



BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

Ordinance 41-19, Future Land Use Map Amendment from Low Density (LD) to Commercial Core (CC) and Ordinance 42-19, Rezoning from Single-family Residential (R-1-A) to Central Business District (CBD)

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.”*

The Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies which zoning districts are consistent with the Future Land Use Map designations. The proposed CC designation and the requested zoning designation of CBD are consistent with each other.

Pursuant to **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, 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.*

The LD designation currently assigned to the properties supports the original development pattern for the single-family neighborhood; however, the adopted Delray Beach CRA Community Redevelopment Plan and West Atlantic Redevelopment Plan support an increase in intensity as a way to provide neighborhood amenities and additional housing opportunities for diverse incomes. The change in land use supports the proposed mixed-use development and allows for higher density, which will also assist in the revitalization of the West Atlantic Neighborhood as envisioned in adopted plans.

- **Consistency** – *The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan.*

Future Land Use Element Goal A: *“Land within the Planning Area shall be developed or redeveloped to sustain and enhance the existing quality of life, compliment and be compatible with existing land use and result in a mixed, but predominately residential community with a balanced economic base and encourage accessible affordable everyday services.”*

The proposed future land use designation and zoning district allow for a mix of commercial and residential uses. The CC land use designation limits density to a level that is compatible with the surrounding land uses. It is important to note that the implementing zoning district for the CC land use, CBD, limits the extension of commercial uses north from West Atlantic Avenue into the neighborhood, which will result in predominantly residential redevelopment in this area. However, commercial uses are also allowed subject to the approval of a conditional use where findings are required to ensure that the proposed use will not “have a significantly detrimental effect upon the stability of the neighborhood within which it will be located, or hinder development or redevelopment of nearby properties. In addition, the CBD zoning uses form-based techniques to ensure compatibility among uses and provide for seamless transitions to a mix of uses and adjacent properties.

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.”*

Development under the proposed CC land use designation will be consistent with the adjacent CC land use designation to the south, which is contiguous with the CC designation along the West Atlantic Avenue corridor. The requested land use on these parcels will not negatively impact the existing land uses in the area by maintaining a multi-family development pattern and encouraging the provision of workforce housing fulfilling a need within the West Atlantic Avenue neighborhood area. If a

non-residential or mixed-use development is proposed for the subject properties, consideration of this Objective will be part of the conditional use review.

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.*

The subject properties are located in an area that has been identified as “blighted”, and that has been classified as “needing rehabilitation” in the current Comprehensive Plan; needing rehabilitation is defined as numerous code violations; deteriorated and non-maintained structures; high level of absentee ownership; significant crime problems; large number of vacant lots. The City and CRA have worked to improve the neighborhood area through beautification projects, streetscape improvements, and new development. Changing the FLUM designation to CC and the zoning to CBD will provide more redevelopment opportunities, thereby improving the quality of life potential for the neighborhood. Once a new development request is submitted, this Goal will be further considered in the review to ensure the new development contributes to the 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 properties are located in an identified blighted area of the CRA. The CRA has invested in infrastructure projects to improve the neighborhood area. The requested FLUM designation will assist in encouraging private investment in quality development within the West Atlantic Avenue neighborhood.

Future Land Use Element – Policy C-1.5: *The following pertains to the redevelopment of the West Atlantic Avenue Area: this area extends in a corridor along Atlantic Avenue eastward from 1-95 to Swinton Avenue. The present land uses in this area include single family homes, duplexes, miniparks, commercial uses along Atlantic Avenue and N. W 5th Avenue and scattered vacant parcels. The West Atlantic Avenue Redevelopment Plan was adopted by the City Commission on July 11, 1995. The plan establishes Future Land Use Map designations, zonings, special development standards, and design guidelines for the Redevelopment Area. Future development in the area must be in accordance with the provisions of the redevelopment plan.*

Prior to the adoption of the West Atlantic Avenue Redevelopment Plan in 1995, the West Atlantic Redevelopment Area was designated or known as “Redevelopment Area #1” 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 West Atlantic Avenue Redevelopment Plan indicates that commercial structures will be limited to a depth of 150’ from Atlantic Avenue, with accessory uses permitted within those areas beyond 150’. These limitations are provided for in the Land Development Regulations applicable to the West Atlantic Neighborhood Sub-district of the CBD. The subject properties are located between approximately 275’ (along NW 6th Avenue) and 330’ (along NW 7th Avenue) north of West Atlantic Avenue. The proposed FLUM amendment and rezoning allow for more intense uses and larger development than is presently allowed that will allow the CRA to continue with its mandate of stimulating commercial businesses in the West Atlantic Avenue area and improving the quality of life by providing a range of housing choices that appropriately transitions to adjacent properties.

Future Land Use Element Objective C-3: *The Central Business District (CBD) and surrounding neighborhoods, including A-1-A, Seacrest and Swinton Avenue represents the essence of what is Delray Beach i.e. a “village by the sea”. The continued revitalization of the CBD is essential to achieving the overall theme of the City’s Comprehensive Plan by managing growth and preserving the charm.*

The proposed FLUM and zoning designations will assist in furthering the continued revitalization efforts within the surrounding area, while striving to “preserve the charm”. For this purpose, the CBD zoning district provides regulations specific to the West Atlantic Avenue Neighborhood Sub-district, which also compliment the recommendations and guidelines found in the

applicable plans, to ensure an overall compatible and appropriate development with respect to site design, intensity, and density.

Housing Element Goal Area “A.” *To maintain a safe and adequate supply of housing for all income levels and to preserve existing stable neighborhoods, stabilize and enhance neighborhoods that are in transition, and restore and rehabilitate neighborhoods that have declined.*

Housing Element Goal Area “B.” *To ensure that an adequate supply of quality new housing is available in a range of types and cost levels to meet the needs of the City’s Future population.*

The proposed FLUM and zoning designations will assist in achieving these Goal Areas by permitting additional density to promote infill workforce housing opportunities in new development.

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

Traffic. The applicant has provided a traffic statement, dated July 26, 2019. The parcels are located within the City’s Transportation Concurrency Exception Area (TCEA), which allows the City to mitigate any impacts from the development through diverse strategies rather than conventional road widening, etc. The traffic impacts from “Table 1 Trip Generation Test 2 Analysis” are replicated below.

Land Use	Intensity	Daily Trips	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Existing Land Use								
Low Density 5 units/acre for 0.75 ac	4 DU	40	1	2	3	3	2	5
Total		40	1	2	3	3	2	5
Proposed Land Use								
Commercial Core (3.0 FAR for 0.75 ac)	97,801 SF	5,922	57	35	92	257	278	535
Pass-By (40.51%)		2,399	24	14	37	104	113	217
Total		3,523	33	21	55	153	165	318
Net New Trip From Land Use Change LD to CC		3,483	32	19	52	150	163	313

NOTE: It appears that the Total AM Peak Hour is off by 1 and should add up to 53.

The traffic study evaluated the potential impact of the land use amendment based on the maximum intensity of the CC land use of a 3.0 FAR for commercial uses. Under this scenario, the daily trips will result in 53 more peak hour morning trips and 313 more peak hour evening trips. It is important to note, the performance standards and design guidelines in the Land Development Regulations limit the development permitted on these parcels to residential in a slightly higher density (30 du/ac) than permitted by the LD land use designation (up to 5 du/ac). Commercial development is only allowed within 150 feet of West Atlantic Avenue (with the exception of full-service grocery uses when appropriate transition is applied, and parking) or the approval of a conditional use. The subject properties are more than 275 feet from West Atlantic Avenue. Therefore, the impact of commercial development will be limited because a majority of the development on the subject parcels will be limited to residential uses unless a conditional use is approved by the City Commission allowing commercial uses.

Schools. The Palm Beach County School District has evaluated the requested FLUM and zoning designations for compliance with the adopted Level of Service for School Concurrency. The evaluation found that “there will be a negative impact on the public school system...to address the school capacity deficiency generates by this proposed development at the District elementary school level, the property owner shall contribute \$16,108 to the School District of Palm Beach County prior to issuance of first building permit.”

Water and Sewer. Municipal water service is available via connections to an existing 8" water main located within NW 6th and 7th Avenues. Sewer service is available via connections to existing sanitary sewer lines within NW 6th and 7th Avenues. 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 amendment to CC will not significantly increase the demand on these services, as the parcel is part of a larger development already accommodated for

in the present capacity calculations, and commercial development potential is limited due to the distance from West Atlantic Avenue.

Solid Waste. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2047. The following generation rates will be used to calculate impact:

- Multi-Family Residential Greater Than 5 Units: 0.52 tons / unit
- Office: 5.4 pounds per square foot per year
- Restaurant: 24.9 pounds per square foot per year
- Retail: 10.2 pounds per square foot per year

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 the conditional use and site plan process. At site plan submittal, the applicant will be required to provide 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 per LDR Section 2.4.3 (D) (8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into City's sewer system. A letter from the Deputy Director of Public Utilities stating that the City's system has sufficient capacity to treat proposed flows will be issued upon review and approval of submitted site plans.

Parks and Open Space: The Open Space and Recreation Element of the City's Comprehensive Plan indicates in its conclusion that *"the City will have sufficient recreation facilities at build-out to meet the adopted standards."* The adopted LOS standard for open space and recreation in the city is 3 acres per 1,000 residents. The amount of land currently provided in activity-based recreation facilities, the municipal beaches, and the two public golf courses, establishes a level of service of 6.2 acres per 1,000 residents (2007), which exceeds the general guideline. Additionally, a park impact fee is collected to offset any impacts that a residential project may have on the City's recreational facilities. Pursuant to LDR Section 5.3.2, a park impact fee of \$500.00 per dwelling unit will be collected prior to issuance of a building permit for each residential unit at the time a project is presented for approval at the Building Department. This item will be addressed during the site plan review process.

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

The CC designation is assigned along West Atlantic Avenue and transitions down in intensity and scale to the north to LD, which consists of an established single-family neighborhood. While the CC designation has density limitations that are more intense than LD, the maximum density for the West Atlantic Neighborhood Sub-district is 12 du/ac with a Residential Incentive available to increase the density up to 30 du/ac. The CC designation is implemented by the CBD zoning designations, which uses form-based code techniques and sub-district standards to customize a development pattern that is consistent with the area.

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

A redevelopment application has not been submitted for review; however, once received, it will be processed by Development Services, and the proposed development will be subject to all applicable provisions and requirements of the Land Development Regulations, particularly those applicable to the West Atlantic Neighborhood Sub-district, as well as the requirements of the West Atlantic Avenue Redevelopment Plan.

Delray Beach Community Redevelopment Agency Community Redevelopment Plan. The subject property is located within the Delray Beach CRA redevelopment area in Sub-Area #3 (West Atlantic Area Neighborhood). The properties along West Atlantic Avenue are primarily commercial, with residential uses abutting to the rear. Issues with the area include a "lack of substantial private investment in new development in the area," "vacant and under-utilized property," "insufficient number of shops and services to serve the surrounding neighborhood," and "lack of employment base in close proximity to residents." Some of the identified needs are to

“provide a positive image at this entrance to the city center,” to “provide employment opportunities for the residents of surrounding neighborhoods,” to “provide for adequate neighborhood commercial shopping opportunities for the surrounding neighborhoods,” to “have housing and mixed-use buildings to provide new consumers to the area,” and “continued property acquisition and redevelopment by the CRA of blighted properties.” Redevelopment of the parcels will be required to address the needs identified in Sub-Area #3.

West Atlantic Avenue Redevelopment Plan. The parcels are also subject to the West Atlantic Avenue Redevelopment Plan, and implementation requirements in the Land Development Regulations. Compliance with the plan is discussed within the review provided for the FLUM and rezoning requests.

Rezoning

Pursuant to **LDR Section 2.4.5(D)(1)**, the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board. The submitted application complies with the submittal requirements in **LDR Section 2.4.3**.

LDR Section 2.4.5(D)(2) outlines the procedures for a zoning change, which includes the standard application items in Section 2.4.3. Valid reasons for approving a change in zoning, pursuant to **LDR Section 2.4.5(D)(2)** 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 requested rezoning is to be considered under a combination of the second and third criteria. The CRA Plan and West Atlantic Avenue Redevelopment Plan support higher density, intensity, and workforce / family housing for this area. The extension of the CBD zoning has the potential to be catalytic to the area and contribute to the revitalization of the West Atlantic Neighborhood by providing additional housing opportunities for diverse incomes and neighborhood amenities. The proposed FLUM designation of CC supports a greater intensity of development consistent with these plans, and the density of the proposed CBD zoning designation is compatible with and supports the land use designation and the provision of workforce units.

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

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

Not applicable. The subject properties are considered “Needing Rehabilitation.”

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

Not applicable. Auto dealerships are not a proposed use.

- (C) *Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design.*

The proposed CBD zoning is a form-based code and does not permit strip-type commercial development. Further, the proximity of the properties from West Atlantic Avenue limits development to multiple-family residential use, unless a conditional use request for commercial uses is approved. If so, then neighborhood-serving commercial services and residential uses could ultimately result in a node with cohesive site design that addresses the relationship between the adjacent residential and new commercial uses.

(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.*

Under the proposed CC future land use designation, the proposed CBD zoning district will be compatible. The existing uses and zoning surrounding the proposed development is as follows:

	Zoning Designation	Land Use	Use
North	Single-Family Residential (R-1-A)	Low Density (LD)	Single family / vacant
South	Central Business District (CBD)	Commercial Core (CC)	Vacant
East	Community Facility (CF) Single-Family Residential (R-1-A)	Community Facility (CF) Low Density (LD)	Fire Station / Parking Lot Vacant
West	Single-Family Residential (R-1-A)	Low Density (LD)	Single family

The requested rezoning from R-1-A to CBD will result in compatibility among existing and future land uses with the surrounding area. The CBD zoning uses form-based techniques to ensure compatible transitions in building scale and intensity. There are several examples throughout Delray Beach where CBD zoned property directly abuts single family residential areas, notably in the northwest area. The CBD zoning requires additional setbacks from single-family residences and districts. Regulations limit commercial uses from extending further than 150' from West Atlantic Avenue, which will establish a largely multi-family infill pattern, consistent with the surrounding land use designations. The CBD zoning uses open space and architectural regulations to provide for a high-quality urban environment.

(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.*

Not applicable. The proposed development is not within the coastal planning area.

As part of the rezoning, the City must amend the Zoning Map, and the West Atlantic Neighborhood Sub-district Map and Regulating Plan in Figure 4.4.13-3 and Figure 4.4.13- 6 in Section 4.4.13 Central Business (CBD) District of the Land Development Regulations. The adoption ordinance includes these amendments.

Review By Others

The First and Second Readings of the subject request are tentatively scheduled for City Commission on December 10, 2019, and January 28, 2019.

Note: The subject parcels are not located within the Downtown Development Authority boundary.

Board Action Options

Future Land Use Map Amendment

- A. Move a recommendation of **approval** of Ordinance No. 41-19, a request for a Future Land Use Map amendment from Low Density (LD) to Commercial Core (CC), 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 **denial** of Ordinance No. 41-19, a request for a Future Land Use Map amendment from Low Density (LD) to Commercial Core (CC), 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.
- C. Continue with Direction

Rezoning

- A. Move a recommendation of **approval** of Ordinance No. 42-19, a request for a rezoning from Single-family Residential (R-1-A) to Central Business District (CBD), finding that the rezoning 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 **denial** of Ordinance No. 42-19, a request to for a rezoning from Single-family Residential (R-1-A) to Central Business District (CBD), finding that the rezoning and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.

C. Continue with Direction

Public and Courtesy Notices

--- Courtesy Notices are not applicable to this request

X Courtesy Notices were provided to the following:

- NW Community Improvement Association (mail)
- Chamber of Commerce (email)

---- Public Notices are not required for this request.

X Public Notice was posted at the property on November 8, 2019.

X Public Notice was mailed to property owners within a 500' radius on November 8, 2019, ten days before the meeting date.

N/A Public Notice was mailed to the adjacent property twenty days before the meeting date.

X Public Notice was published in the Sun Sentinel on November 9, 2019.

X Public Notice was posted to the City's website on November 8, 2019.

X Public Notice was posted in the main lobby at City Hall on November 8, 2019.