



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING & ZONING BOARD STAFF REPORT

### The Flo Delray

Meeting	File No.	Application Type
September 26, 2023	2023-170-ANX-CCA 2023-171-LUM-CCA 2023-169-REZ-CCA 2023-172-LDR-CCA	Voluntary Annexation, Land Use Map Amendment, Rezoning, and Amendment to the Land Development Regulations
Applicant	Owner	Authorized Agent
Alice Clayton, LLC	Alice Clayton, LLC	Sandra J. Megrue, AICP Urban Design Studio

### Request

Provide a recommendation to the City Commission on a privately-initiated petition for a voluntary annexation of 5185 Atlantic Avenue, a 4.87-acre parcel, from Palm Beach County (Ordinance No. 36-23); a small-scale Land Use Map amendment from Palm Beach County Residential High (HR-8) to City of Delray Beach Medium Density Residential (MD) (Ordinance No. 37-23); a rezoning from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Multiple Family Residential (RM) (Ordinance No. 38-23); and a privately-initiated amendment to the Land Development Regulations (LDR) to adopt The Flo Delray Overlay District for the purpose of establishing a revitalization incentive density bonus of up to 24 dwelling units per acre at the subject property (Ordinance No. 39-23).

### Background Information

The subject property is a 4.87-acre parcel located north of West Atlantic Avenue and west of Military Trail at 5185 W. Atlantic Avenue, within the municipal boundaries of Palm Beach County. The property shares a border with the City to the east and south, and is landlocked by the existing Marketplace of Delray West plaza to the south; therefore, legal access to the site is provided to the southeast corner via an existing access agreement recorded in 1981 (ORB 3602, Page 0273), which is proposed to be amended to also allow for direct ingress and egress of the Site at its southwest corner.

The site is primarily vacant, currently developed with a 2,275 square foot single-family residence. It has not received other prior approvals or entitlements to date. The existing Palm Beach County land use designation is HR-8, and the zoning designation is AR, which allows a maximum density of eight dwelling units per acre. If the applicant were to participate in the County's density bonus program, an additional 80 dwelling units could be obtained on the lot.

Pursuant to the Always Delray Comprehensive Plan, the site is within the City's planning area (Map AD-1, attached), which is the City's ultimate anticipated boundary.



#### Project Planner:

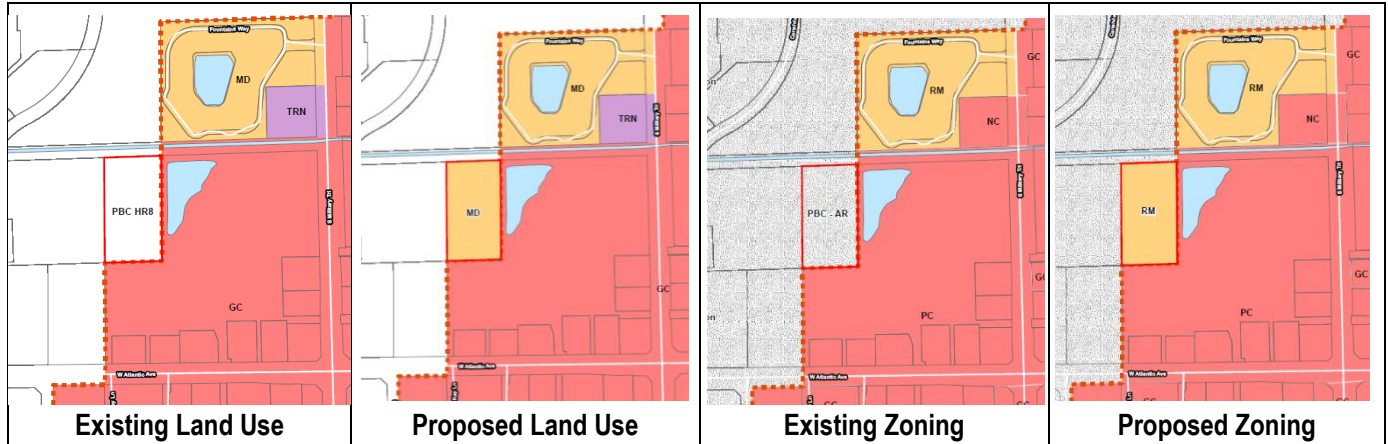
Alexis Rosenberg, Senior Planner  
rosenberg@mydelraybeach.com  
Rebekah Dasari, Principal Planner  
dasari@mydelraybeach.com

#### Attachments:

- Ordinance Nos. 36-23; 37-23; 38-23; and 39-23
- Map AD-1, Planning Area & Map AD-23, Annexation Areas
- Maps of Existing and Proposed Land Use
- Maps Existing and Proposed Zoning
- Applicant's Justification Statement
- Traffic Impact Statement and TPS Letter

## Description of Proposal

The subject request is for a privately-initiated voluntary annexation, a small-scale Land Use Map amendment from HR-8 to MD, a rezoning from AR to RM, and an LDR text amendment to create a revitalization overlay district, known as The Flo Delray Overlay District, to establish a density bonus of up to 24 dwelling units per acre. The existing and proposed land use and zoning maps are shown below.



The existing HR-8 land use and AR zoning allows a maximum of eight dwelling units per acre, with the possibility of attaining an additional 80 units under the County's density bonus program. The requested MD land use and RM zoning has a standard density of five to 12 dwelling units per acre, with a revitalization incentive density of 12 to 24 dwelling units per acre. Therefore, in order to obtain the maximum revitalization incentive density of 24 dwelling units per acre, the applicant is proposing an LDR text amendment to establish The Flo Delray Overlay District.

The incentive program proposed for The Flo Delray Overlay District allows development to achieve a maximum density of 24 dwelling units per acre, provided that at least 20 percent of the residential units are provided as workforce housing units at the moderate income level. The following overlay-specific regulations are proposed in **Article 4.7, Family/Workforce Housing**:

<b>The Flo Delray Overlay</b> <b>Composition of Workforce Housing Units</b>	
Unit Type	Distribution
Efficiency	The percentage of Efficiency workforce units to market rate Efficiency units may not exceed 22 percent.
One-Bedroom	The proportion of one-bedroom workforce units shall be equal to the proportion of two-bedroom workforce units.
Two-Bedroom	The proportion of two-bedroom workforce units shall be equal to the proportion of one-bedroom workforce units.
Three-Bedroom	Three-bedroom workforce units are not required.
Four-Bedroom	Four-bedroom workforce units are not required.

This is a notable exception to Article 4.7, which prohibits the inclusion of efficiency units in a workforce housing program. Additionally, development within The Flo Overlay District must comply with **LDR Section 4.3.3(BB, Performance standards for multi-family development)**. The applicant has submitted a site plan that proposes 116 residential units; review will be subject to these, and other standards discussed below.

NOTE: The City is currently updating Chapter 2 of the LDR, "Administrative Provisions", which updates development review procedures. As part of the updates staff is preparing, the City-initiated amendment would eliminate the need for conditional use approval for revitalization incentives; the provision of the requisite percentage of workforce housing and adherence to the performance standards for density increases would be reviewed and approved at site plan review instead of a separate conditional use application and approval. Therefore, at the request of staff, the applicant's amendment is based on the updated procedures proposed in Ordinance No. 31-23 and Ordinance No. 32-23, with an anticipated adoption date of October 10, 2023.

The requested MD land use is intended to accommodate *a wide range of housing types, including but not limited to attached and detached single-family and multi-family housing*. Further, the requested RM District, which is identified in Comprehensive Plan Table NDC-1 as a preferred implementing zoning district for the MD land use designation, *provides for implementation of those objectives and policies contained within the Housing Element of the Comprehensive Plan which call for accommodating a variety of housing types*.

## Review and Analysis

### Annexation

#### Florida Statutes Governing Voluntary Annexations

**§ 171.044**, Florida Statutes says that *the owner or owners of real properties in an unincorporated area of the County, which is contiguous to a municipality and reasonably compact, may petition the governing body of said municipality that said property be annexed to the municipality*.

A petition for voluntary annexation was submitted by Sandra J. Megrue of Urban Design Studio on behalf Alice Clayton, LLC, the property owner of record. The subject property is contiguous on two sides (east and south) with the City of Delray Beach.

Pursuant to **§ 171.044 (5)**, Florida Statutes, *land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves.* **§ 171.031, Definitions – (13)** defines “Enclave” as “(a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.

The subject property shares a boundary with the City of Delray Beach to the east and south; the approval of the annexation will not create an enclave. The property is landlocked by the existing Marketplace of Delray West plaza to the south (within the City limits); therefore, legal access to the site is provided via an existing access agreement recorded in 1981 (ORB 3602, Page 0273), which is proposed to be amended to allow for direct ingress and egress on the southwest corner (in addition to the current access point on the southeast corner).

#### Land Development Regulations Governing Annexations

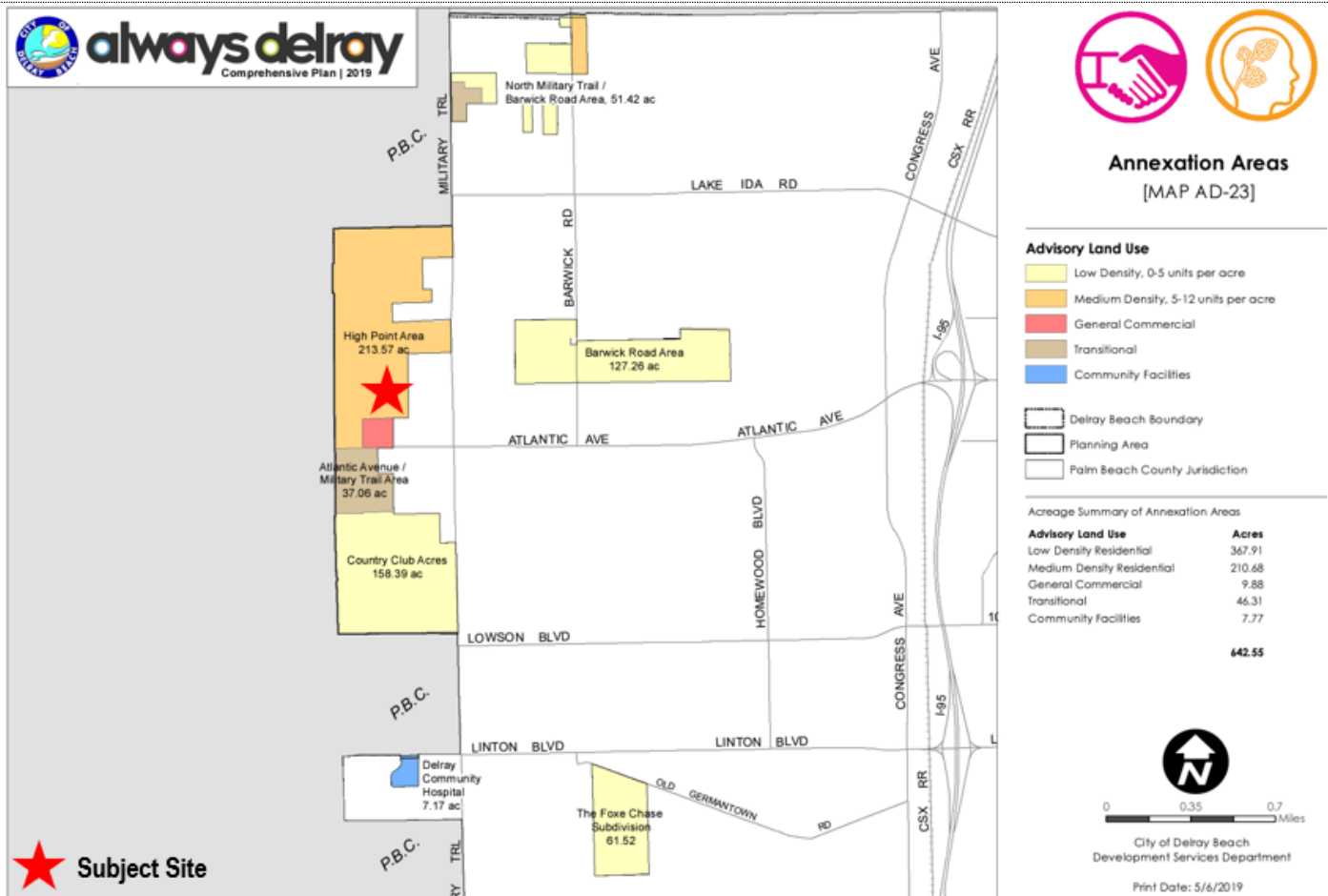
Pursuant to the **LDR Section 2.4.5 (C)(1)**, *the owner of land may seek the annexation of contiguous property, under his ownership. The City may initiate an annexation of private property if said right has been delegated via provisions of a water service agreement or other agreement to that end. Further, the City may initiate annexation of property pursuant to Florida Statutes.*

The voluntary annexation petition was submitted by Alice Clayton, LLC, property owner, in accordance with Chapter 171, Florida Statutes, and complies with the State and City requirements for annexation.

#### Comprehensive Plan Regulations Governing Annexation

Located with the City’s Planning Area (Map AD-1, attached), the annexation of this property is consistent with Neighborhoods, Districts, and Corridors Element Objective NDC 3.3, which says that the City should *continue to annex unincorporated areas within the City’s Planning Area*. Map AD-23 (below) includes the subject site within an area with an advisory land use designation of MD. Therefore, based on the analysis at the time the advisory land use was adopted, MD land use was identified as the most appropriate land use based on the surrounding development.





## Provision of Services

When annexation of property occurs, services are to be provided in a manner which is consistent with services provided to other similar properties already in the City. NDC Objective 3.1, Concurrency, states that the City should *allow new development within the Planning Area provided the necessary public facilities and services that are provided by, or through, the City are available concurrently*. The provision of services, with respect to public safety, is discussed below. Full discussion of the availability of services is provided in the LUMA portion of this report.

## Police

Pursuant to the Palm Beach Sheriff's Office (PBSO), the agency provides a community patrol with 6-8 deputies for the West Delray area between Military Trail and Highway 441. The service area's average response time is five minutes. The response service time to the area (including the Marketplace of Delray West plaza) for the City of Delray Beach Police Department (DBPD) is eight minutes and 27 seconds for priority calls. Therefore, if the subject property is annexed into the City, the approximate response time to the site would be increased by three minutes and 27 seconds. DBPD regularly analyses the need to add additional patrol staff. However, at this time, it was determined that no additional staff will be required in the West Corridor service area to maintain current levels of service.

## Fire Emergency Services

On February 3, 2015, the Palm Beach County Board of County Commissioners approved Board Resolution R2015-0232. The Resolution titled, Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services, allows for mutual assistance in aid and dispatch service between the City and the County. Palm Beach County Fire Rescue Station No. 45 (located on Jog Road, south of West Atlantic Avenue) serves the area. The approximate response service time to currently serve the site is estimated at four minutes, with the average response time being six minutes. City of Delray Beach Fire Station No. 114 (located at the northeast corner of Lake Ida and Barwick Roads) will service the site. The City's Fire Department response service time to the site is estimated to be six minutes and 12 seconds. The annexation of this parcel will not require additional staffing to facilitate service to this site.

**Financial Impacts****Ad Valorem Tax Revenue**

At the current 2023 City operating millage of 6.36 mills and debt rate of 0.14 mills, the property will pay approximately \$4,680.70 more in ad valorem taxes per year. Under the annexation, the City will receive approximately \$12,218.69 per year in taxes.

**Non Ad Valorem Assessments**

The Lake Worth Drainage District manages the water resources in southeast Palm Beach County and is supported by an annual non ad valorem assessment. This assessment of \$247.50 will remain the same with annexation. The Solid Waste Authority assessment is \$420.00. The Delray Beach Stormwater Utility assessment is a City imposed non ad valorem tax and will apply upon annexation. All of these amounts will vary, depending upon the development of the site; the final fee amount will be determined upon the applicant's submittal of a site plan application. For a residential property, the assessment is per Equivalent Residential Unit (ERU). One ERU equals to 2,502 square feet, and according to the City's 2023 budget document, the residential stormwater utility assessment fee is \$5.33 per equivalent residential unit per month, or approximately \$63.96 per dwelling, annually. The following tables depict the current assessed value and total (Palm Beach County) taxes for the subject property and provides an estimate of the taxes under the same assessed value if the property is annexed into the City Delray Beach.

**PROPERTY TAX DETAIL**  
**5185 ATLANTIC AVENUE (PCN 00-42-46-14-00-000-5190)**  
**2023 TAXABLE VALUE: \$1,879,799**

	PBC TAXES (2023)	PBC TOTAL MILLAGE (2023)	CITY TOTAL TAXES (ANTICIPATED)	CITY TOTAL MILLAGE (2023)
AD VALOREM TAXES	TAXES	RATE	TAXES	RATE
Palm Beach County Lib	\$1,033.89	0.55	-	-
Palm Beach County Library Debt	\$18.80	0.01	-	-
Fire/Rescue MSTU	\$6,504.10	3.46	-	-
Florida Inland Navigation	\$56.39	0.03	\$56.39	0.03
Health Care District	\$1,278.26	0.68	\$1,278.26	0.68
Palm Beach County	\$8,459.10	4.5	\$8,459.10	4.5
Palm Beach County Debt	\$37.60	0.02	\$56.39	0.03
Children Service Council	\$958.70	0.51	\$958.70	0.51
Public Schools Local Board	\$6,109.35	3.25	\$6,109.35	3.25
Public Schools State Law	\$6,034.15	3.21	\$6,034.15	3.21
SFWMD District	\$169.18	0.09	\$169.18	0.09
SFWMD Basin	\$187.98	0.10	\$187.98	0.10
SFWMD Everglades Const.	\$56.39	0.03	\$56.39	0.03
City of Delray Beach	-	-	\$11,955.52	6.36
City of Delray Beach Debt	-	-	\$263.17	0.14
<b>TOTAL **</b>	<b>\$30,903.90</b>	<b>16.44</b>	<b>\$35,584.60</b>	<b>18.93</b>

\*\* Sums may vary slightly in comparison with the County Tax Collector due to differences in the way programs calculate rounding numbers

**5185 Atlantic Avenue Tax Comparison Summary**

Subject Property	Taxable Value 2023	County Ad Valorem Taxes	Delray Beach Ad Valorem Taxes	Difference in Ad Valorem Taxes	PBC Non-Ad Valorem Assessment	Delray Beach Non-Ad Valorem Assessment	Difference in Non-Ad Valorem Assessment
<b>5185 Atlantic Ave</b>	\$1,879,799	\$30,903.90	\$35,584.60	\$4,680.70	\$675.50	TBD	TBD

It should be noted that the calculation presupposes the redevelopment of the property as one single-family home, not the development scenario the applicant has indicated, which would result in greater tax revenue.

#### Land Use Map Amendment

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

*Amendments must follow the procedures outlined in the Florida Statutes.* The LUM is adopted as part of the Comprehensive Plan. Therefore, the LUMA is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

##### **LDR Section 3.1.1, Required Findings**

*Prior to the approval of development applications, certain findings must be made.* These findings relate to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations.

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

The subject property is within the City's Planning Area (Map AD-1), and has an advisory land use designation of MD, pursuant to Always Delray Comprehensive Plan Map AD-23, Annexation Areas. Further, the proposed RM zoning district is a preferred implementing zoning district of the proposed MD land use, pursuant to Table NDC-1 of the Always Delray Comprehensive Plan. The land use and zoning would be appropriate for the intended multi-family use, which is being reviewed separately as a Class V Site Plan for 116 multi-family residential units.

**(B) Concurrency:** *Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

Schools. The applicant has requested School Capacity Availability Determination (SCAD) for both 12 dwelling units per acre and 24 dwelling units per acre in order to evaluate the concurrency at the maximum standard density and the maximum standard density with the revitalization incentive. The School District of Palm Beach County determined that there will be no negative impact on the School District's public school system if the property is developed under either scenario.

Water and Sewer. The home on the site is currently connected to a well and septic; future development will be connected to existing City water and sewer connections, available immediately south of the property. A complete review of the water and sewer will be conducted during the site plan review process. Pursuant to the Always Delray Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out; adequate water and sewer treatment capacity exists to meet the adopted LOS at the City's build-out population based on the proposed LUM designation.

It should be noted that if the property were to remain in the County, the use of City water and sewer systems requires an annexation agreement between the property owner and the City.

Solid Waste. The Solid Waste Authority (SWA) is the waste collector for both the City and the County. A complete review of solid waste capacity is completed during the site plan review process. It is noted that the landfill serving the property is projected to have sufficient capacity to meet the needs of city residents through the depletion year in 2054.

Drainage. A complete review of drainage will be conducted during the site plan review, which requires the submittal of a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations and the LDR.

Parks and Open Space. Park impact fees are assessed at \$500.00 per dwelling unit and collected prior to issuance of the building permit. Open space will also be reviewed during the site plan review process; 25 percent open space is the zoning district minimum.

**Traffic.** The submitted traffic impact study (attached) analyzes the most intense potential traffic demands of the proposed land use and zoning. The existing HR-8 land use designation and AR zoning allows a maximum of eight dwelling units per acre, which equates to a maximum of 38 units on the 4.87-acre lot. According to the Palm Beach County Trip Generation Rates 11<sup>th</sup> Edition, single-family detached housing generates 10 daily trips; the current land use anticipates approximately 380 daily for the site. The applicant has stated that through Palm Beach County's bonus entitlements, the site could have a maximum of 80 units, which equates to a potential maximum of 539 daily trips if the property was developed as multi-family.

The traffic impact statement states that single-family residences are the highest traffic-generating use under the proposed RM zoning district, with 10 trips per unit. If the maximum number of units were proposed under the highest standard density in RM (12 dwelling units per acre), the development would generate 580 daily trips, 96 being peak-hour trips. Analyzing the traffic for the intended use, which is 116 multi-family dwelling units (24 dwelling units per acre at a rate of 6.74 trips per unit), generates 782 daily trips, 94 being peak-hour trips.

The Traffic Performance Standards (TPS) letter issued by the Palm Beach County Traffic Division on August 14, 2023 states that the addition of 116 multi-family residential units will generate approximately 782 trips, with a total of 105 peak hour trips (46 AM and 59 PM). The letter states that the intended project meets the TPS of Palm Beach County.




**(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.*

The applicable Objectives and Policies of the Always Delray Comprehensive Plan are provided below.

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

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

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

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

**Policy NDC 1.1.7** *Establish the maximum density, measured in dwelling units per gross acre, for residential land use and mixed-use designations (See Table NDC-1). The Standard density is the range of density allowed in the land use designation. The Revitalization/Incentive density is the maximum density that may be offered in the Land Development Regulations to achieve a certain community benefit in a specific area as part of an incentive program, or to implement the recommendations of an adopted redevelopment or neighborhood plan. Standards in the Land Development Regulations, including those guiding compatibility and transitions, such as setbacks, height limitations, open space criteria, etc. may limit the actual density achievable on a specific site.*

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

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

**Policy NDC 1.1.13** *Apply the most restrictive residential zoning district(s) that is appropriate to the neighborhood based on existing development patterns and lot sizes, unless another zoning district better supports the implementation of an adopted neighborhood or redevelopment plan.*

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

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

**Policy NDC 1.2.6** *Apply the Medium Density Residential land use designation to land that is or will be developed for a wide range of housing types, including but not limited to attached and detached single-family and multi-family housing.*

**Policy NDC 1.2.7** *Use the Medium Density Residential land use designation to create and maintain residential neighborhoods with a wide range of housing types with associated neighborhood amenities at a density more than five and up to 12 units per acre.*

**Policy NDC 1.2.8** *Allow revitalization/incentive density up to 24 dwelling units per acre on land with a Medium Density Residential land use designation and mapped as Workforce Housing Overlay or included as part of a workforce housing incentive program.*

**Policy NDC 3.3.2** *Apply the City's land use designation immediately upon annexation of a parcel. Following any annexation, amend the Land Use Map, and appropriate portions of the Comprehensive Plan, to reflect the change in the city's boundaries.*

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

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

The subject property is surrounded by Palm Beach County HR-8 land use and Palm Beach County Multi-family (RM) zoning to the north and west. The property borders the City's General Commercial (GC) land use and Planned Commercial (PC) zoning to the east and south. The chart below summarizes the surrounding development.

Location	Development Type / Uses	Land Use Designation	Zoning District
North	Multi-family (Highpoint of Delray Condominiums)	PBC HR-8	PBC Multi-family (RM)
South	Commercial Plaza (Marketplace of Delray West)	General Commercial (GC)	Planned Commercial (PC)
East	Commercial Plaza (Marketplace of Delray West)	GC	PC
West	Multi-family (Highpoint of Delray Condominiums)	Palm Beach County HR-8	Palm Beach County RM

The proposed MD land use accommodates the proposed RM zoning, which facilitates a variety of residential development at medium density, as well as nursing home, assisted living facility, churches, and public educational uses. The development to the west and to the north across the Lake Worth Drainage District (LWDD) canal is multi-family, and the properties are developed at a lower density (calculated to be approximately 9.7 dwelling units per acre). The Marketplace of Delray property to the east and south could, however, be redeveloped at a density of 30 dwelling units per acre with a maximum Floor Area Ratio (FAR) of 3.0.

A Land Use Map amendment is necessary for any parcel annexing into the City of Delray Beach. The requested land use designation is compatible with the surrounding GC land use to the south and east of the subject property, and while the County's HR-8 land use to



the north and west allows for multi-family as well, it is noted that the land use maximum allows for a greater density (24 dwelling units per acre with density bonuses) than the existing County land use designation with density bonuses (16 dwelling units per acre).

The proposed MD land use will increase the potential density on the parcel as it allows for a higher density than the County's HR-8 land use and does not have a maximum floor area ratio (FAR). Based on the existing and surrounding multi-family and commercial uses, the MD land use designation is not inappropriate. However, the Board could consider if the requested density incentive overlay is appropriate for the property, given all of the policy considerations within the comprehensive plan. The requested overlay is evaluated below.

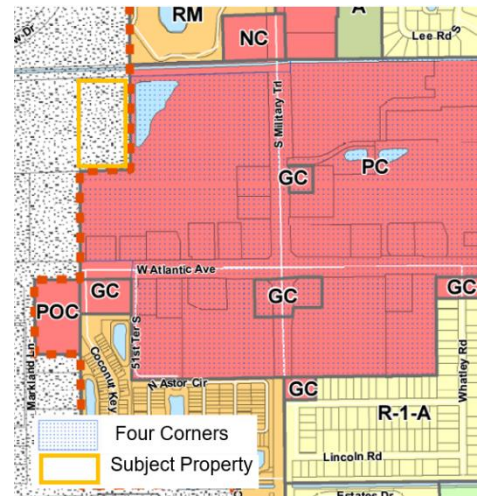
### **Mobility Element**

**GOAL MBL 3** *Accommodate future growth through projects that maintain and enhance the City's mobility system, directed toward enhancing walkability, accessibility, and quality of life.*

**Objective MBL 3.1 Mobility Connections** *Improve mobility options by increasing connections among multiple transportation modes in the downtown area, nodes of higher density along major corridors, transportation hubs, transit-oriented developments, urban redevelopment and infill, and in suburban redevelopment to support the mobility system.*

**Policy MBL 3.1.1** *Include cross access between properties to reduce vehicular trips on the roadway network. Cross-connectivity shall include bicycle and pedestrian accommodations except where infeasible due to natural or environmental constraints.*

The requested land use and zoning anticipates larger scale multi-family development. The Four Corners Overlay District regulations that apply to the adjacent plaza and those on the other three corners of the intersection of Atlantic Avenue and Military Trail (map at right) also support large-scale mixed use, multi-family development through the available incentive that allows a maximum density of 30 dwelling units for acre when workforce housing is provided. Higher density development along major corridors is a key element of a well-functioning multi-modal system.



It is noted that the site does not have frontage on a street, and therefore does not comply with LDR Section 4.3.4(E)(1), which requires all lots to have street frontage. Therefore, if the property is annexed, relief must be obtained from LDR Section 4.3.4(E)(1) through the site plan process. Although the site has no street frontage, access to the site is provided through a shared access easement agreement connecting the southeast portion of the property to West Atlantic Avenue. The property is currently accessed through a shared access easement agreement connecting the southeast portion of the property to West Atlantic Avenue. Being adjacent to a commercial center and close to other commercial centers provides an opportunity for a walkable, mixed-use environment.

As such, during the review of the Class V Site Plan (being reviewed separately), staff is requesting the establishment of bicycle and pedestrian cross connectivity through the Marketplace at Delray Plaza to the south, as bicycle and pedestrian cross connectivity is currently not provided between the subject site and the plaza. As part of the Site Plan, the applicant is proposing to amend the existing shared access easement agreement to include additional area at the northwest corner of the Marketplace at Delray Plaza. Therefore, the Plaza will need to apply for a Site Plan Modification to make improvements to the site (e.g. remove parking to accommodate shared access easement agreement area, add bicycle and pedestrian pathways along the west side of the property to provide cross connectivity from the subject site to West Atlantic Avenue) before the site plan for The Flo Delray can proceed.

### **Conservation, Sustainability and Resiliency Element**

**Policy CSR 4.2.3** *Requires the submission of a biological survey and a habitat analysis with land use requests for plan amendments, rezonings, and site plan approval, with an exception where it is apparent that no such resources exist, as determined by staff.*

The subject parcel is currently developed with a single-family residence, which the applicant intends on demolishing to accommodate a new multi-family development. A tree survey has been submitted to document the existing landscape. However, no trees will be removed until a determination of compliance with the LDR Section 4.6.16, Landscape Regulations is made at time of plat submission.

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

On July 11, 2023, the applicant submitted a Class V Site Plan, proposing a 116-unit multi-family development. The site plan is being reviewed, subject to all applicable provisions and LDR requirements, and will proceed if the Annexation, LUMA, Rezoning, and LDR text amendment are approved.

## Rezoning

### **LDR Section 2.4.5(D)(1), Change of zoning district designation: Rule**

The City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board. The submitted application complies with the submittal requirements in **LDR Section 2.4.3**.

Upon a recommendation of approval by the Planning and Zoning Board, the requests can move forward for consideration by the City Commission. If a recommendation of approval is not made or does not pass, the request does not move forward to the City Commission for further consideration.

### **LDR Section 2.4.5(D)(2), Change of zoning district designation: Required Information,**

A statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning are:

- That the zoning had previously been changed, or was originally established, in error;
- That there has been a change in circumstance which makes the current zoning inappropriate;
- 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 application is being processed under the second and third criteria. As specified in the applicant's justification statement (attached), the subject property is in the City's Planning Area and is therefore, anticipated to be included within the ultimate boundaries of Delray Beach. The voluntary annexation necessitates the adoption of City land use and zoning, which shall be compatible pursuant to the Always Delray Comprehensive Plan. The proposed RM zoning is a preferred implementing zoning district of the proposed MD land use, and is generally consistent with the surrounding multi-family and commercial uses.

## **Article 3.2, Performance Standards**

### **Section 3.2.2 - Standards for Rezoning Actions**

Rezoning requests must meet five standards, which are described below relative to the proposed rezoning under consideration.

(A) *The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied unless the proposed changes implement an adopted neighborhood or redevelopment plan.*

Because the subject property is currently in unincorporated Palm Beach County, a category on the Residential Neighborhood Categorization Map has not been assigned. This property is requesting a medium-density residential zoning district, which allows a standard density of 6-12 dwelling units per acre and a density of up to 24 dwelling units per acre in an established revitalization incentive area.

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

Not applicable.

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

Not applicable.

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

The property is surrounded by Palm Beach County Multi-family (RM) zoning to the north and west, and Delray Beach Planned Commercial (PC) zoning to the east and south. A chart and maps of the surrounding land use and zoning is provided in the LUMA analysis of this report. The proposed RM zoning allows a maximum density of 12 dwelling units per acre; the proposed The Flo Delray Overlay District establishes a revitalization density of 24 dwelling units per acre. The proposed Overlay is analyzed below. A full site plan review will enforce provisions (e.g. setbacks, special buffers, landscaping, etc.) that are established to mitigate adverse impacts from new and existing uses. Further, the site plan would be subject the review of seven different performance standards including but not limited to lighting, landscaping, pedestrian, bicycle, and vehicular interconnections to adjacent properties, open space, traffic circulation, and consistency with nearby development.

Additionally, **LDR Section 3.2.3, Standards for site plan and/or plat actions** has similar standards to the Performance Standards, and are provided in Appendix A.

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

Not applicable. The property is not located within the Coastal Planning Area.

#### LDR Text Amendment

Pursuant to **LDR Section 2.4.5(M)(1)**, amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.

The proposed amendment is privately initiated by Sandra J. Megrue of Urban Design Studio for the property owner, Alice Clayton, LLC.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, in addition to LDR Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies (GOPs) of the Comprehensive Plan. The following GOPs of the adopted Comprehensive Plan are applicable to the proposed amendment to establish a workforce housing overlay with a maximum revitalization density of 24 dwelling units per acre.

#### Neighborhoods, Districts, and Corridors Element

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

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

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

Policy NDC 1.2.8 *Allow revitalization/incentive density up to 24 dwelling units per acre on land with a Medium Density Residential land use designation and mapped as Workforce Housing Overlay or included as part of a workforce housing incentive program.*

The proposed Overlay establishes a maximum incentive density of 24 dwelling units per acre, provided that 20 percent of the total number of units are reserved as Workforce Housing units at the moderate income affordability level. At the standard density, the 4.87-acre parcel could be developed with 58 dwelling units. At the maximum revitalization incentive density, proposed for the Overlay, 116 units could be developed; 24 of the 116 units would be restricted to in terms of affordability. It should be noted that these numbers are provided for discussion purposes only and are subject to change during the site plan approval process. The evaluation of the proposed density and all other detailed site plan requirements will be made by the reviewing body.

It should be noted that the City is concurrently amending Chapter 2, "Administrative Provisions," of the LDR. The proposed amendment eliminates the need for conditional use approval for revitalization incentives; requests for density increases would be reviewed and approved at site plan review, allowing for holistic review of the request. Consequently, the applicant has chosen to mirror the City-initiated LDR language in the proposed privately-initiated LDR text amendment; therefore, the approval of the additional density would take place through the site plan process, not a separate hearing.

Multi-family residential development is allowed in other zoning districts at varied densities. In any zoning district, the density of the underlying land use can only be maximized through revitalization incentive density bonuses, which require workforce housing. Density and height increases are tools that have been used successfully throughout the City to cultivate workforce housing and residential development in targeted areas. Establishing The Flo Delray Overlay District through the proposed text amendments would add to the city's housing supply, and support the provision of a complimentary mix of uses that can meet the daily needs of residents by introducing a residential use in close proximity to the existing surrounding commercial uses (e.g. The Marketplace at Delray plaza to the east and the Delray Commons plaza to the south).

The adjacent plazas are within the Four Corners Overlay District, which was established to encourage mixed use developments including retail, office, restaurant, and residential uses. Each of the four corners adjacent to the intersection of West Atlantic Avenue and Military Trail contain long-established shopping plazas with a variety of retail and restaurant uses, none of which have undergone any significant redevelopment to take advantage of the revitalization incentives that allow up to 30 dwelling units per acre, in a mixed-use environment, with the inclusion of workforce housing. The Four Corners Overlay District was intended to increase the development mass at the corners and implement incentives to provide mixed-use development including workforce housing, while highlighting opportunities for a transit-oriented development and utilizing new urbanism design elements to distinguish the intersection from others along the Military Trail corridor. The Board should consider whether the proposed Flo Overlay District supports these comprehensive plan goals for the Military Trail / Atlantic Avenue intersection.

## **Housing Element**

Objective HOU 3.2 Expansion of the Housing Supply *Expand the housing supply by allowing different unit types in a variety of locations for all income levels.*

Policy HOU 3.2.1 *Allow a variety of housing types to reflect the needs of all household types, including both rental and ownership opportunities for single people, couples, families, seniors, persons with disabilities and multi-generational families.*

Policy HOU 3.2.2 *Establish and regularly reassess criteria for requiring workforce housing units in new development (either on-site or through participation in a housing program) based upon proposed development density, intensity, and size.*

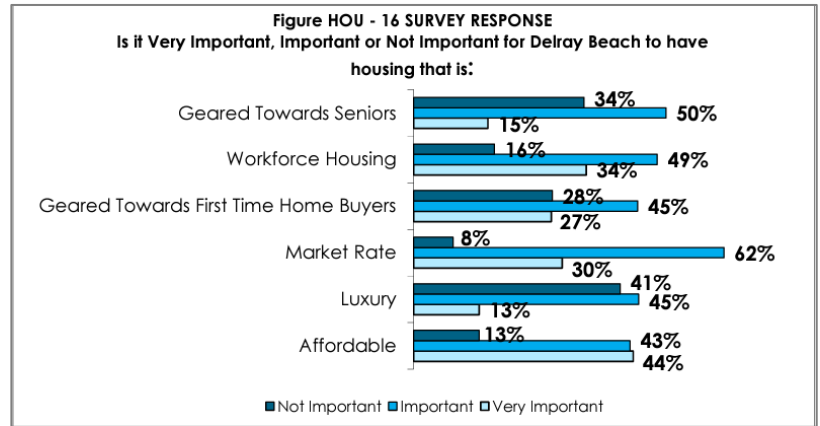
Policy HOU 6.1.2 *Encourage income diversity by requiring a mix of unit types in new development.*

Policy HOU 6.1.4 *Implement incentives in the Land Development Regulations, such as increases in density, to establish workforce housing units within targeted areas.*

Policy HOU 6.4.10 *Encourage a shared responsibility for the private sector to address workforce housing needs by offering incentives.*



Based on projected population growth analyzed in both the Neighborhoods, Districts, and Corridors and Housing Elements, additional housing units in general are needed. Respondents to surveys during the Always Delray Comprehensive Plan update (figure at right) identified a desire to see more workforce housing, more market rate housing, housing for seniors; fewer respondents expressed an interest in seeing more luxury housing, and many expressed a desire for additional workforce housing, identifying it as "Important" or "Very Important." Generally, workforce housing units play an important role in the creation of a stable and equitable community, where all income levels in the workforce have the opportunity for such individuals to live close to employment opportunities within the city.



The Flo Delray Overlay Composition of Workforce Housing Units	
Unit Type	Distribution
Efficiency	The percentage of Efficiency workforce units to market rate Efficiency units may not exceed 22 percent.
One-Bedroom	The proportion of one-bedroom workforce units shall be equal to the proportion of two-bedroom workforce units.
Two-Bedroom	The proportion of two-bedroom workforce units shall be equal to the proportion of one-bedroom workforce units.

The proposed LDR text amendment requires a mix of efficiencies/studios, one-bedroom, and two-bedroom units allocated for workforce housing; however, it does not require the provision of three-bedroom or four-bedroom units for workforce housing.

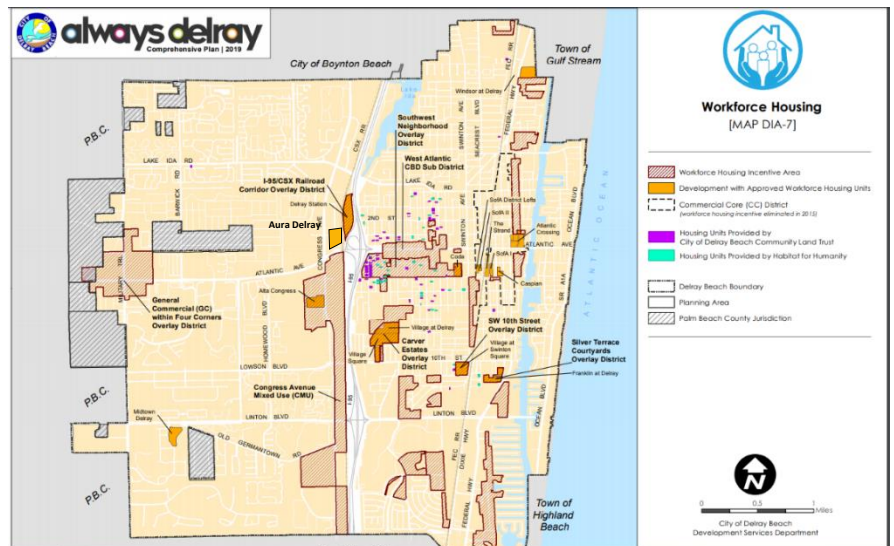
**LDR Article 4.7 - "Family Workforce Housing"** provides several ways that developments can use

workforce housing to access a revitalization incentive, based upon the regulations of a specific incentive area:

1. Density bonus program that offers a certain number of extra or "bonus" units in exchange for the provision of workforce housing, weighted by the affordability level of the units provided. More units are offered as an incentive when lower income levels are set aside.
2. A flat out set aside of a percentage of the total units (such as Aura Delray SAD, which requires 25 percent of the total units to be affordable to achieve maximum density in Commerce Land Use; or the Four Corners Overlay District with General Commercial Land Use and PC zoning, which requires 20 percent).

Existing workforce housing revitalization incentive areas are identified on the map at right and summarized in the attached chart.

The applicant is proposing a percentage of the total units as workforce housing, which is consistent with the majority of the housing incentive areas. The proposed The Flo Delray Overlay District is not required to choose a particular income category; any incentive area establishes the requirements when it is established. Most of the incentive areas in the city do not require all three levels, but the City encourages applicants on private requests to include all three income affordability levels – very low, low, and moderate income.



The very low level is up to 60 percent of the Area Median Income (AMI), low is 61 percent to 80 percent AMI, and the moderate level is 81 percent to 120 percent AMI – which is currently \$98,300 for Palm Beach County. Under the current AMI, the very low,

low, and moderate level income and rental rate ranges for a family of 4 in a 2-bedroom and 3-bedroom unit, as established by the Florida Housing Finance Corporation, are as follows, utilizing data from the 2023 Income Limits and Rent Limits:

	Income Range	Rental Range for a 2 BDR unit	Rental Range for a 3 BDR unit
Very Low Income (up to 60% AMI)	Up to \$58,440	Up to \$1,315	Up to \$1,519
Low Income (61-80% AMI)	\$58,441 – 77,920	\$1,316 – 1,754	\$1,520 – 2,026
Moderate Income (81-120% AMI)	\$77,921 – 116,880	\$1,755 – 2,631	\$2,027 – 3,039

While the proposed The Flo Delray Overlay District is not required to choose a range of income categories, the inclusion of the multiple income categories supports Comprehensive Plan policies in support of development with a mix of incomes. The Board could consider whether it is sufficient that the Overlay *encourage(s) income diversity by requiring a mix of unit types*, or is a greater range of incomes should be encouraged.

### Considerations

The Board should consider the following in reviewing the subject request:

#### Annexation

- Whether there is any valid reason to deny the requested annexation, based on the criteria in Objective NDC 3.3 and the Florida Statutes governing annexation.

#### Land Use Map Amendment: PBC HR-8 to Delray Beach MD

- Whether the requested MD land use designation is consistent with the applicable goals, objectives, and policies of the Comprehensive Plan.
- Whether the requested MD land use allows the most appropriate development to *fulfill remaining land use needs, to encourage [...] the private sector to address workforce housing needs by offering incentives, and to expand the housing supply by allowing different unit types in a variety of locations for all income levels.*

#### Rezoning: PBC AR to City RM

- Whether there has been a change in circumstances on the site or within the neighborhood that renders the PBC AR zoning inappropriate.
- Whether the requested zoning is of similar intensity as allowed under the MD land use designation and is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

#### LDR Text Amendment

- Whether the requested LDR Text Amendment, to establish a workforce housing revitalization incentive within The Flo Overlay District is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan related to the adoption of workforce housing incentives.
- Whether 20 percent moderate income housing provides a sufficient community benefit to warrant the establishment of the revitalization incentive Overlay.

### Review By Others

**Palm Beach County:** On July 6, 2023, the Palm Beach County Planning Division and the County Administrator were notified of the annexation request. The letter from the Palm Beach County Planning Division dated July 31, 2023, states that County staff has not identified inconsistencies with Chapter 171, Florida Statutes, and that no county-owned or maintained roads will be affected by this annexation.

**Interlocal Plan Amendment Review Committee (IPARC):** On July 5, 2023, notice of the proposed annexation, LUMA, and rezoning were provided to the IPARC, which distributes the information to adjacent municipalities. No objection has been received to date. The first and second reading dates by the **City Commission** are anticipated in October and November of 2023.

## Options for Board Action

### Annexation

- A. Move a recommendation of **approval** to the City Commission of Ordinance No. 36-23, a privately-initiated request to annex 4.87 acres from Palm Beach County, located at 5185 Atlantic Avenue, by adopting the findings of fact and law contained in the staff report and finding that the annexation and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** to the City Commission of Ordinance No. 36-23, a privately-initiated request to annex 4.87 acres from Palm Beach County, located at 5185 Atlantic Avenue, by adopting the findings of fact and law contained in the staff report and finding that the annexation and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- C. Motion a recommendation of **denial** of Ordinance No. 36-23, a privately-initiated request to annex 4.87 acres from Palm Beach County, located at 5185 Atlantic Avenue, by adopting the findings of fact and law contained in the staff report and finding that the annexation and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- D. **Continue With Direction.**

### Land Use Map Amendment

- A. Move a recommendation of **approval** to the City Commission of Ordinance No. 37-23, a privately-initiated request for a Land Use Map Amendment (LUMA) from Palm Beach County Residential High (HR-8) to City of Delray Beach Medium Density Residential (MD) for a 4.87-acre property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** to the City Commission of Ordinance No. 37-23, a privately-initiated request for a Land Use Map Amendment (LUMA) from Palm Beach County Residential High (HR-8) to City of Delray Beach Medium Density Residential (MD) for a 4.87-acre property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- C. Motion a recommendation of **denial** of Ordinance No. 37-23, a privately-initiated request for a Land Use Map Amendment (LUMA) from Palm Beach County Residential High (HR-8) to City of Delray Beach Medium Density Residential (MD) for a 4.87-acre property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- D. **Continue With Direction.**

### Rezoning

- A. Move a recommendation of **approval** to the City Commission of Ordinance No. 38-23, a privately-initiated rezoning request from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Multiple Family Residential (RM) for a 4.87 acre property located at 5185 Atlantic Avenue, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** to the City Commission of Ordinance No. 38-23, a privately-initiated rezoning request from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Multiple Family Residential (RM) for a 4.87 acre property located at 5185 Atlantic Avenue, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- C. Motion to **deny** Ordinance No. 38-23, a privately-initiated rezoning request from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Multiple Family Residential (RM) for a 4.87 acre property located at 5185 Atlantic Avenue, finding that the request and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.

**D. Continue With Direction.**

**LDR Text Amendment**

- A. Move a recommendation of **approval** to the City Commission of Ordinance No. 39-23, a privately-initiated Land Development Regulations (LDR) text amendment to create a revitalization overlay district, known as The Flo Delray Overlay District, to pursue a density bonus of up to 24 dwelling units per acre at the property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** to the City Commission of Ordinance No. 39-23, a privately-initiated Land Development Regulations (LDR) text amendment to create a revitalization overlay district, known as The Flo Delray Overlay District, to pursue a density bonus of up to 24 dwelling units per acre at the property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- C. Motion a recommendation of **denial** of Ordinance No. 39-23, a privately-initiated Land Development Regulations (LDR) text amendment to create a revitalization overlay district, known as The Flo Delray Overlay District, to pursue a density bonus of up to 24 dwelling units per acre at the property located at 5185 Atlantic Avenue, finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.

**D. Continue With Direction.**

**Public and Courtesy Notices**

X Courtesy Notices were sent to the following:

- Highpoint of Delray Condominiums

X Public Notice was posted at the property 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

X Public Notice was published in the Sun Sentinel 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall 10 calendar days prior to the meeting.

X Agenda was posted at least 5 working days prior to meeting.



**Appendix A**  
**LDR Section 3.2.3, Standards for site plan and/or plat actions**

- (A) Building design, landscaping, and lighting (glare) shall be such that they do not create unwarranted distractions or blockage of visibility as it pertains to traffic circulation.
- (B) All development shall provide pedestrian, bicycle, and vehicular interconnections to adjacent properties, where possible, and include accessible routes from the entry points of publicly-accessible buildings to the sidewalk network in accordance with the Americans with Disabilities Act (ADA).
- (C) Open space enhancements and recreational amenities shall be provided to meet Objective OPR 1.4 and other requirements of the Goals, Objectives and Policies, as applicable, of both the Open Space, Parks, and Recreation Element and Conservation Element.
- (D) Any proposed street widening or modifications to traffic circulation shall be evaluated by the City, and if found to have a detrimental impact upon or result in the degradation of an existing neighborhood, the request shall be modified or denied.
- (E) Development of residentially zoned vacant land shall be planned in a manner consistent with adjacent development regardless of zoning designations.
- (F) Property shall be developed or redeveloped in a manner so that the use, intensity, and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services: are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.
- (G) Development shall provide a variety of housing types that accommodates the City's growing and socio-economically diverse population to meet the Goals, Objectives, and Policies the Housing Element.
- (H) Consideration shall be given to the effect a development will have on the safety, livability, and stability of surrounding neighborhoods and residential areas. Factors such as but not limited to, noise, odors, dust, and traffic volumes and circulation patterns shall be reviewed and if found to result in a degradation of the-surrounding areas, the project shall be modified accordingly or denied.
- (I) Development shall not be approved if traffic associated with such development would create a new high accident location, or exacerbate an existing situation causing it to become a high accident location, without such development taking actions to remedy the accident situation.
- (J) Tot lots and recreational areas, serving children, teens, and adults shall be a feature of all new housing developments as part of the design to accommodate households having a range of ages. This requirement may be waived or modified for residential developments located in the downtown area, and for infill projects having fewer than 25 units.
- (K) Development shall not exceed the maximum limits established in the Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts, of the Neighborhoods, Districts, and Corridors Element or specific standards established in the zoning districts that limit density (dwelling units per acre) or intensity (floor area ratio) and must adhere to whichever limit is lower. Development in areas included in density or incentive programs (i.e. workforce housing programs specified in Article 4.7-Family/Workforce Housing) may exceed the Standard density limit, up to the specified Revitalization/Incentive density established for the program: development in all other areas shall not exceed the Standard density.
- (L) Development shall meet the intent of CSR 5, Energy Efficiently and Diverse Energy Mix and, where applicable, the requirements of LDR Section 7.11.1, Green Building Regulations.