PLANNING AND ZONING BOARD

CITY OF DELRAY BEACH ---STAFF REPORT---

MEETING DATE: **May 21, 2018**

ITEM: Privately-initiated small scale Future Land Use Map amendment from LD (Low Density Residential 0-5 du/acre) to CC (Commercial Core) and Rezoning from R-1-A (Single Family Residential) to CBD (Central Business District) for a parcel of land located on the west side of SE 3rd Avenue, 137 feet south of SE 2nd Street.

RECOMMENDATION Recommend denial to the City Commission

GENERAL DATA:

Owner/Applicant	206 Delray Beach, LLC
Location	West side of SE 3rd Avenue, 137' south of SE 2nd Street
Property Size	0.137 acres
Existing Future Land Use Map Designation	LD (Low Density Residential 0-5 du/acre)
Proposed Future Land Use Map Designation	CC (Commercial Core)
Existing Zoning	R-1-A (Single Family Residential)
Proposed Zoning	CBD (Central Business District)
Adjacent Zoning...North:	CBD
East:	RM (Multiple Family Residential - Medium Density) and R-1-A
South:	R-1-A
West:	CBD
Existing Use	Vacant
Proposed Use	Commercial Mixed-use
Water Service	Water service is available via connection to a 8" water main located within SE 3rd Avenue
Sewer Service	Sewer service is available via an 8" sewer main within the abutting alleyways

ITEM BEFORE THE BOARD

The item before the Board is making a recommendation to the City Commission on a privately-initiated small-scale Future Land Use Map (FLUM) amendment from LD (Low Density Residential 0-5 du/acre to CC (Commercial Core) and rezoning from R-1-A (Single Family Residential) to CBD (Central Business) District for the property located at 206 SE 3rd Avenue.

Pursuant to Section 2.2.2(E)(6) of the Land Development Regulations, the Planning and Zoning Board shall review and make a recommendation to the City Commission with respect to amendments to the Future Land Use Map or the Rezoning of any property within the City.

BACKGROUND ANALYSIS

The subject property is located on the west side of SE 3rd Avenue, approximately 137 feet south of SE 2nd Street, within the Osceola Park Redevelopment Plan Area. The vacant property measures 5,952 sq. ft. (0.137 acres) and is zoned R-1-A with a future land use designation of LD. The property's legal description is Lot 15, Block 87, Linn's Addition to Osceola Park, according to the plat thereof recorded in Plat Book 1, Page 133 of the Public Records of Palm Beach County, Florida.

The subject parcel was created when the Linn's Addition to Osceola Park Plat was recorded in 1912. The dimensions were 45' by 132.5', which remain today.

Prior to the adoption of the Osceola Park Redevelopment Plan in 2004, the Osceola Park Redevelopment Area was designated or known as "Redevelopment Area #5 (RDA-5) on the City of Delray Beach Future Land Use Map. This designation was intended to serve as a temporary "holding" category, until such time that the Redevelopment Plan was completed and permanent Future Land Use Map designations applied. The redevelopment plan was developed to identify the deficiencies and assets within the Osceola Park area, evaluate the existing and potential uses, and identify specific measures for arresting decline, facilitating new development, and enhancing the quality of life for the neighborhood.

On September 20, 2005, the City Commission adopted Comprehensive Plan Amendment 2005-1 (via Ordinance No. 31-05), which changed the FLUM designation from RDA-5 to LD for 19.75 acres within Osceola Park, including the subject property. Concurrently, Ordinance No. 37-05 was adopted which rezoned 33 properties, including the subject property, from RM (Medium Density Residential) to R-1-A. These actions were in accordance with the recommendations of the adopted Osceola Park Redevelopment Plan.

FUTURE LAND USE MAP AMENDMENT ANALYSIS

Current Land Use Designation: The current Future Land Use Map designation for the subject property is LD.

Proposed Land Use Designation: The proposed Future Land Use Designation is CC (Commercial Core).

The proposed FLUM 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).

This amendment is the first for 2018, and the land area impacted by the amendment consists of 0.137 acres. The proposed FLUM amendment does not require a text change to the Goals, Policies, or Objectives of the Comprehensive Plan. The requested FLUM amendment is for a site-specific parcel of land, and the subject property is not located within an area of critical state concern. Therefore, the proposed FLUM amendment can be processed as a small scale amendment as it complies with all of the above conditions.

The proposed land use change is being processed in conjunction with a rezoning request from R-1-A to CBD. For the intended zoning action, the application states "*this property has the potential for redevelopment as the site of a mixed use project that will improve the stabilization and vitality of the neighborhood, provide services to current and future residents in the immediate area and create a safer and more aesthetically appealing connecting corridor".*

The proposed CC (Commercial Core) Future Land Use Map (FLUM) designation and the requested zoning designation of CBD (Central Business District) are consistent with each other. The CBD zoning designation allows mixed-use development.

Pursuant to **LDR Section 3.1.1, Required Findings,** prior to approval of Land Use applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.

These findings relate to the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

Pursuant to **LDR Section 3.1.1(A), Future 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 Future Land Use Map.

Policy A-1.7 Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:

Demonstrated Need: That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, including but not limited to the minimum amount of land required to accommodate the medium

population projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.

Applicant's Comments:
The LD designation currently assigned to the property may have been adequate in the past but the current market potential of the site due to its proximately to the East Atlantic Avenue Corridor is very significant. Besides the market trend of the area with the adjacent commercial developments featuring a mixed use of commercial, office and residential development, mixed use residential and office development, clearly indicate that a commercial designation is not only appropriate for the subject property but also supported by the market. The proposed retail facility will continue this trend and will contribute to the creation of a commercial hub along the East Atlantic Avenue and the Osceola Park Neighborhood."

Staff Comments: The Osceola Park Redevelopment Plan area encompasses the area immediately south of the Central Business District and is bordered by SE 5th Avenue (Federal Highway southbound) on the east; South Swinton Avenue on the west; SE 2nd Street on the north; and SE 10th Street on the south.

Within the redevelopment plan area, several distinct clusters of land use patterns were identified that included (i) the commercial/mixed-use uses along the SE 2nd Street frontage and along South Federal Highway; (ii) the commercial/industrial land uses along the Railroad corridor (SE 2nd Avenue); and, (iii) the residential land uses south of the commercial frontage on SE 2nd Street.

The creation of the LD FLUM designation for the residential cluster area south of SE 2nd Street was one of the goals identified in the Plan. The Redevelopment Plan states, "*the two block area between SE 2nd and SE 3rd Streets is currently zoned for multiple family development. The remaining parcels in this area, with the exception of Currie Commons Park and the community facilities parcels near SE 10th Street, are zoned for single-family development. Although it includes some duplex and multi-family scattered throughout the area, this part of Osceola Park is exclusively single family homes. Therefore, the primary focus for this* ***is to protect and enhance the single family character of the neighborhood****. To accomplish this goal, it is recommended that most of the multi-family zoned parcels, between SE 2nd and SE 3rd Streets, be rezoned to single family. The parcels, which front directly on SE 2nd Street and one additional parcel to the rear, will retain multi-family zoning as a buffer from this busy commercial street and the Central Business District zoning to the north."*

Therefore, an LD land use designation was assigned to 19.75 acres within Osceola Park (including the subject property) in 2005.

Policy A.1.7 requires that the need for the requested land use be based upon circumstances such as shifts in demographic trends or changes in the availability of land. The applicant cites the changes in market trends with the developments of new mixed-use projects as a factor for the requested changes. It must be noted that the surrounding mixed-use projects such as The Mark

Downtown, Sofa District, Aloft Hotel and Caspian have been approved within existing CC designated properties. Further, the market trends identified by the applicant for mixed-use developments can be accomplished through redevelopment of the commercial properties to the north without intruding into the LD designated area. Those commercial properties to the north provide a buffer to the residential neighborhood which is reinforced by the east-west and north-south alleys adjacent to the subject parcel.

The vision to maintain the residential character within the Osceola Park neighborhood has not changed, and should not be impacted by changes in market trends within the surrounding commercial areas.

Consistency: The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan:

The submitted application cites the following policies as consistent with the goals, objectives and policies of the most recently adopted Comprehensive Plan:

Future Land Use Element – Goal Area C – Blighted area of the city shall be redeveloped and renewed and shall be the major contributing areas to the renaissance of Delray Beach.

> **Applicant's Comments:** *"By changing the Future Land Use designation to CC and the Zoning District to CBD this parcel can be redeveloped with the adjacent commercial land use pattern, thereby improving the quality of life in the currently dilapidated area. The commercial retail use constitutes a redevelopment proposal which in turn will improve the current market values of the subject property, the surrounding properties, and the overall Osceola Park neighborhood."*

Future Land Use Element – Objective C-1: Blighted areas, as designated by the City Commission shall receive special attention and assistance in renewal. This objective shall be implemented through the following policies and activities.

> **Applicant's Comments:** *"The subject property is located in a blighted area. The CRA is putting all efforts necessary to improve the area by creating new jobs and new businesses. The subject property will be eventually developed as a commercial retail use. This pattern of development will contribute to the creation of a vibrant pedestrian area along SE 3rd Avenue as a continuation of the already existing commercial hub along East Atlantic Avenue as required by the Delray Beach Downtown Master Plan."*

Future Land Use Element – Policy C-1.3 The City shall concentrate efforts in the heavy industrial and undeveloped areas along arterial roadways in order to provide a better image of the community. Such efforts should include:

- enhanced and continuous code enforcement,
- regulations which require heavy industrial uses to provide perimeter landscaping of their sites,
- owners of vacant property shall provide a landscaped appearance of their properties.

Applicant's Comments: *"The property is currently vacant. The vacant lot appears to be an appropriate site for the location of a commercial use along SE 3rd Avenue because of its proximity to the East Atlantic Avenue arterial roadway. This pattern of commercial design will allow the provision of a visually attractive pedestrian streetscape (along SE 3rd Avenue) and enhance and*

improve the quality and appearance of the Osceola Park Neighborhood and the city as a whole. Furthermore, the area surrounding the Property has been the target of extensive code enforcement actions, in an effort to combat the neighborhood's blight."

Future Land Use Element Objective A-1: Property shall be developed or redeveloped, in a manner so that the future 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.

Applicant's Comments: *"The development of the site with a use allowed under the proposed CBD commercial zoning is compatible with other uses in the neighborhood including mixed use commercial, office and residential development. A commercial use of the subject property (mom and pop small business development) will provide a transition to the RM (Multiple Family Residential – medium Density) zoning and single family residential area located to the south of the subject property. The requested rezoning of R-1-A to CBD is not anticipated to negatively impact the existing land uses in the area."*

Staff Comments: OBJECTIVE A-1 refers to appropriate intensity and complementary and compatible redevelopment to adjacent land uses. The introduction of CBD is contrary to this Objective.

In addition to the Goals, Objectives and Policies identified by the applicant above, the following additional policies also pertain to this analysis:

Future Land Use Element: Policy C-1.11: The following pertains to the area bounded by S.E. 2nd Street, Federal Highway, S.E. 5th Street, and Swinton Avenue (Osceola Park area):

This area has industrial uses with inadequate parking to the west, commercial uses to the east, and a mixed residential area which has turned mainly into renter-occupied units. It is also encompassed by wellfield protection zones. The Osceola Park Redevelopment Plan was adopted by the City Commission on December 6, 2004. The primary focus of this redevelopment plan is to arrest deterioration, provide adequate parking and services for the existing industrial and commercial areas, and accommodate housing which is compatible with the other uses. The Plan establishes proposed Future Land Use Map designations for the area. **Future development must be in accordance with the provisions of the Redevelopment Plan.**

Policy C-3.2: The "Downtown Delray Beach Master Plan" was adopted by the City Commission on March 19, 2002. Covering the downtown business districts surrounding the Atlantic Avenue corridor between I-95 and A-1-A, it represents the citizens' vision for the growth and unification of Delray Beach, while still retaining the "village by-the-sea" character of the CBD. The Plan addresses a wide range of issues including infill development, neighborhood parks, shared parking, public art, the roadway and alleyway systems, marketing/economic development, and the need to modify the Land Development Regulations to include design guidelines to retain the character of Delray Beach. **Future development and redevelopment in this area shall be consistent with the Master Plan.**

Housing Element Policy A-11.3: In evaluating proposals for new development or redevelopment, the City shall consider the effect that the proposal will have on the stability of nearby neighborhoods. Factors such as noise, odors, dust, traffic volumes and circulation patterns shall be reviewed in terms of their potential to negatively impact the safety, habitability and stability of residential areas. **If it is determined that a proposed**

development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.

Staff Comments: A major part of the City's strategy to address blighted areas was the adoption of redevelopment plans for those declining areas. The Osceola Park area was identified as a blighted area and was designated as a Redevelopment Area (Area #5) with the adoption of the 1989 Comprehensive Plan.

Several factors were identified as contributing to blight within the redevelopment area.

- There were inappropriate mixes of nonconforming duplex and multifamily developments with single family residences in the single family district.
- Apathetic landlord and unmotivated tenants resulted in may deteriorating duplex and multi-family properties
- Lack of building maintenance. Overgrown landscaping, crowing and over parking combined had a blighted influence on adjacent single family homes.

The overall purpose of the Redevelopment Plan was to capitalize on the strengths of the area and provide methods to deal with the weaknesses. The Plan provided the framework for the revitalization of the entire neighborhood that embodies three main proposals:

- Elimination of the problems associated with small lot duplex and multi-family development intermixed with single-family development;

- Reduction of the negative impacts associated with through and non-residential vehicular on local residential streets; and

- Improvement of the physical appearance of the neighborhood through enhanced police activity, code enforcement and beautification.

The Plan further states, "The essence of what the neighborhood is striving to become is represented in the following vision statements.

- The Osceola Park Neighborhood has a strong identity within the City as a clean, safe, attractive environment in which to live and raise children.

- The Osceola Park Neighborhood consists primarily of well-maintained owner-occupied single family homes on attractively landscaped lots.

- The Osceola Park Neighborhood roadway system provides for excellent access and traffic flow while maintaining traffic volume and vehicle speeds at low levels on residential streets.

- The Osceola Park Neighborhood provides for excellent pedestrian access in and around the neighborhood.

- The Osceola Park Neighborhood contains a significant number of preserved historic structures which contribute to the charm and character of the whole neighborhood.

- The Osceola Park Neighborhood provides space for children to play outdoors in a safe, controlled environment.

- The Osceola Park Neighborhood provides the opportunity for compatible business development and redevelopment in select areas."

To accomplish the visions of the plan, a FLUM designation of LD was recommended to encompass an area of approximately 19.75 acres that extended just south of the commercial frontage along SE 2nd Street to SE 5th Street, and between the commercial frontages along SE 5th Avenue and SE 2nd Avenue. Zoning changes from RM (Medium Density Residential) to R-1-A were also recommended for 5.9 acres located south of the commercial properties fronting on SE 2nd Street to SE 3rd Street.

As demonstrated with the adoption of the FLUM and zoning changes, the focus was to maintain and protect the residential uses and character of the area. Compatible commercial development and redevelopment was recommended to occur in select areas which include the parcels fronting along SE 2nd Street, SE 2nd Avenue, and the commercial/industrial area south SE 4th Street west of the FEC Railroad. These areas identified for commercial development do not include the subject property. The following excerpt is provided regarding commercial development within the redevelopment plan area:

> "Opportunities for new commercial development are very limited in the neighborhood with only 1.16 acres of vacant land currently zoned for commercial uses. However, there are opportunities for new business development through the redevelopment of existing properties within the neighborhoods commercial districts."

Concurrency: Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.

Water and Sewer: Water service is available via service lateral connection to an existing 8"water main within SE 3rd Avenue right-of-way. Fire hydrants are located at the northeast corner of SE 3rd Avenue and SE 2nd Street and the southeast corner of SE 2nd Street and SE 2nd Avenue to serve the property. Sewer service is available via service lateral connections to an existing 8" sanitary sewer main within the abutting alleyways.

Staff Comments: Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water 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 change to CC will not significantly increase the demand on these services given the size of the parcel. Thus, a positive finding with respect to this level of service standard can be made.

Street and Traffic:
The applicant provided the following statement with respect to street and traffic: **"***Comparing the development potential for the existing and proposed zoning, the latter equates to an increase of 335 trips per day, 2 AM peak hour trips and 27 PM peak hour trips over the former…. The new AM and PM peak hour trips were distributed throughout the road-network system located within a one-mile radius of the project site in order to determine if the new peak hour project trips are significant from a traffic engineering standpoint. It was concluded that the proposed land-use change is not anticipated to significantly impact and roadway segment located within the project's radius of the development influence. Therefore, the proposed land use change is not anticipated to negatively affect the roadway network located within the project study area. Therefore, a positive finding can be made with respect to this level of service standard."*

Staff Comments: For the Commercial Core FLUM designation a maximum Floor Area Ratio of 3.0 is permitted for nonresidential uses. The traffic study submitted by the applicant indicates a 1.34 FAR, and that the anticipated daily trips would increase 452 trips per day, with 2 AM peak hour trips and 37 PM peak hour trips over the former single family use. At a maximum capacity of 3.0 FAR the anticipated traffic impacts would be significantly increased. While a build-out to the maximum 3.0 FAR would be difficult to achieve, given required setbacks, parking requirements, and other applicable development standards, the potential exists for the site to accommodate more than a 1.34 FAR. This development potential reflected is in the recent approval of a commercial project located in the CBD which calculated a FAR of 2.1; the parcel size of 6,969 sq. ft. (0.16 acres) which accommodated a 4-story 14,618 sq. ft. building.

The subject property is not located within the TCEA (Traffic Concurrency Area of Exception); the applicant will need to provide a site specific traffic study when a development proposal is submitted to address traffic concurrency.

Primary access to the site is via SE 3rd Avenue. This raises concerns with respect to, through and non-residential vehicular traffic on the local residential street. Based on a maximum development potential, the potential traffic that could be generated under the proposed CC FLUM and CBD zoning would have a significant traffic impact on the surrounding residential uses that are located to the south and east of the subject property.

The Osceola Park Redevelopment Plan identifies traffic as a concern and states, “traffic problems within the neighborhood include speeding on some local residential streets, and commercial truck traffic through the neighborhood. Consideration must be given to eliminating excessive through-traffic on residential streets in the neighborhood which are headed for the railroad commercial corridor. **The integration of nonresidential development within the neighborhood presents a problem when dealing with the commercial truck traffic it generates**. This traffic should be directed away from residential roadways.”

Additional Staff Comments/Analysis:

Drainage: Within this area of the City, drainage is usually accommodated on-site via exfiltration trench systems or swale retention areas. While no problems are anticipated with obtaining South Florida Water Management District permits, technical comments and issues pertaining to the drainage will be addressed during future development process.

Parks & Recreation: Park and recreation concurrency is not applicable for non-residential uses.

Education (School Capacity Determination): The proposed redevelopment of the site is to accommodate commercial uses, this will not result in an increase in density thus a capacity determination from the Palm Beach County School District is not required.

Solid Waste: The generation of solid waste is based on specific land use and building area and such determination will be made once a specific development proposal has been submitted.

Further, the Solid Waste Authority has indicated that it has sufficient capacity for concurrency management and comprehensive planning purposes. As stated in the letter, “Capacity is available for both the coming year, and the five and ten year planning periods specified in 9J-5-005(4).”

Based on population projections, waste generation rate projections, waste reduction, and recycling, the Solid Waste Authority forecasts that capacity will be available at the existing landfill through approximately 2047.

Except for concerns with respect to traffic, positive findings are made at this time with regard to concurrency for all other services and facilities.

Compatibility: The requested designation will be compatible with existing and future land uses of the surrounding area.

The application states*: "The proposed commercial use of the subject property (mom and pop small business development) under this zoning category will be compatible with the surrounding developments of a mixed use commercial, office and residential development located adjacent and along East Atlantic Avenue and SE 2nd Avenue and SE 3rd Avenue. The proposed rezoning will be compatible with the adjacent single family residential areas located to the east and south of the subject property if proper buffering is provided with the site development plans. Thus compatibility is not a concern with this rezoning since it will not negatively impact the existing and future uses in the area nor will it negatively impact the pattern of development of the neighborhood if proper buffering is provided."*

Staff Comments: The site is separated from the commercial properties to the north and west. A 12' alleyway lies along the north property line and a 16' alleyway runs along the west (rear) side of the property. The 12' alleyway may have once been paved, but it presently in poor condition; the 16' alleyway to the rear is partially improved, but not in the area adjacent to the subject parcel.

The site directly abuts single family residences to the south. The intrusion of the commercial land use within the single family residential district with no separation between the parcels raises compatibility concerns with the existing land uses. With the exception of the commercial parcel at the northwest corner of SE 3rd Avenue and SE 2nd Street, the land use pattern along the remaining frontage of SE 3rd Avenue is residential. While the LDR imposes additional buffering requirements whenever a commercial site directly abuts residential, the small width of the property (45 feet) provides limiting opportunities to increase the buffering requirements beyond the minimum required by the LDRs.

The redevelopment of the surrounding commercial properties have brought a necessary and desired economic resurgence to the area, reduced blight, increased safety and improved the aesthetics of the area. However, those developments have occurred in specifically designated commercial areas. To ensure that the residential land uses are protected currently and in the future, commercial redevelopment was directed to specific geographic areas.

Additionally, to maintain the low density residential uses, the 2006 rezoning to R-1-A was undertaken to remove the mix of duplexes and higher density residential uses intermingled with the single family uses. The introduction of a more intense use on the subject parcel is contrary to the vision of maintaining a stable residential neighborhood. Positive findings are not made with regard to compatibility.

Compliance: Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.

Staff Comments: Any proposed development and redevelopment of the subject property will be required to meet the criteria set forth both by the Land Development Regulations in existence at the time of submittal.

REZONING ANALYSIS

Pursuant to **LDR Section 2.4.5(D)(1), Change of Zoning District Designation: Rule,** the City Commission, by ordinance, after review and recommendation for approval by the Planning and Zoning Board may amend the Official Zoning Map. The subject review is for the purpose of providing a recommendation to the City Commission.

Pursuant to **LDR Section 2.4.5(D)(2), Change of Zoning Designation: Required Information,** standard application items pursuant to 2.4.3(A) shall be provided. Traffic information prepared in accordance with Section 2.4.3(E) and which addresses the development of property under reasonable intensity pursuant to the existing and proposed zoning shall be provided. In addition, a statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning include:

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

The applicant has submitted the following justification statement pursuant to Section 2.4.5(D)(2):
The applicable findings for which the rezoning should be granted, relates to items "b" and "c" identified above, indicating that there has been a change in circumstances which make the current R-1-A zoning inappropriate. The property owner is planning to develop a small retail/commercial (mom and pop) development. The commercial development site will measure 0.137 acres. The future development site is currently zoned R-1-A and neighbors commercial sites with CBD zoning. The Delray Beach Downtown Master Plan calls for traditional features of town design such as buildings at the street line, parking areas at the rear of structures, and prominent public spaces. The plan also calls for substantial redevelopment of property between SE 3rd Street and East Atlantic Avenue with retail, commercial and offices uses. The development of this lot under CBD zoning would be consistent with the Delray Beach Downtown Master Plan.

The Delray Beach Downtown Master Plan also calls for commercial zoning designation for all those parcels located within approximately 300' north and south of East Atlantic Avenue. 206 SE 3rd Avenue is one of those parcels located within approximately 400' south of East Atlantic Avenue, and thus, the proposed Future Land Use amendment and zoning designation for the subject property meets the Goals, Policies and Objectives of the East Atlantic Corridor as well as the Future Land Use Map designation of the Delray Beach Downtown Master Plan. Thus, the requested zoning will be of similar intensity as allowed under the FLUM and will be more appropriate for the subject property based upon surrounding and adjacent properties. Compatibility with adjacent neighborhoods should be addresses during the site review process. The requested CBD zoning will enhance compatibility and will not have a detrimental impact in the existing zoning and development pattern of the area."

Staff Comments: In response to the applicant's comments above, clarification must be made that the Delray Beach Downtown Master Plan does not call for commercial zoning designation for all those parcels located within approximately 300' north and south of East Atlantic Avenue. The Plan states "Commercial uses along the majority of West Atlantic Avenue should be limited to 300' North and South of Atlantic Avenue." The subject property lies 1,481 feet south of East Atlantic Avenue.

The applicant has indicated that the valid reason for the rezoning pertains to B. and C. above. There has been no change in circumstance which makes the current single-family zoning designation inappropriate. The R-1-A zoning district allows for the construction of a single family residence which would continue to maintain the development pattern along SE 3rd Avenue.

Staff recognizes that the parcel measures 45' x 132.5' and is a sub-standard lot with respect to the minimum dimensions within the R-1-A zoning district which requires a minimum dimension of 60' x 100'. However, LDR Section 4.1.4 "Uses of Lots of Record" allows the development of a single family residence on a lot a record which has a minimum of 50' of frontage. The subject property is a Lot of Record, as it remains as it was platted in 1912, yet is less than 50' wide. Additionally, LDR Section 4.1.4 (D) states: "*Within the R-1-A, RL and RM zoning districts, lots of record having at least 40 feet of frontage may be used for Workforce Housing, as long as the workforce housing unit meets the typical designs represented by the sketches set forth in Section 4.7.12(a), the lot is a minimum of 4,000 square feet and conforms to setbacks; provided, however, the minimum side setback may be reduced to a minimum five feet if necessary to accommodate the designs set forth in Section 4.7.12(a) and meets other development standards in the zoning district. The Workforce Housing unit on a lot with frontage as herein described must include rear access via an alley, if available. The unit must also contain design features such as, but not limited to, front porches, eyebrows, outriggers, gables, dormers, arbors, trellises, shutters, balconies, decorative vents, siding, textured stucco finishes, undulating facades and other such appropriate architectural features."*

The intent of the zoning classification for this area is to promote single family residences. While the property is a substandard Lot of Record and could not be traditionally developed, a single family residence which meets the workforce housing requirements of LDR Section 4.7.12 can be constructed on the subject property. A strong demand for workforce housing exists in the city today.

Additionally, the applicant has stated that the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

However, the requested zoning is not more appropriate for the property based upon circumstances particular to the site and/or neighborhood. The location of the site makes it inappropriate for consideration of the zoning and FLUM change. The site is separated from the commercial site to the north by an alleyway which will not provide continuity of the commercial uses and directly abuts single family residential uses which results in the intrusion of more intense zoning into an established residential neighborhood.

The potential to aggregate the parcel to the north would involve the abandonment of the abutting east-west alleyway. On October 27, 2016, the DSMG (Development Services Management Group) discussed whether there would be support to abandon the alleyway and relocate such alleyway to the south side of the subject property. DSMG unanimously voted not to support the relocation of the alleyway based on the following concerns:

i The alleyway is a part of the overall CRA alleyway improvement plan for the Osceola Park Neighborhood. Paving of the alleyway was placed on-hold, due to concerns voiced by neighboring residents with respect to traffic, vehicular lights at night impacting the residents.
ii The relocation of the alleyway to the south was seen as being more impacting and intrusive into the residential area.

The requested CBD zoning is not of similar intensity as allowed under the current LD FLUM designation. The Future Land Use Element of the Comprehensive Plan states “This designation (LD) is applied to land which is developed, or is to be developed, at a density of five units per acre or less. Such land is usually developed for single family purposes although mixed residential uses may occur under a planned residential zoning district. Home ownership is characteristic of this designation. Where this designation exists, uses other than low density residential shall not be considered.”

The purpose and intent of the R-1 Single Family Residential Districts states “The Single Family Residential Districts have been created in order to provide 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 Area "A" of the Comprehensive Plan which calls for the preservation and maintenance of stable neighborhoods.

As previously noted, the subject property lies within the Osceola Park Redevelopment Plan area. At the time of adoption of the redevelopment plan, the R-1-A zoning and single family residential uses were identified as the predominant zoning district and land use category within the plan area. The Plan recommended the rezoning of the properties that were zoned RM located between SE 2nd street to SE 3rd Street comprising of 5.9 acres to R-1-A. **Maintaining the R-1-A zoning is more appropriate based on the site and neighborhood.**

Pursuant to **LDR Section 2.4.5(D)(5), Change of Zoning Designation: Findings,** in addition to the provisions of Chapter Three, the City Commission must make a finding that the rezoning fulfills at least one of the reasons listed under Subsection (2).

A review of Subsection (2) is provided above. Chapter Three sets forth Level of Service Standards consistent with the Comprehensive Plan. It also sets forth performance standards by which a development application shall be assessed for the purpose of determining overall consistency with the Comprehensive Plan and with good planning, engineering and design practice. A complete review of both Chapter Three and the Comprehensive Plan is provided below.

Pursuant to **LDR Section 3.1.1, Required Findings,** prior to the approval of development applications, certain findings must be made in a form which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the FLUM, Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

(A) Future 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 Future Land Use Map.

The subject property is currently zoned R-1-A, and the proposed zoning is CBD. The proposed CBD zoning designation is consistent with the proposed CC FLUM designation which will permit the

commercial uses planned for the subject site. Therefore, positive findings are only made with respect to Future Land Use Map Consistency if the proposed FLUM designation is approved.

(B) Concurrency: Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.

These findings are previously addressed in the staff report in the FLUM Analysis section and with the exception to traffic positive findings are made.

(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.

LDR Section 3.2.2, Standards for Rezoning Actions provides five standards that must be considered for rezoning of property, listed as follows:

1. 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.

   This standard is not applicable as the subject property does not lie within a "stable" or "stabilization" area as identified on the Residential Neighborhood Categorization Map.

2. Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95.

   This Standard is not applicable.

3. 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 should be given to increasing the depth of the commercial zoning in order to provide for better project design.

   A strip-type commercial plaza exists along SE 2nd Street, north of the subject property. Approval of the FLUM CC designation and CBD zoning would extend the strip commercial properties along a residential street. Due to the intervening alleyway and the inability to aggregate the parcels, the zoning change would not result in increasing the depth of the strip center. Therefore a zoning change that would extend the strip center should be avoided.

4. That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use 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 following table identifies the zoning designations and uses that are adjacent to the subject property:

	Zoning Designation:	Use:
North:	CBD	Retail, restaurant, barber
South:	R-1-A	Single Family Residence
East:	RM & R-1-A	Duplex and single family residences
West:	CBD	Warehouse and distribution and retail uses.

Due to the location, size of the property, and abutting uses, the proposed zoning change would change the existing residential land use pattern along SE 3rd Avenue and create a significant impact on the adjacent residential neighborhood.

The following is a comparison of the base district regulations for the R-1-A and CBD zoning district.

DEVELOPMENT STANDARDS		
	Current: R-1-A	**Proposed: CBD (Railroad Corridor Sub-district)**
Lot Size (minimum sq. ft.)	7,500 sq. ft.	2000 sq. ft.
Lot Width (minimum)	60’	20’
Lot Depth (minimum)	100’	n/a
Lot Frontage (minimum)	60’	n/a
Open Space/ Civic Open Space (minimum)	**25%**	**0 for sites less than 20,000 sq. ft.**
Lot Coverage (maximum)	n/a	n/a
Front Setback (minimum)	**25’**	**10’ min/15’ max**
Side Street Setback (minimum)	**15’**	**10’**
Side Interior Setback (minimum)	7.5’	0’[1]
Rear Setback (minimum)	**10’**	**10’**
Side Setback Abutting Res. District; 1st to 3rd Story	**7.5’**	**10’**
Side/Rear Setback Abutting Res. District Above 3rd Story	---	30’
Front Setbacks Above 3rd Story	25’	20’
Maximum Height	**35’**	**54’**

[1]Side lot lines facing streets are regulated by front setback requirements. Side lot lines along alleys are regulated by rear setbacks.

The above table identifies that the standard R-1-A development regulations with respect to open space, building height and setback requirements are substantially different than those of the CBD. As a means of decreasing the impact of adjacent single-family zoned properties, LDR Section 4.4.13 states “*Where the rear or side of a property directly abuts a residential zoning district with a height limitation of 35 feet without any subsection or separation between them of 30 feet or more, such as a street, alley, railroad, waterway, park, or other public open space; the following shall apply:*

a. *For buildings or portions of buildings three stories or less in height, a minimum side set back of 10 feet from the property line shall be provided.*
b. *At the top of the third story, minimum side and rear building setbacks of 30 feet shall be provided from the property line for the portion of the building that is over three stories in height.*

c. A solid finished masonry wall six feet in height, or a continuous hedge at least four and one-half feet in height at the time of installation, shall be located inside and adjacent to the portion of the boundary line of the CBD-zoned property which directly abuts the residentially zoned property. Walkways and other pedestrian or bicycle connections shall be placed through the wall or hedge if they provide links identified on any adopted bicycle and pedestrian master plan or if SPRAB determines they would promote desirable connectivity between properties.

The subject property is separated from the commercial properties to the north and west by existing alleyways and directly abuts the R-1-A zoned property to the south. The infiltration of the commercial land uses into the residential neighborhood raises concerns with respect to the impact of noise and commercial traffic on the residential street as vehicular traffic will be required to access the site from SE 3rd Avenue. The resulting impact is contrary to the goals of the Redevelopment Plan which are to reduce negative impacts associated with through and non-residential vehicular on local residential streets.

5. Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.

This Standard is not applicable.

REVIEW BY OTHERS

Courtesy Notices: A courtesy notice was provided to the **Osceola Park Homeowner's Association.**

IPARC Notice: On April 9, 2017, notice of the Future Land Use Amendment was provided to the Interlocal Plan Amendment Review Committee (IPARC) which distributes the information to adjacent municipalities. No objections have been received to date.

Public Notices: Formal public notice has been provided to property owners within a 500' radius of the subject property. Letters of objection and/or support, if any, will be presented at the Planning and Zoning Board meeting.

ASSESSMENT AND CONCLUSION

The requested Future Land Use Map designation from LD (Low Density Residential) to CC (Commercial Core) and Rezoning from R-1-A (Single Family Residential) to CBD (Central Business District).

The Osceola Park Redevelopment Plan states "It is the intent of this plan that all new residential development or redevelopment, located east of the railroad, be single-family detached housing. The only exceptions to this are for properties fronting on SE 2nd Street or Federal Highway where multi-family development will be permitted. The Future Land Use map designation and zoning will be amended where necessary to support this goal." These goals were accomplished with the adoption of the current LD FLUM and R-1-A zoning.

The proposed FLUM designation and zoning to CC and CBD respectively are not recommended given the location of the subject property. If approved, the commercial uses and associated traffic will

extend into an established residential neighborhood, where a buffer presently exists (east-west alleyway) to provide a clear division between the commercial properties along SE 2nd Street.

Future Land Use Element: Policy C-1.11 requires that future development must be in accordance with the provisions of the Redevelopment Plan. Given the fact that a single family residence (for workforce housing) can be constructed on the subject property, and the Osceola Park Redevelopment Plan's primary focus is to protect and enhance the single family character of the neighborhood the request to change the FLUM designation and zoning cannot be supported.

Based on the analysis provided throughout the report, positive findings are not met with respect to LDR Section 3.1.1, Required Findings, LDR Section 3.2.2, Standards for Rezoning Actions, and LDR Section 2.4.5(D)(5), Rezoning Findings, and the Goals, Objectives, and Policies of the Comprehensive Plan.

ALTERNATIVE ACTIONS

A. Continue with direction.

A. Move a recommendation of approval to the City Commission for the small-scale Future Land Use Map amendment from LD to CC and rezoning from R-1-A to CBD for the property located at **206 SE 3rd Avenue**, by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets the criteria in LDR Sections 2.4.5(D)(5), 3.1.1 and 3.2.2.

B. Move a recommendation of denial to the City Commission for the small-scale Future Land Use Map amendment from LD to CC and rezoning from R-1-A to CBD for the property located at **206 SE 3rd Avenue**, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the criteria in LDR Sections 2.4.5(D)(5), 3.1.1 and 3.2.2.

STAFF RECOMMENDATION

By Separate Motions:

FLUM Amendment
Move a recommendation of **denial** to the City Commission of a small-scale Future Land Use Map amendment from LD to CC for the property located at **206 SE 3rd Avenue**, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Section 3.1.1, Required Findings.

Rezoning
Move a recommendation of **denial** to the City Commission for the rezoning from R-1-A to CBD for the property located at **206 SE 3rd Avenue**, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Sections 2.4.5(D)(5), Findings, and 3.2.2(D), Standards for Rezoning Actions.

Report prepared by: Jasmin Allen, Senior Planner

- Aerial Map
- Current and Proposed Future Land Use Map and Zoning Map
- Applicant's Justification Statement
- Applicant's Traffic Analysis

206 SE 3rd Avenue

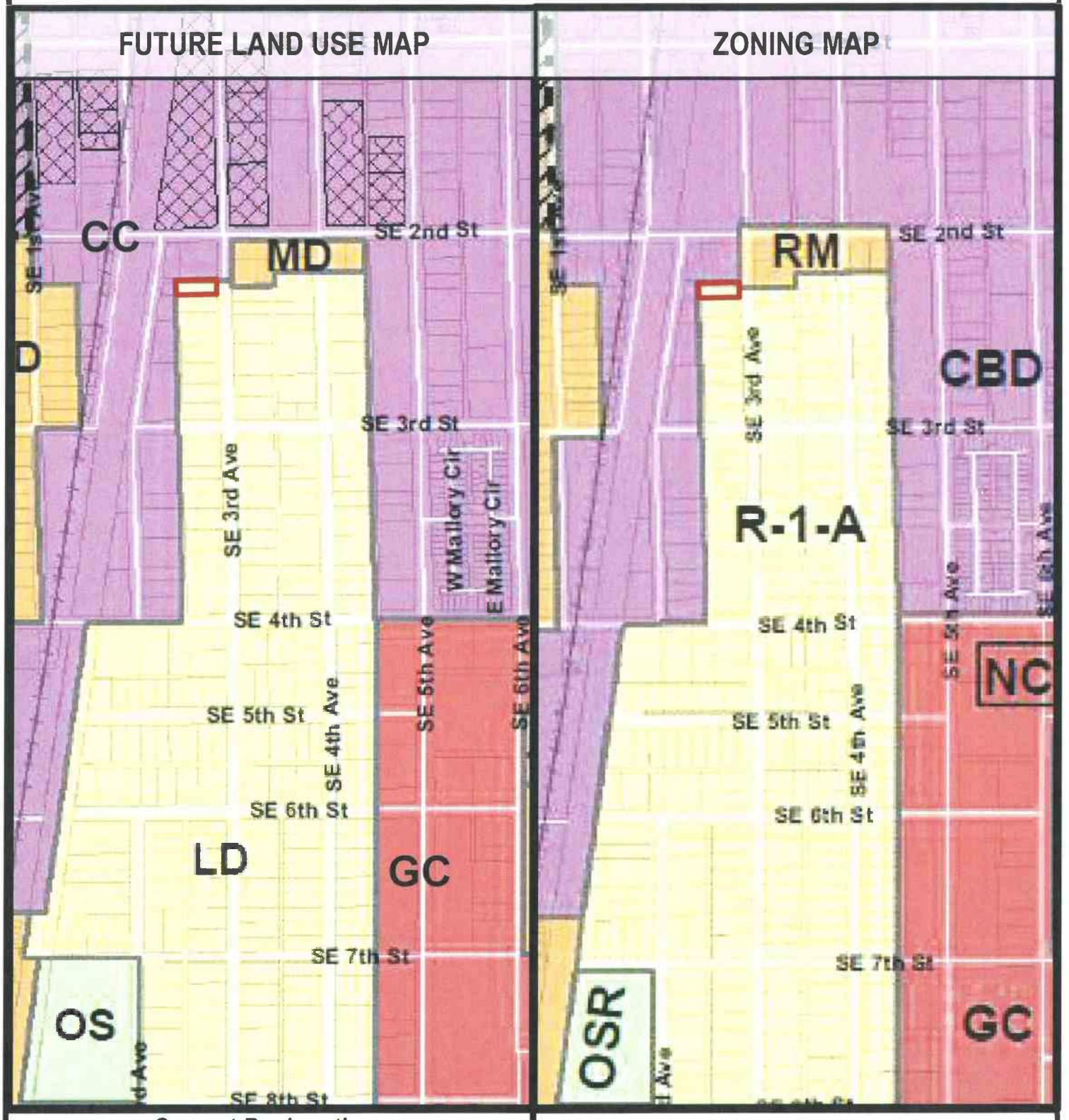
KEY

206 SE 3rd Avenue

206 SE 3rd Avenue

KEY

206 SE 3rd Avenue



Current Designation:

LD (Low-Density, 0-5 DU/Acre)

Proposed Designation:

CC (Commercial Core)

Current Zoning:

R-1-A (Single-family Residential)

Proposed Zoning:

CBD (Central Business District)

Michael E. Dutko, Jr
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633 South Federal Highway
Fort Lauderdale, FL 33301

February 23, 2018

Via Electronic Mail
alvarez@mydelraybeach.com
Ms. Jasmin Allen
Assistant Planner
City of Delray Beach
Planning & Zoning Department
100 NW 1st Avenue
Delray Beach, FL 33444

Re.: 206 SE 3rd Avenue, Delray Beach, FL
Application for Rezoning and Future Land Use Amendment
Updated and Restated Justification Statement

Dear Ms. Allen:

As you are aware, the law office of Conrad & Scherer represents the property owner of the above-referenced real property (Parcel Control Number 12-43-46-16-04-087-0150) (the "Property") regarding its currently pending applications for Rezoning and Future Land Use Amendment ("FLUM"). The purpose of this correspondence is to provide an updated and restated justification statement for said applications.

Application and Property History

The Rezoning and FLUM applications were initially submitted in June of 2015, seeking to amend the Zoning District for the Property from R-1-A (Single Family Residential) to CBD (Central Business District) and the Future Land Use Map Designation from LD (Low Density Residential) to CC (Commercial Core). With the consent of the City, the applications were put on hold as the Community Redevelopment Agency completed alleyway renovations along the 200 block abutting the Property. It was unknown prior to their completion how the renovations would affect the Property, though they have proven to demonstrate even more clearly why the requested CBD zoning and CC land use designation is appropriate and proper.

While we recognize the general hesitation to rezone or re-categorize properties from residential designations to commercial designations, we believe that general reluctance is inapplicable to the Property here, both from a historical as well as a public-policy perspective. To begin, based on the information available to us, ***a residence is not currently and has never been***

located on the property. That fact should, in and of itself, signify that residential development is inappropriate for the Property. The neighboring CBD zoning to the North and West of the property provides perfect support for the continuation of the CBD zoning per this rezoning request. According to Section 4.4.13 of the Delray Beach Land Development Regulations (LDRs), the CBD zoning district "***is established in order to preserve and protect the cultural and historic aspects of downtown Delray Beach and simultaneously provide for the stimulation and enhancement of the vitality and economic growth of this special area***." Osceola Park is a unique neighborhood within Delray Beach, with its own set of needs and priorities, which can be most directly addressed by injecting successful and safe commercial and mixed use development into those areas that are transition points to the downtown.

Goal Area C of the Future Land Use Element of the Delray Beach Comprehensive Plan provides as follows:

> Blighted areas of the City shall be redeveloped and renewed and shall be the major contributing areas to the renaissance of Delray Beach.

To that end, the City has adopted the Osceola Park Redevelopment Plan to transform the blighted areas of the neighborhood to their full potential. While the crime rate within the neighborhood is but a fraction of the overall crime rate for the City, those statistics can be misleading due to the small size of Osceola Park. Taking into consideration the size of the community, the actual, realized crime rate is nearly twice the City average. Furthermore, City code violations within Osceola Park are nearly six times the city-wide average. The City has recognized on numerous occasions that drastic measures are needed to address these figures and to fully allow the neighborhood to flourish, as befits its importance to the history of Delray Beach. These Rezoning and FLUM applications are a step in that direction.

The Osceola Park Redevelopment Plan highlights several areas within Osceola Park with zoning designations that should be adjusted on the Future Land Use Map. Specifically for this request, we believe one area is of most telling importance: Sub-Area 1 – properties along the FEC rail corridor between SE 2nd and SE 6th Streets on the West and SE 2nd and SE 5th Streets on the East. The City has recognized that this area should be re-designated as CC (Commercial Core), which would be consistent with our FLUM with CBD zoning. We believe that the proximity of the property in question to the FEC rail corridor and to this specific area indicates that the City itself recognizes the need for this rezoning request. Any previous efforts to encourage residential development on the Property have been unsuccessful, as evidenced by the fact that the property still sits vacant.

The remainder of this correspondence reviews the particular considerations and requirements applicable to the Rezoning and FLUM applications. Based on the totality of the circumstances and justifications provided herein, ***the City should approve*** the present applications.

Future Land Use Map

Pursuant to LDR Section 3.1.1 (Required Findings), prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body, which has the authority to approve or deny the development application. These findings relate to four areas of the Future Land Use Map:

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.

d) The property that is the subject of the proposed amendment is not located within an area of critical state concern.

The proposed application includes a Future Land Use Map amendment which may be processed as a small scale amendment. Section 163.3187, Florida Statutes, provides the process for adoption of small-scale comprehensive plan amendment. The proposal is 0.137 of an acre and according to Florida Statutes; the cumulative annual acreage for all small scale development amendments adopted by the City throughout the year 2018 must not have exceeded the maximum of 120 acres for this request to be process as a small scale amendment. The use or structures must be allowed in the zoning district and the zoning district must be consistent with the land use designation.

The proposed FLUM amendment does not involve a text change to the goals, policies, and objectives of the comprehensive plan. The request is to process only a land use change to the future land use map for a site-specific commercial/retail development. The subject property is not located within an area of critical state concern, and the future commercial project will not include the construction of affordable housing units. Thus, the proposed FLUM amendment may be processed as a small scale amendment because it complies with all of the above conditions. With the above

amendment and accompanying rezoning request consistency between zoning and the land use map designation will be achieved.

Pursuant to the LDR Section 4.4.13, general retail uses or facilities are allowed as permitted uses within the CBD District. The proposed CC Future Land Use designation and the requested zoning designation of CBD are both consistent with each other. The CBD zoning designation allows commercial retail uses as a permitted use. Therefore, the current request meets the above criteria.

Concurrency

Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.

Water and Sewer

The site is already served by water and sewer service. Water service is available via service lateral connection to an existing 6" water main within the southern half of the adjacent SE 3rd Avenue right-of-way. Three (3) fire hydrants presently exist on the east side of SE 3rd Avenue: at the SE 1st Street intersection, at the SE 2nd Street intersection, and midway between these intersections. Sewer service is available via service lateral connections to an existing 8" sanitary sewer main within the SE 3rd Avenue right-of-way.

Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water 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. This FLUM change will not significantly increase the demand on these services. Thus, a positive finding with respect to this level of service standard can be made.

Streets and Traffic

Pursuant to the City of Delray Beach Land Development Regulations Section 2.4.3(A), any proposed rezoning must address the most intense traffic generation potential for both the existing and proposed rezoning. A traffic impact analysis has been conducted by Simmons and White Inc., to determine the change in traffic patterns resulting from the proposed amendment of the Future Land Use Designation and rezoning for the subject property and has been updated as of February 7, 2018 (a copy of the revised analysis is enclosed with this correspondence). The report has determined the traffic impact for the most intense use of the property under the current LD Future

Land Use designation, and the traffic impact for the most intense use under the proposed CC Future Land Use designation.

Based on the current acreage and R-1-A zoning designation, one single-family dwelling unit was assumed as the most intense development for the existing zoning designation. Tables 1, 2 and 3 attached with this letter calculate the daily, AM peak hour and PM peak hour traffic generation associated with the single-family dwelling unit, respectively. As previously mentioned, the property owner is requesting a change in the parcel's zoning designation to CBD. Assuming a conservative 100% floor area ratio (FAR) across the entire acreage and general commercial for the most intensive land use, traffic generation for 0.137 acre (5,963 sq. ft.) of general commercial area has been addressed. Tables 4, 5 and 6 show the daily, AM peak hour and PM peak hour for 5,963 sq. ft. of general commercial area, respectively. Comparing the development potential for the existing and proposed zoning, the latter equates to an increase of 335 trips per day, 2 AM peak hour trips and 27 PM peak hour trips over the former. The results of the trip generation comparison analysis between the existing (R-1-A) and proposed (CC) land use designations are shown in Table 3 of the enclosed report.

The new AM and PM peak hour trips were distributed throughout the road-network system located within a one-mile radius of the project site in order to determine if the new peak hour project trips are significant from a traffic engineering standpoint. It was concluded that the proposed land-use change is not anticipated to significantly impact any roadway segment located within the project's radius of development influence. Therefore, the proposed land-use change is not anticipated to negatively affect the roadway network located within the project study area. Therefore, a positive finding can be made with respect to this level of service standard.

Parks and Open Space

Park dedication requirements, if any apply, will be evaluated during the site plan review process for the proposed commercial retail facility; however, no issues are anticipated.

Solid Waste

Solid waste requirements will be evaluated during the site plan review process for the proposed commercial retail facility; however, no issues are anticipated.

Schools

School provision requirements do not apply for non-residential uses.

Consistency with Goals and Policies of the Comprehensive Plan

Compliance with performance standards set forth in Chapter 3 and required findings in LDR Section 2.4.5(D)(5) for the Rezoning request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency. A review of the objectives and policies of the adopted Comprehensive Plan was conducted and the following applicable objectives and policies were found:

Future Land Use Element Policy A-1.7 Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:

- **Demonstrated Need** -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances.
- **Consistency** -- The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan.

- **Concurrency** -- Development at the highest intensity possible under the requested designation **can meet the adopted concurrency standards.**

- **Compatibility** -- The requested designation will be compatible with existing and future land uses of the surrounding area.

- **Compliance** -- Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.

The LD designation currently assigned to the property may have been adequate in the past, but the current market potential of the site due to its proximity to the East Atlantic Avenue Corridor is very significant. Besides the market trend of the area with the adjacent commercial developments featuring a mixed use of commercial, office, and residential development, mixed use residential and office development, clearly indicate that a commercial designation is not only appropriate for the subject property but also supported by the market. The proposed commercial retail facility will continue this trend and will contribute to the creation of a commercial hub along the East Atlantic avenue and the Osceola Park Neighborhood.

Concurrency can be met with the proposed FLUM amendment and rezoning of the subject property. A traffic impact analysis was previously conducted and submitted to the City to determine the change in traffic patterns resulting from the proposed Future Land Use Map amendment for the subject property. That traffic impact analysis has been updated as of February 7, 2018. The main goal of the analysis was to determine if the development at the highest intensity possible under the requested FLUM designation will meet the adopted traffic concurrency standards. A trip generation comparison analysis using the trip generation rates published by Palm Beach County is included with the enclosed analysis. The trip generation comparison analysis was undertaken for daily, AM peak hour, and PM peak hour conditions. Assuming a conservative 100% floor area ratio (FAR) across the entire acreage and general commercial for the most intensive land use, traffic generation for 0.137 acre (5,963 sq. ft.) of general commercial area has been addressed. Tables 4, 5 and 6 of the trip generation analysis show the daily, AM peak hour and PM peak hour for 5,963 sq. ft. of general commercial area, respectively. Comparing the development potential for the existing and proposed zoning, the latter equates to an increase of 335 trips per day, 2 AM peak hour trips and 27 PM peak hour trips over the former. The results of the trip generation comparison analysis between the existing (LD) and proposed (CC) land use designations, as well as the existing (R-1-A) and proposed (CBD) zoning districts, are shown in Table 3 below.

The new AM and PM peak hour trips were distributed throughout the road-network system located within a one-mile radius of the project site in order to determine if the new peak hour project trips are significant from a traffic engineering stand point. It was concluded, that the proposed land-use change is not anticipated to significantly impact any roadway segment located within the project's radius of development influence. Therefore, the proposed land-use change is not anticipated to negatively affect the roadway network located within the project study area. Therefore, a positive finding can be made with respect to this level of service standard.

Future Land Use Element - Goal Area C - Blighted areas of the city shall be redeveloped and renewed and shall be the major contributing areas to the renaissance of Delray Beach.

By changing the Future Land Use designation to CC and the Zoning District to CBD this parcel can be redeveloped with the adjacent commercial land use pattern, thereby improving the quality of life in the currently dilapidated area. The commercial retail use constitutes a redevelopment proposal which in turn will improve the current market value of the subject property, the surrounding properties, and the overall Osceola Park neighborhood.

Future Land Use Element - Objective C-1: Blighted areas, as designated by the City Commission, shall receive special attention and assistance in renewal. This objective shall be implemented through the following policies and activities.

The subject property is located in a blighted area. The CRA is putting all efforts necessary to improve the area by creating new jobs and new businesses. The subject property will be

eventually developed as a commercial retail use. This pattern of development will contribute to the creation of a vibrant pedestrian area along SE 3rd Avenue as a continuation of the already existing commercial hub along East Atlantic Avenue as required by the Delray Beach Downtown Master Plan.

Future Land Use Element - Policy C-1.3 The City shall concentrate efforts in the heavy industrial and undeveloped areas along arterial roadways in order to provide a better image of the community. Such efforts should include:

1. **Enhanced and continuous code enforcement,**
2. **Regulations which require heavy industrial uses to provide perimeter landscaping of their sites,**
3. **Owners of vacant property shall provide a landscaped appearance of their properties.**

The Property is currently vacant. The vacant lot appears to be an appropriate site for the location of a commercial use along SE 3rd Avenue because of its proximity to the East Atlantic Avenue arterial roadway. This pattern of commercial design will allow the provision of a visually attractive pedestrian streetscape (along SE 3rd Avenue) and enhance and improve the quality and appearance of the Osceola Park Neighborhood and the City as a whole. Furthermore, the area surrounding the Property has been the target of extensive code enforcement actions, in an effort to combat the neighborhood's blight.

Future Land Use Element Objective A-1: Property shall be developed or redeveloped in a manner so that the future use and intensity is appropriate in terms of soil, topographic and other applicable physical considerations, is complimentary to adjacent land uses and fulfills remaining land use needs.

The development of the site with a use allowed under the proposed CBD commercial zoning is compatible with other uses in the neighborhood including mixed use commercial, office and residential development. A commercial use of the subject property (mom and pop small business development) will provide a transition to the RM (Multiple Family Residential - Medium Density) zoning and single family residential area located to the south of the subject property. The requested rezoning of R-1-A to CBD is not anticipated to negatively impact the existing land uses in the area.

Compatibility

The requested designation will be compatible with the existing and future land uses of the surrounding area.

As demonstrated in the following "Rezoning Analysis" section, the requested rezoning from R-1-A to CBD will be compatible with the existing and future land uses of the surrounding

area. The proposed commercial use of the subject property (mom and pop small business development) under this zoning category will be compatible with the surrounding developments of mixed use commercial, office and residential development located adjacent and along East Atlantic Avenue and SE 2nd Avenue, and SE 3rd Avenue. The proposed rezoning will be compatible with the adjacent single family residential areas located to the east and south of the subject property if proper buffering is provided with the site development plans.

Thus, compatibility is not a concern with this rezoning proposal since it will not negatively impact the existing and future uses in the area nor will it negatively impact the pattern of development of the neighborhood if proper buffering is provided.

The Osceola Park Redevelopment Plan

The following are two excerpts from the Osceola Park Redevelopment Plan which indicate that the proposed FLUM amendment and rezoning is consistent with the Business Development and Business Assistance Program established in the Osceola Park Redevelopment Plan:

Business Development

Opportunities for new commercial development are very limited in the neighborhood with only 1.16 acres of vacant land currently zoned for commercial uses. However, there are opportunities for new business development through the redevelopment of existing properties within the neighborhood's commercial districts. Many of these properties contain marginal uses with deteriorating structures that are ripe for redevelopment. Given the close proximity of this area to the downtown and significantly less property values compared to the downtown core, market pressures on this area for redevelopment are likely to increase. The "Marketing" chapter of the Downtown Master Plan contained recommendation for commercial development by business cluster. The Osceola Park commercial districts are located within Cluster 5.

Business Assistance Programs

There are a number of existing programs which are available to businesses in the neighborhood. These include the CRA Subsidized Loan Program. This program is available for businesses within the CRA district. The program was originally developed in 1990 as an incentive for property owners to upgrade the appearance of their properties. The program was expanded in 1992 to include loans for the creation of new businesses and interior modifications to existing structures to accommodate new businesses. Exterior renovation loans for commercial structures have a maximum loan limit of $20,000 per building. The use of the funds are identical to residential exterior loans. The CRA prepays 50% of the interest charges, set at the prime rate of New York banks, at the closing of the loan.

Small Business Administration Basic 7a Program

The SBA 7(a) program serves as the SBA's primary business loan program to help qualified small businesses obtain financing when they might not be eligible for business loans through normal lending channels. It is also the agency's most flexible business loan program, since financing under this program can be guaranteed for a variety of general business purposes. Loan proceeds can be used for most sound business purposes including working capital, machinery and equipment, furniture and fixtures, land and building (including purchase, renovation and new construction), leasehold improvements, and debt refinancing (under special conditions). Loan maturity is up to 10 years for working capital and generally up to 25 years for fixed assets.

Section 3.2.2 (Standards for Rezoning Actions): Standards "A", "B", "C", and "E" are not applicable with respect to this rezoning request. An evaluation of the applicable standards is discussed below:

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 rezoning to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied;

B. Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95;

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 should be given to increasing the depth of the commercial zoning in order to provide for better project design;

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

E. Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.

Standard "D" requires that the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use 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 following table identifies the zoning designations and uses that are adjacent to the subject property:

	Adjacent Zoning:	**Adjacent Land Uses:**
North	CBD (Central Business District)	Store, Restaurant, and Barber
West	CBD (Central Business District)	Warehouse and Distribution Building, and Retail
East	RM (Multiple Family Residential - Medium Density 10 DU/ac)	Multiple Family
South	R-1-A (Single Family Residential)	Single Family Home

The CBD zoning will allow additional options on the property including the construction of a small retail/commercial development which will provide service for visitors and tourists visiting the City of Delray Beach as well as new jobs for the adjacent residential areas. In addition, the operation of the future development will enhance the subject property comparatively with the existing dilapidated sites. The development proposal will not hinder development or redevelopment of nearby properties if appropriate buffers are provided during site development. The existing adjacent land uses will not be negatively impacted by the uses allowed under the CBD zoning designation. Indeed the proposal for a small retail/commercial (mom and pop) development in the area will better the image of the City and incentivized the local economy to attract new commercial and retail investment.

LDR Section 2.4.5(D)(5) – Rezoning Findings

Pursuant to LDR Section 2.4.5(D)(5), in addition to provisions of Chapter 3, the City Commission must make findings that the rezoning fulfills at least one of the reasons listed under Subsection (2):

(a) That the zoning had previously been changed, or was originally established, in error;
(b) That there has been a change in circumstances which make the current zoning inappropriate; or

(c) That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

The applicable findings for which the rezoning should be granted, relates to items "b" and "c" identified above, indicating that there has been a change in circumstances which make the current R-1-A zoning inappropriate. The property owner is planning to develop a small retail/commercial (mom and pop) development. The commercial development site will measure 0.137 acres. The future development site is currently zoned R-1-A and neighbors commercial sites with CBD zoning. The Delray Beach Downtown Master Plan calls for traditional features of town design such as buildings at the street line, parking areas at the rear of the structures, and prominent public spaces. The plan also calls for substantial redevelopment of property between SE 3rd Street and East Atlantic Avenue with retail, commercial, and office uses. The development of this lot under CBD zoning would be consistent with the Delray Beach Downtown Master Plan.

The Delray Beach Downtown Master Plan also calls for commercial zoning designation for all those parcels located within approximately 300' north and south of East Atlantic Avenue. 206 SE 3rd Avenue is one of those parcels located within approximately 400' south of East Atlantic Avenue, and thus, the proposed Future Land Use Amendment and zoning designation for the subject property meets the Goals, Policies and Objectives of the East Atlantic Corridor as well as the Future Land Use Map designation of the Delray Beach Downtown Master Plan. Thus, the requested zoning will be of similar intensity as allowed under the Future Land Use Map and will be more appropriate for the subject property based upon the particular commercial characteristics of the East Atlantic Avenue and the Osceola Park Neighborhood and the close proximity of the subject property to the East Atlantic Avenue Corridor.

The requested CBD zoning is complimentary to and compatible with the surrounding and adjacent properties. Compatibility with adjacent neighborhoods should be addressed during the site plan review process. The requested CBD zoning will enhance compatibility and will not have a detrimental impact in the existing zoning and development pattern of the area.

Summary

The proposed FLUM and rezoning applications for the subject property meet the Goals, Policies and Objectives of the Comprehensive Plan. This FLUM and rezoning changes will allow the property owner to improve the quality of life, and stimulate commercial businesses in the area for a more sustainable future. A small commercial (Mom and Pop) development will allow for a sustainable commercial use and will also improve the ability of the overall commercial property to meet or exceed the Land Development Regulations and the goals and objectives of the Osceola Park Redevelopment Plan.

Please feel free to contact me if you have any questions or concerns.

Very truly yours,

Michael E. Dutko, Jr.
For the Firm

MED:jm
w/Enclosures

SIMMONS WHITE

ENGINEERING | PLANNING | CONSULTING | SINCE 1982

August 24, 2015
Revised 02/07/2018
Revised 05/09/2018

City of Delray Beach
100 NW 1st Avenue
Delray Beach, Florida 33444

Attention: Mr. Tim Stillings
Director of Planning & Zoning

Reference: 206 SE 3rd Avenue
City of Delray Beach, Florida

Dear Mr. Stillings:

The purpose of this letter is to address traffic generation associated with the proposed rezoning of the above referenced parcel. The physical address for the subject parcel is 206 SE 3rd Avenue, Delray Beach, Florida 33444 and the Property Control Number for the subject parcel is 12-43-46-16-04-087-0150. The site contains approximately 0.137 acres (5962.5 SF) and is currently vacant. The site is currently zoned single-family residential (R-1-A) on the City of Delray Beach Zoning Map. The property owner is requesting a change in the parcel's zoning designation to Central Business District (CBD). In addition to the proposed rezoning, the property owner is requesting a change in the parcel's future land use district from Low Density (LD) to Commercial Core (CC).

Pursuant to the City of Delray Beach Land Development Regulations Section 2.4.3(A), any proposed rezoning must address the most intense traffic generation potential for both the existing and proposed rezoning. Based on the current acreage and R-1-A zoning designation, one single-family dwelling unit was assumed as the most intense development for the existing zoning designation. Tables 1, 2 and 3 attached with this letter calculate the daily, AM peak hour and PM peak hour traffic generation associated with the single-family dwelling unit, respectively.

Simmons & White, Inc
2581 Metrocentre Boulevard West Suite 3 West Palm Beach Florida 33407
T: 561.478.7848 F: 561.478.3738 www.simmonsandwhite.com
Certificate of Authorization Number 3452

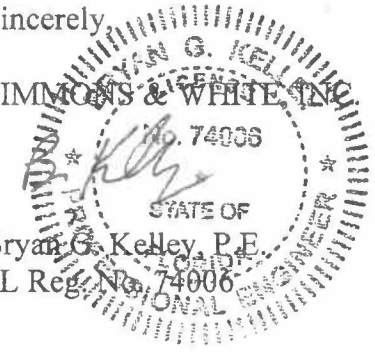
As previously mentioned, the property owner is requesting a change in the parcel's zoning designation to CBD. Based on conversations with City staff, the traffic associated with the proposed rezoning has been based on the maximum amount of square footage that could be constructed as well as parked in accordance with City parking criteria. Consequently, traffic generation for 8000 SF of general commercial area has been addressed. Tables 4, 5 and 6 show the daily, AM peak hour and PM peak hour for 8000 SF of general commercial area, respectively. Comparing the development potential for the existing and proposed zoning, the latter equates to an increase of 452 trips per day, 2 AM peak hour trips and 37 PM peak hour trips over the former.

It is anticipated that the proposed rezoning and future land use change will have a negligible impact on the adjacent roadways. We are submitting this traffic generation summary pursuant to the City requirements and respectfully request that you approve the rezoning based on the negligible impacts on traffic. Notwithstanding the above, the property owner will be required to submit a certified Traffic Impact Statement in accordance with the Palm Beach County Traffic Performance Standards when a site specific development order/site plan is submitted to the City for approval.

Please let me know if you have any questions or require any additional information. Thank you for your help with this matter.

Sincerely,

SIMMONS & WHITE, INC.



Bryan G. Kelley, P.E.
FL Reg. No. 74006

Enclosures
cc: Mr. Tyler Knight

JKD/sa x:/docs/miscltr/Duncan/15078.stillings.revII

206 SE 3RD AVENUE - DELRAY

08/24/2015
Revised: 02/07/2018
Revised 05/09/2018

EXISTING FUTURE LAND USE - LOW DENSITY
EXISTING ZONING DESIGNATION - SINGLE FAMILY RESIDENTIAL (R-1-A) - 1 SINGLE FAMILY DWELLING UNIT

TABLE 1 - Daily Traffic Generation

Landuse	ITE Code	Intensity		Rate/Equation	Dir Split In	Dir Split Out	Gross Trips	Internalization %	Internalization Total	External Trips	Pass-by %	Pass-by Trips	Net Trips
Single Family Detached	210	1	Dwelling Unit	10			10		0	10	0%	0	10
			Grand Totals:				10	0.0%	0	10	0%	0	10

TABLE 2 - AM Peak Hour Traffic Generation

Landuse	ITE Code	Intensity		Rate/Equation	Dir Split In	Dir Split Out	Gross Trips In	Gross Trips Out	Gross Trips Total	Internalization %	Internalization In	Internalization Out	Internalization Total	External Trips In	External Trips Out	External Trips Total	Pass-by %	Pass-by Trips	Net Trips In	Net Trips Out	Net Trips Total
Single Family Detached	210	1	Dwelling Units	0.75	0.25	0.75	0	1	1	0.0%	0	0	0	0	1	1	0%	0	0	1	1
			Grand Totals:				0	1	1	0.0%	0	0	0	0	1	1	0%	0	0	1	1

TABLE 3 - PM Peak Hour Traffic Generation

Landuse	ITE Code	Intensity		Rate/Equation	Dir Split In	Dir Split Out	Gross Trips In	Gross Trips Out	Gross Trips Total	Internalization %	Internalization In	Internalization Out	Internalization Total	External Trips In	External Trips Out	External Trips Total	Pass-by %	Pass-by Trips	Net Trips In	Net Trips Out	Net Trips Total
Single Family Detached	210	1	Dwelling Units	Ln(T) = 0.90 Ln(X) + 0.51	0.63	0.37	1	1	2	0.0%	0	0	0	1	1	2	0%	0	1	1	2
			Grand Totals:				1	1	2	0.0%	0	0	0	1	1	2	0%	0	1	1	2

PROPOSED FUTURE LAND USE - COMMERCIAL CORE
PROPOSED ZONING DESIGNATION - CENTRAL BUSINESS DISTRICT (CBD) - 5963 SF GENERAL COMMERCIAL

TABLE 4 - Daily Traffic Generation

Landuse	ITE Code	Intensity		Rate/Equation	Dir Split In	Dir Split Out	Gross Trips	Internalization %	Internalization Total	External Trips	Pass-by %	Pass-by Trips	Net Trips
Gen. Commercial	820	8,000	S.F.	152.03			1,216		0	1,216	62.0%	754	462
			Grand Totals:				1,216	0.0%	0	1,216	62%	754	462

TABLE 5 - AM Peak Hour Traffic Generation

Landuse	ITE Code	Intensity		Rate/Equation	Dir Split In	Dir Split Out	Gross Trips In	Gross Trips Out	Gross Trips Total	Internalization %	Internalization In	Internalization Out	Internalization Total	External Trips In	External Trips Out	External Trips Total	Pass-by %	Pass-by Trips	Net Trips In	Net Trips Out	Net Trips Total
Gen. Commercial	820	8,000	S.F.	0.96	0.62	0.38	5	3	8	0.0%	0	0	0	5	3	8	62.0%	5	2	1	3
			Grand Totals:				5	3	8	0.0%	0	0	0	5	3	8	62%	5	2	1	3

TABLE 6 - PM Peak Hour Traffic Generation

Landuse	ITE Code	Intensity		Rate/Equation	Dir Split In	Dir Split Out	Gross Trips In	Gross Trips Out	Gross Trips Total	Internalization %	Internalization In	Internalization Out	Internalization Total	External Trips In	External Trips Out	External Trips Total	Pass-by %	Pass-by Trips	Net Trips In	Net Trips Out	Net Trips Total
Gen. Commercial	820	8,000	S.F.	12.81	0.48	0.52	49	53	102	0.0%	0	0	0	49	53	102	62.0%	63	19	20	39
			Grand Totals:				49	53	102	0.0%	0	0	0	49	53	102	62%	63	19	20	39

X:\Documents\PROJECTS\2015\15-078 SE 3rd Avenue Delray\Trip Generation.rev.xls
K.D.