulations, Historic Preservation Design Guidelines and Secretary of Interior's Standards (Future).

Subsequent to approval of the LUMA and Rezoning, the development applications associated with the proposal(s) will be submitted and processed per the LDRs, including Chapters 2 and 5, and Section 4.5.1, as appropriate - Certificate of Appropriateness, Waiver, and Plat Exemption or Minor Subdivision Plat.

**Museum Use:** Upon approval of the LUMA to LD and Rezoning to R-1-AA, the existing museum use will become a nonconforming use and subject to LDR Section 1.3.4 (*Nonconforming uses of structures*). Per LDR Section 1.3.5 (A) (*Definition*). *A nonconforming use of structure shall mean any use of a structure or building that was lawfully established but does not comply with the use standards applied by the Land Development Regulations.* It is noted, per LDR Section 1.3.4(B)(1), the museum use will not be able to be enlarged to occupy any land outside of the existing structure or within any additional structure on the same lot not used for such nonconforming use. In addition, per LDR Section 1.3.4(B)(2) (*Discontinuance of use*) (a), *If any nonconforming use of a structure ceases for any reason for a continuous period of 180 days as to its then current use, every subsequent use of the structure shall conform to the requirements specified for the zoning district in which it is located. Notwithstanding the above, within the area designated on the regulating plan with required retail frontage in the Central Business District, if the nonconforming use ceases for a continuous period of 90 days as to its then current use, every subsequent use of the structure shall conform to the use requirements of the regulating plan.*

## REZONING

Pursuant to **LDR Section 2.4.5(B)(2)**, *the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board.* The submitted application complies with the submittal requirements in **LDR Section 2.4.3**.

**LDR Section 2.4.5(B)(3)(b)**, *A statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning are:*

1. *The zoning had previously been changed, or was originally established, in error;*
2. *There has been a change in circumstance which makes the current zoning inappropriate;*
3. *The requested zoning is of similar intensity as allowed under the Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

The application is being processed under the second and third criteria. The existing structure has been converted from a church to a museum. The desire is to convert the museum to single family residence and ultimately construct



a new single family residence on a portion of the property consistent with the City's LDRs, Historic Preservation Guidelines and Secretary of Interior's Standards. Rezoning of the property to accommodate the proposed single family residential use(s) is necessary. Thus, there has been a change in circumstances that make the current CF zoning inappropriate. The proposed R-1-AA zoning is consistent with the proposed LD LUM designation and is more appropriate for the property based on circumstances particular to the site and neighborhood.

Pursuant to **LDR Section 3.2.2, Standards for Rezoning Actions**, rezoning requests must meet five standards, which are described below as they relate to the proposed rezoning under consideration.

(A) *The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to those areas identified as "stable" and "stabilization" on the Residential Neighborhood Categorization Map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.*

The properties located to the north, south and east are identified as "Stable" on the City Neighborhood Categorization Map. Pursuant to Housing Element Policy HOU 2.1.4, support efforts to maintain the neighborhood integrity and quality of life for residents in Stable residential areas and avoid allowing new development that may decrease or negatively impact the Stable classification of an area or neighborhood. The proposed LUM Amendment to LD and Rezoning to R-1-AA is consistent with the land use and zoning of the properties to the east and west and are compatible with the RM zoning district to the north, which allows detached single family residences subject to the R-1-A zoning district regulations.

The existing CF zoning, which has an intensity standard of 1.0 FAR, does not have a residential density, however, Assisted Living Facilities and Community Residences are allowed subject to restrictions. The proposed R-1-AA zoning does not have an FAR standard but does have a maximum density allowance of 5 du/acre, per the proposed LD land use designation. The R-1-AA zoning district controls development intensity through setbacks and minimum open space requirements. Since the properties are located within the Marina Historic District, they are also subject to applicable provisions of LDR Section 4.5.1, the City's Historic Preservation Guidelines and the Secretary of Interior's Standards.

(B) *Rezoning of land located west of Interstate-95 to accommodate auto dealerships or to AC (Automotive Commercial) is prohibited pursuant to Policy NDC 2.5.2 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan.*

Not applicable. Auto dealerships are not a proposed use.

(C) *Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration shall be given to increasing the depth of the mixed -use zoning to provide for more substantive, mixed-use projects that provide compatible transitions in form and use to the surrounding area.*

Not applicable.

(D) *Rezoning of land shall result in allowing land uses deemed compatible with adjacent and nearby land uses both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.*

The subject property is adjacent to R-1-AA to the east and south, CBD to the west and RM to the north. The proposed LD land use and R-1-AA zoning allows for single family residences at a maximum density of 5 dwelling units per acre, which is a use and density compatible with those in the adjacent neighborhood.





*(E) Remaining infill lots within the Coastal High Hazard Area of the Coastal Planning Area shall be developed using zoning which is identical or similar to the zoning of adjacent properties or that results in less intense development.*

Not applicable. The proposed development is not within the Coastal High Hazard Area of the Coastal Planning Area; however, the zoning is identical to the adjacent properties to the east and south and similar to the adjacent properties to the north.

Based upon the above, the proposed Land Use Map Amendment (LUMA) from Community Facilities (CF) to Low Density (LD) and the Rezoning from CF to R-1-AA are consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations. The proposal is also consistent with Chapter 3 (Performance Standards, LDR Section 3.1.1 (Required Findings), (A) Land Use Map, (B) Concurrency, (C) Consistency, and (D) Compliance with LDRs. Based upon the above, approval of the LUM Amendment and Rezoning applications is respectfully requested.

