PLANNING & ZONING BOARD STAFF REPORT

DEVELOPMENT SERVICES DEPARTMENT

100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444

PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200

East Atlantic and SE 3rd Ave.
Future Land Use Map Amendment from Community Facilities (CF) to Commercial Core (CC)
Rezoning from Community Facilities (CF) to Central Business (CBD) District

Meeting: December 17, 2018	**File No.:** 2019-004 and 2019-005	**Application Type:** Future Land Use Map Amendment and Rezoning

Request: Provide a recommendation to the City Commission regarding a privately-initiated petition for a Future Land Use Map amendment (small scale) from Community Facilities (CF) to Commercial Core (CC) and Rezoning from Community Facilities (CF) to Central Business (CBD) District for a 0.433± acre parcel of land located at the southwest corner of East Atlantic Avenue and SE 3rd Avenue. Pursuant to Land Development Regulations (LDR) Section 2.2.2(E) (6), the Local Planning Agency (Planning & Zoning Board) shall review and make a recommendation to the City Commission with respect to Future Land Use Map Amendment and Rezoning petitions.

Recommendation: By Separate Motions:

1. Recommend approval to the City Commission for the small scale FLUM Amendment from Community Facilities (CF) to Commercial Core (CC) for a 0.433± acre parcel of land located at the southwest corner of East Atlantic Avenue and SE 3rd Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(A) and 3.1.1 of the Land Development Regulations.

2. Recommend approval to the City Commission for Rezoning from Community Facilities (CF) to Central Business (CBD) District for 0.433± acre parcel of land located at the southwest corner of East Atlantic Avenue and SE 3rd Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

Project Planner:	Board Review Dates:	Attachments:
Jasmin Allen, Senior Planner allenj@mydelraybeach.com, 561.243.7044	Planning and Zoning Board, December 17 2018 City Commission: City Commission February 5, 2019 and March 5, 2019 ,	• Listed at the end of the Staff Report

GENERAL DATA

Owner/Applicant	Pierre Delray Two, LLC
Agent	Bonnie Miskel, Esq. – Dunay Miskel and Backman, LLP
Location	Southwest corner of East Atlantic Avenue and SE 3rd Avenue
Property Size	0.433± Acres
Future Land Use Map	
Existing	Community Facilities (CF)
Proposed	Commercial Core (CC)
Zoning	
Existing	Community Facilities (CF)
Proposed	Central Business (CBD) District
Adjacent Zoning	
North	CBD
East	CBD
South	CF
West	CBD
Existing Use	Parking Lot
Proposed Use	Mixed-use, office and retail uses with a parking garage
Services	
Water Service	Via extension of an eight inch water main along SE 3rd Avenue.
Sewer service	Via connection to an eight-inch sewer main along SE 3rd Avenue.

REVIEW AND ANALYSIS

Background/Project Description:
The subject property is located at the southwest corner of East Atlantic Avenue and SE 3rd Avenue and measures 0.433± acres. The subject property is zoned Community Facilities (CF) with a future land use map designation of Community Facilities (CF) and contains a 44-space parking lot.

Prior to 1990, the subject property was zoned CBD and was rezoned to CF with the citywide rezoning in October 1990. City records shows that the parcel was previously designated Community Facilities-Recreation (CF-R) on the Future Land Use Map. In 2004 the "Recreation" suffix was removed, and the parcel has remained CF.

In November 2010 the City commission approved a conditional use to allow the establishment of a commercial "for pay" parking lot to be operated jointly for utilization for SunTrust Bank customers and paying patrons.

LAND USE MAP AMENDMENT ANALYSIS

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

Requested Land Use Designation: The requested Future Land Use Map Designation is CC.

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).

With an anticipated adoption date of 2019, this action will be the second FLUM amendment for 2019.The previous (potential) amendment is 6.68 acres. As the subject property consists of 0.433± acres, the maximum of 120 acres will not be exceeded. The proposed FLUM amendment does not involve 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. The subject property is not located within an area of critical state concern. Thus, the proposed FLUM amendment can be processed as a small-scale amendment because it complies with all of the above conditions.

The proposed land use change is being processed in conjunction with a rezoning request from CF to CBD. For the intended FLUM action, the application states "The Petitioner proposes to develop the

Property with a mixed-use project consistent with the Atlantic corridor inclusive of retail, office and supportive parking. In order to develop the Project, the Petitioner is requesting a Future Land Use Map ("FLUM") amendment from CF to CC designation along with a rezoning from CF to CBD.

Staff Comments: Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies the zoning districts that are consistent with the Future Land Use Map designations. Pursuant to Table L-6, the proposed CC FLUM designation and the proposed CBD zoning district are consistent. The CBD zoning designation allows mixed-use (office/retail) developments.

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 Comments: "There is a need to amend the FLUM to CC. When evaluating the FLUM holistically, this property demands a CC future land use designation. All the properties surrounding this parcel are designated CC on the City's FLUM. Applicant's Property is the only property with a CF future land use designation in the nearby area.

Additionally, there is a need for the requested land use change. Currently the City of Delray Beach is the site of the south county courthouse, a solid waste transfer station, mental health and drug rehabilitation centers, County bus maintenance facility, wastewater treatment facility, and Palm Beach County administrative offices. Some of the facilities generate certain positive benefits, such as job growth and an increased consumer base for local businesses. However, there are also negative impacts associated with the uses, including a loss of property tax revenue. In addition, certain facilities generate odors from waste products, increase truck traffic throughout the City, and create similar detrimental impacts. Based on the Comprehensive Plan, the City's position is that it has assumed much of the area's burden for the provision of these services, and that it is not obligated to accommodate additional facilities, thus the change from the CF Land Use designation to the CC Future Land Use designation would be extremely positive for the City. Lastly, we have been advised that at one time there was some

interest in a rail oriented use with this location, however, the size of the parcel could not support the parking needed and as such this option was abandoned."

Staff Comments: The Comprehensive Plan states "Community Facility Land Uses designation is applied to current and future school sites; to current and future sites for public buildings; and to current and future sites for public facilities e.g. the wastewater treatment plant. It is also applied to single function (purpose) buildings which have been constructed for community related purposes (e.g. churches) and which are not commercial in nature. However, not all community facilities are required to be shown under this designation. Small sites are not shown nor are the locations of governmental services (e.g. Department of Health and Rehabilitative Services (H.R.S.) , now known as the Department of Health and the Department of Children and Family Services) that lease common office space, nor are churches that do not include substantial accessory uses such as educational facilities."

The site is located within the center of the downtown area and is surrounded by properties designated CC. In 2002, Delray Beach Downtown Master Plan was adopted. The Master Plan references the possibility of passenger rail services along the FEC Railway and that having an actual built station along the rail line will have the advantage of securing a rail stop. The subject parcel was identified as a portion of a larger site at East Atlantic Avenue and SE 3rd Avenue that could accommodate a future multi-modal transit station that incorporates a train station, a bus station, a local transit terminal, as well as additional parking for the downtown area.

On October 16, 2018, the City Commission approved the Delray Beach Tri-Rail Coastal Link Transit-Oriented Development Master Plan, which identified the location of the Delray Beach Tri-Rail Coastal Link station on the north side of East Atlantic Avenue adjacent to the FEC tracks. Thus, the subject property is no longer under consideration for transit uses. The subject property's central location in the downtown makes the proposed FLUM change more appropriate to be consistent with the surrounding CC parcels.

Further, as stated in the purpose and intent, the CF designation is designed to accommodate public (governmental) and quasi-public and community uses and is not intended for commercial uses and activities. The site is located along the premier commercial street within the downtown. However, the current CF FLUM designation will not afford the development of a commercial use, which is contrary to the vision for Atlantic Avenue.

- ❑ ***Consistency*** *-- The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan:* The following highlights the applicable Objectives and Policies within the City of Delray Beach Comprehensive Plan

Applicant Comments: "The proposed Amendment is consistent with the purpose and intent of the City's Comprehensive Plan ("Plan") and promotes the Future Land Use Element ("FLUE") of the Plan, its policies, redevelopment plans, and land development regulations. The proposed Amendments are more consistent with the future land use designations and zoning districts of neighboring communities. Thus, the Amendments minimize land use conflicts and maintain the character of the community (FLUE Objective A-1).

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.

Furthermore, the proposed Amendments reduce uses that are inconsistent with the character of the City by eliminating an isolated future land use designation and zoning district that is different from the character of the adjacent and surrounding communities (FLUE Objective A-2).

Objective A-2
To reduce, and eventually eliminate, uses which are inconsistent with predominant adjacent land uses, and to insure compatibility of future development, the following policies shall be applied.

The proposed Amendments will also provide the opportunity for this vacant property to be developed in a manner that is consistent and complementary to the adjacent land uses and zoning districts (FLUE Policy A-2.3).

Policy A-2.3
Development of remaining vacant properties shall occur in a manner which is consistent with and complementary to adjacent development regardless of zoning designations. This policy shall be implemented through the review process associated with platting and site plans."

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

Objective C-3
The Central Business District (CBD) and surrounding neighborhoods, including A-1-A, Seacrest and Swinton Avenue represent 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 following policies and activities shall be pursued in the achievement of this objective.

Policy C-3.1 *The Central Business District (CBD) Zoning District regulations shall facilitate and encourage rehabilitation and revitalization and shall, at a minimum, address the following:*

- ❑ *deletion of inappropriate uses*

incentives for locating retail on the ground floor with office and residential use on upper floors

- ❑ *accommodating parking needs through innovative actions*
- ❑ *incentives for dinner theaters, playhouses, and other family oriented activities*
- ❑ *allowing and facilitating outdoor cafes*
- ❑ *incentives for mixed use development and rehabilitations*
- ❑ *elimination of side yard setback requirements*
- ❑ *allow structural overhang encroachments into required yard areas*

The location of the subject property is a focal point within the downtown area and its utilization as a stand-alone parking lot does not add to the charm of the main street of the downtown. Development of the site with retail on the ground floor and office uses in upper stories furthers the revitalization of the downtown and expands the retail fabric along the streetscape. The proposed development also meets the criteria above by accommodating parking with the construction of a parking garage that eliminates a large surface parking lot.

Policy C-3.2 The "Downtown Delray Beach Master Plan" was adopted by the City Commission on March 19, 2002. 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.

The Downtown Master Plan states “Land is not cheap, and commercial land prices in Delray Beach keep rising. In cities like Delray, a large surface parking lot does not make economic sense (both for the private and public sector) the land is much more valuable as building area. While sufficient parking is necessary, it is important that unnecessarily large parking lots are avoided.

Large parking lots are not pedestrian oriented. Pedestrians are constantly "sharing" the car’s environment. They are unsafe. Pedestrians generally find themselves avoiding cars that are pulling into or backing out of spaces. Another important fact, if a pedestrian walks by his car when walking from point A to point B within the city, chances are high that he'll drive rather than walk, generating unnecessary short trips.” The Downtown Master Plan further states that the properties located on both sides of the railroad are underutilized.”

In 2018, the City of Delray Beach Downtown Development Authority, commissioned a Shopability Analysis, prepared by the Gibbs Planning Group. With respect to this action, the analysis sites that large setbacks (from the street) and parking lots are a detriment to the walkability of the downtown area and represent advantageous locations for infill development.

The Shopability Analysis created a merchandising plan that identified six thematic zones each with prevailing retail categories and states “These zones were created with regard to the existing retailers, shopper traffic patterns, industry standards and preferred retailer locations, together organized to generate and sustain increased downtown commerce. It is important to note that each zone should overlap with the adjacent zones and a particular zone is not exclusive of a particular retail category.

The subject property is located within “Lifestyle Retail” and “Entertainment” categories. The Lifestyle Retail includes uses such as apparel (women, men and child) accessories, cosmetics, department store merchandise, gifts, high fashion, home furnishings, jewelry, restaurants, shoes and toys. The Entertainment category includes arcades, art gallery bar, brewery, bowling, cinema, comedy club, DIY studio, coffeehouse, family fun, music venue restaurants.

The study further states “A common goal throughout several Delray Beach planning efforts has been to eliminate artificial boundaries between districts, overlapping retail themes is an important aspect in achieving more seamless transitions between the West Atlantic, Downtown Core and Beach Districts.”

Within the Downtown Core, the existing CF FLUM designation and CF zoning provides an artificial boundary that interrupts the flow of commercial uses, pedestrian activities and reduces the synergy along the block. The proposed change to CC will allow for the expansion of additional retail uses on the ground floor as well provide for Class “A” office space and furthers revitalization of the downtown.

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

Water and Sewer: Water service to the site will require the extension of an eight inch water along SE 3rd Avenue. Fire hydrants are located along the north side of East Atlantic Avenue at the intersection of Railroad Avenue and NE 4th Avenue to serve the property. Sewer service will be available via service lateral connections to an existing 8” sanitary sewer main along SE 3rd Avenue.

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 are made with the provision of the extension of a eight inch water main along SE 3rd Avenue.

Street and Traffic:
Based on an existing FAR of 1.0, the traffic study submitted with the application shows that the maximum potential under the existing CF would generate a total of 897 average daily trips**.** For the CC FLUM designation, a maximum Floor Area Ratio of 3.0 is permitted for nonresidential uses. The traffic study indicates 541 net new external trips 41 AM peak hour trips and 43 peak pm peak hour trips. 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 traffic study indicates a development proposal of 16,726 sq. ft. of general office and 5,239 sq. ft. of general commercial retail.

The subject property is located within the TCEA (Traffic Concurrency Area of Exception); and while exempt from traffic concurrency requirements, the Palm Beach County Traffic Division has issued a traffic performance standards approval letter for the proposed 16,726 sq. ft. of general office and 5,239 sq. ft. of commercial retail.

Currently, primary access to the site is via SE 3rd Avenue through the abutting parcel to the south. With the proposed development, a new driveway onto SE 3rd Avenue will be required.

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, which 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.

Positive findings are made with regard to concurrency for all services and facilities with the provision of an extension of the water main along SE 3rd Avenue.

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

Applicant Comments*: “*The proposed Amendment is compatible with current and future uses of adjacent and nearby properties because it is more consistent with the classifications of adjacent and nearby properties as discussed above. Property values of adjacent and nearby properties would increase because this vacant property will finally be developed to a mixed-use project.”

Staff Comments: The site is surrounded to the north, east, and west by parcels that are designated CC on the Future Land Use Map. The parcel located immediately to the south is designated CF on the

Future Land Use Map, measure 0.1109 acres and contains two parking spaces. The property is under separate ownership and the property owner was contacted by City staff and was made aware of the subject FLUM amendment and rezoning applications. The property owners requested not to be included in the subject applications. If the requested FLUM amendment and rezoning are approved, this 0.1109 acre parcel will be the only CF designated property within the block.

The redevelopment of the subject property will foster desired economic benefits and provide for a more optimum utilization of the property.

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

Applicant Comments: "The proposed development under the requested designation will be subject to review to make sure it will comply with the provisions and requirements of the Land Development Regulations.

Finally, remnants of old land use designations or isolated designations such as the case here are frowned upon in the planning industry and by virtue of their isolated nature are inconsistent and incompatible. This request remedies the inconsistency."

Staff Comments: Any proposed development and subsequent 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), Change of Zoning Designation: (2) Required Information.** Requires that a statement of the reasons for the requested zoning change are included in 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):
"As per the rezoning criteria noted in LDR Section 2.4.5(D), criteria (c) is the most appropriate for the request. Once the FLUM amendment is approved, the requested zoning will be of a similar intensity as allowed under the Future Land Use Map and the proposed CBD zoning designation is more appropriate for the property based upon circumstances particular to the site and neighborhood.

As referenced above, a comprehensive land use amendment is being filed concurrently with a rezoning request for a number of reasons but most specifically because the existing land use and zoning designations are isolated and not consistent with the designations of the surrounding properties. Atlantic Avenue is the City's commercial corridor and no lands east of Swinton Avenue have a designation of CF other than the subject site. All of the surrounding properties are designated commercial with commercial uses. This property was somehow fragmented from all others and is out of character. If you

look at the intersection of Atlantic and the FEC rail corridor each of the other parts of this intersection are commercially developed adding to the City's "main street" fabric while this parcel the Southeast portion of the corridor is vacant and not contributing to the commercial character and main street feel.

While there are certain institutional uses west of Swinton Avenue, the CBD zoning is the appropriate category for the site and all corners of the FEC intersection. This property is located in a central key part of Atlantic. The current zoning creates a hole in what is the center of the CBD. The proposed CBD will remove the hole like result and is necessary to be consistent with land use designation requested."

Staff Comments: A valid reason for rezoning pertains to B and C above. As indicated previously, prior to 1990 the site was zoned CBD; the CF designation was applied to the property with the 1990 citywide rezoning. Further, the property was identified in the Delray Beach Downtown Master Plan as a potential site for a train/transit station. With the recent approval of the Delray Beach Tri-Rail Coastal Link Transit-Oriented Development Master Plan for properties north of East Atlantic Avenue, a CF zoning is no longer warranted.

The Purpose and Intent of the CBD Zoning District states "The Central Business District (CBD) is established 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. The CBD is generally applied to the land areas designated as Commercial Core on the Future Land Use Map."

The subject property is located within the Central Core. The LDR states: "The Central Core Sub-district regulations are intended to result in development that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area evolve into a traditional, self-sufficient downtown. Residential development is permitted at a density which fosters compact, pedestrian oriented growth that will support downtown businesses"

The requested zoning is more appropriate for the property, given its location within the center of the CBD Central Core Sub-district. The requested rezoning will allow for development that meets the purpose and intent of the CBD with a mix of uses that will promote a self-sufficient downtown.

Pursuant to **LDR Section 2.4.5(D) Change of Zoning Designation: (5) 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 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 could be 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 were previously addressed in the staff report in the FLUM Analysis section and positive findings pertaining to concurrency 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:

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.

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

This Standard is not applicable.

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.

This Standard is not applicable.

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	Restaurants: Browns & Luigi's Coal Oven Pizza Retail: Wings
South:	CF	Parking Lot
East:	CBD	Bank (SunTrust)
West:	CBD	Restaurant: Vic Angelo's

The proposed zoning district will be compatible with the surrounding CBD properties and provide continuity of the retail streetscape and shopping experience along Atlantic Avenue. The proposed change will reduce the large surface parking area which interrupts the retail fabric of the streetscape and detracts from the pedestrian activity. The following is a comparison of the base district regulations for the CF and CBD zoning district.

Development Standards	**Current: CF**	**Proposed: CBD (Central Core Sub-district)**
Lot Size (minimum sq. ft.)	0 sq. ft.	2000 sq. ft.
Lot Width (minimum)	0'	20'
Lot Depth (minimum)	0'	n/a
Lot Frontage (minimum)	0'	n/a
Open Space/ Civic Open Space (minimum)	25%	0% for sites smaller than 20,000 sq. ft.
Lot Coverage (maximum)	n/a	n/a
Front Setback (minimum)	10'	10' min/15' max
Side Street Setback (minimum)	10'	10' [1]
Side Interior Setback (minimum)	10'	0' or 5'[2]
Rear Setback (minimum)	10'	10'
Side Setback Abutting Res. District; 1st to 3rd Story	---	n/a
Side/Rear Setback Abutting Res. District Above 3rd Story	---	30' (n/a in the limited height area)
Front Setbacks Above 3rd Story	---	20' n/a in the limited height area)
Maximum Height	48'	38' for a depth of 125' south of Atlantic Avenue

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

[2] Buildings with openings, including doors, windows, and glass wall materials, facing an interior side property line must setback a minimum of five feet from the property line

Within the CBD, Atlantic Avenue is designated as a primary street. The LDR states "Primary streets are intended to develop overtime as superior pedestrian environments and, as such, are held to higher standards in the regulations regarding building placement, building frontage, and the location of parking and service uses."

Additionally, certain primary streets within the CBD are intended to be lively, highly active pedestrian environments that support businesses and reinforce local character and as such, are designated as "required retail frontage" streets.

Parking lots are not allowed to front on a primary street. The vision for this area is to encourage uses that promote a lively, highly active pedestrian environment. The existing CF zoning and parking lot hinders the potential for this environment along this block.

Streets designated with required retail frontage are held to stricter standards regarding allowable frontage types and uses located within side-walk level stories. The CF zoning and the uses allowed therein are contrary to the uses required for properties that are designated as "required retail frontage".

The subject property is located within the Atlantic Avenue Limited Height Area with a maximum building height of 38 feet for a depth of 125' south of East Atlantic Avenue.

Proposed development shall comply with the requirement of the CBD with respect to allowed uses, development standards and architectural guidelines. The resulting impact will be in keeping with the Delray Beach Downtown Master Plan as the zoning change will allow for the replacement of a large surface parking lot with a mixed-use development.

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

The subject property was reviewed by the Downtown Development Authority (DDA) at its meeting of November 13, 2018. The DDA unanimously recommended approval to the Planning and Zoning Board.

IPARC Notice: On November 20, 2018, 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 opposition has been noted.

Courtesy Notices:

Special courtesy notices were provided to the following homeowners and civic associations:
Chamber of Commerce
The Courtyards of Delray

Public Notice:

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

ASSESSMENT AND CONCLUSION

As stated previously with respect to the downtown area, a common goal throughout several Delray Beach planning efforts has been to eliminate artificial boundaries between districts and creating overlapping retail themes, which are seen as an important aspect in achieving more seamless transitions between the West Atlantic, Downtown Core and Beach Districts. The requested Future Land Use Map designation from CF to CC and Rezoning from CF to CBD will remove the existing "artificial" boundary which interrupts the flow of commercial uses, pedestrian activities and reduces the lively environment desired for the downtown.

Future Land Use Element: Policy C-3.2 requires that future development must be in accordance with the provisions of the Redevelopment Plan. The Delray Beach Downtown Master Plan supports the development of mixed-use projects with the downtown area, replaces an underutilized parcel with a more desired use of the property. The proposed change will allow a mixed-use development, expand the retail streetscape and improve pedestrian experience.

Based on the analysis provided throughout the report, positive findings are met with respect to LDR Section 3.1.1, Required Findings, LDR Section 3.2.2, Standards for Rezoning Actions, and LDR Sections 2.4.5(A) and 2.4.5(D)(5), Rezoning Findings, and the Goals, Objectives, and Policies of the Comprehensive Plan.

ALTERNATIVE ACTIONS

A. Continue with direction.

B. Move a recommendation of approval to the City Commission for the small-scale Future Land Use Map amendment from CF to CC and rezoning from CF to CBD for the 0.433± acre parcel located at the southwest corner of East Atlantic Avenue and 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(A), 2.4.5(D)(5), 3.1.1 and 3.2.2.

C. Move a recommendation of denial to the City Commission for the small-scale Future Land Use Map amendment from CF to CC and rezoning from CF to CBD for the 0.433± acre parcel located at the southwest corner of East Atlantic Avenue and 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(A), 2.4.5(D)(5), 3.1.1 and 3.2.2.

Attachments:
Location Map
Survey
Current and Proposed FLUM Map
Current and Proposed Zoning Map
Table L-6, Future Land Use Designation/Zoning Matrix

DEVELOPMENT SERVICES DEPARTMENT

East Atlantic & SE 3rd Avenue

12-43-46-16-01-085-0040

0 50 100

Feet

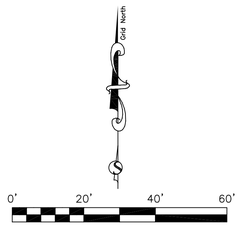
Date: 12/3/2018

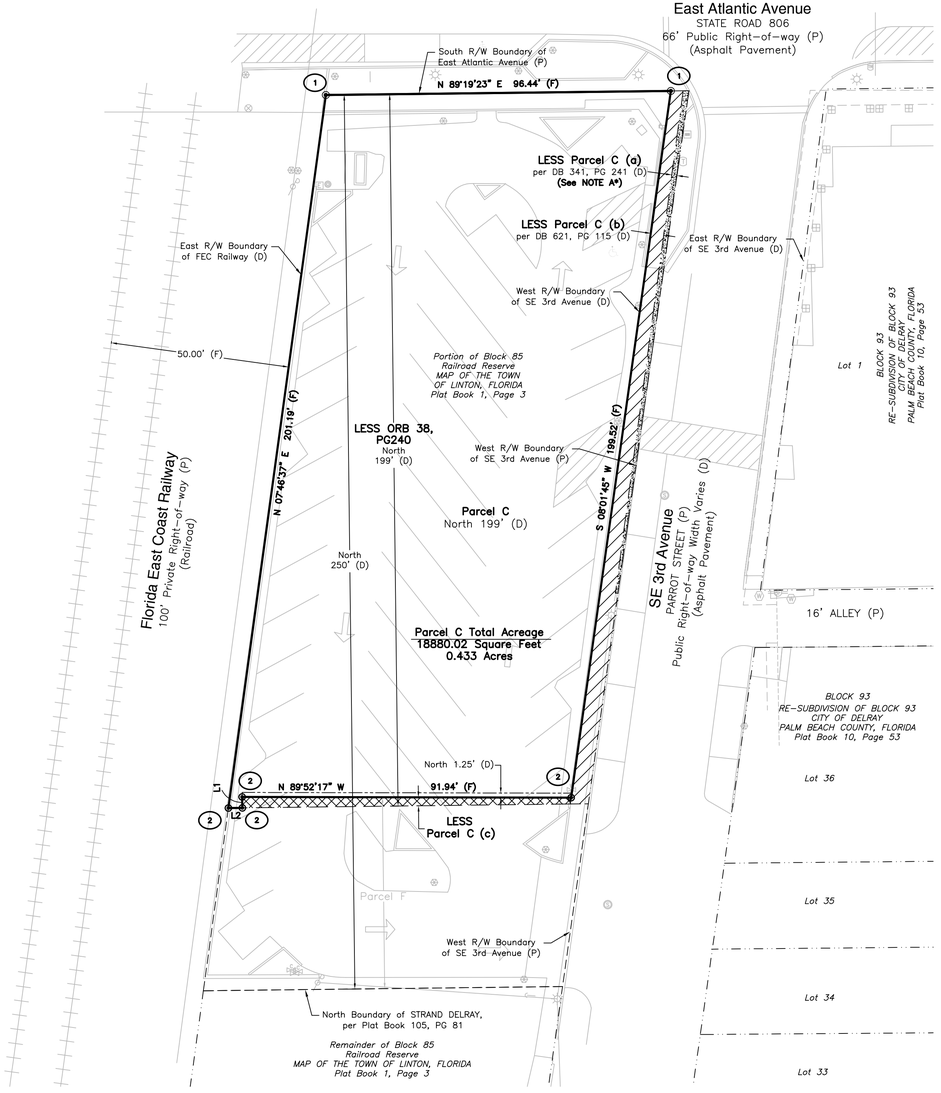
Document Path: S:\Planning & Zoning\DBMS\GIS\GIS Projects\2018\04_Location Maps\01_Mxds\Base_Color.mxd

ALTA/NSPS Land Title Survey
SunTrust Delray Parcel C
Section 16, Township 46 South, Range 43 East
Palm Beach County, Florida

Legend of Symbols & Abbreviations

◉	Found P.K. Nail & Disk	Ⓦ	Water Meter
◎	Set P.K. Nail & Disk		Water Valve
P.S.M.	Professional Surveyor and Mapper		Backflow Preventer
Id.	Identification		Irrigation Control Valve
LB	Licensed Business		Light Pole
ORB	Official Records Book		Utility Pole
DB	Deed Book		Electric Pull Box
PG	Page		Guy Wire
R/W	Right-of-way		Unknown Utility Box
FEC	Florida East Coast Railroad		Traffic Signal Box
(F)	Field Measurement		Telephone Vault
(D)	Deed Reference		Column
(P)	Plat Reference	—x—x—	Fence
	Sign	—OL—OL—	Overhead Utility Line
⊗	Miscellaneous Feature		Centerline Railroad Tracks
	Round Post	5	Number of Parking Spaces
	Mailbox	1	Property Corner Designation
	Handicap Parking Space		
	Sanitary Manhole		





Line Information: Field

LINE	BEARING	DISTANCE
L1	S 00°59'35" E	3.07'
L2	S 89°19'23" W	3.90'

Surveyor's Notes

1.) Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.
2.) The bearing structure for this survey is based on a NAD 1983 Florida State Plane East Zone, bearing of N 89°19'23" E for the South Right-of-way Boundary of East Atlantic Avenue, also being the North Boundary of Parcel C.
3.) The horizontal datum utilized for this project is NAD 1983 Florida East Zone, 2011 Adjustment, U.S. Survey Feet. Said datum was established by utilizing the Florida Permanent Reference Network (FPRN).
4.) All utilities depicted hereon are from visible evidence only. Surveyor did not contact subsurface utility locator service.
5.) No underground foundations or footers were excavated or located for this survey.
6.) Per Table A of the ALTA/NSPS requirements:
   a.) Item 6: a zoning report or letter was not provided to the surveyor by the client; therefore no zoning information is depicted hereon.
   b.) Item 11: All utilities depicted hereon are from visible evidence only. Surveyor did not contact subsurface utility locator service.
   c.) Item 16: there is no observable evidence of current earth moving work, building construction or building additions.
   d.) Item 17: there is no known proposed changes in street right-of-way and there is no observable evidence of recent street or sidewalk construction or repairs.
   e.) Item 18: there were no observed wetland delineation markers at the time of field survey.
7.) Subject property (Parcel C) has vehicular & pedestrian access to SE 3rd Avenue over and across Parcel F (Parcel F being "Ground Leased Property") per ORB 29463, PG 1774), and pedestrian access to East Atlantic Avenue, per said ORB 29463, PG 1774.
8.) Surveyor makes no guarantees as to the species of trees or to the health of each tree depicted hereon, if this information is necessary a certified arborist should be contacted. The trees shown hereon were located utilizing methods adequate for their accurate location and identification. However, this company and the signing surveyor reserves the right to verify the location of all trees critical to the design of buildings, parking and other permanent features. It is the responsibility of the design professional to inform this company and/or the signing surveyor of any trees critical to their design so that those trees can be verified prior to the completion of the design.

FLOOD NOTE:
By graphic plotting only, this property is in Flood Zone "X"
Flood Insurance Rate Map: 12099C
Panel No.: 0979 F
Community Name/No.: City of Delray Beach/125102
Effective Date: October 5, 2017

Subject Property IS NOT in a Special Flood Hazard Area.

No field surveying was performed to determine this zone and an elevation certificate may be needed to verify this determination or apply for a variance from the Federal Emergency Management Agency.

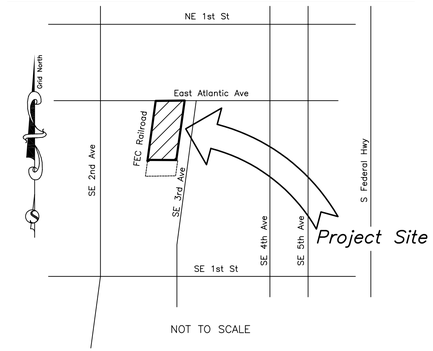
NUMBER OF PROVIDED PARKING SPACES	
TYPE OF SPACE	TOTAL PROVIDED
REGULAR	49
HANDICAP	2
TOTAL	51

Parking space count depicted above does not include parking within the public right-of-way adjacent to Parcel C, nor offsite properties, if any, which may be parking areas that benefit Parcel C via easements; Parking space count DOES include parking over the Ground Lease area (Parcel F)

Property Corner Designations

(1) Found PK Nail & Disk "LB #7340"
(2) Set PK Nail & Disk "LB #7340"

Vicinity Map



Legal Description

The land referred to herein below is situated in the County of Palm Beach, State of Florida, and is described as follows:

PARCEL C:
ALL OF THE NORTH ONE HUNDRED NINETY-NINE FEET (199') OF BLOCK 85, LYING EAST OF THE FLORIDA EAST COAST RAILWAY RIGHT OF WAY, IN THE CITY OF DELRAY, FLORIDA, ACCORDING TO A PLAT OF THE TOWN OF LINTON, NOW DELRAY BEACH, ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 1, PAGE 3, LESS:

LESS PARCEL C(a)
(A) LANDS CONVEYED TO THE CITY OF DELRAY BEACH, BY DEED DATED SEPTEMBER 15, 1924 RECORDED IN DEED BOOK 341, PAGE 241, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;

LESS PARCEL C(b)
(B) LANDS CONVEYED TO THE CITY OF DELRAY BEACH, BY DEED DATED DECEMBER 24, 1940 AND RECORDED IN DEED BOOK 621, PAGE 115, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;

LESS PARCEL C(c)
(C) LANDS CONVEYED TO THELMA A. PRIEST AND O.D. PRIEST, HER HUSBAND, BY DEED DATED OCTOBER 26, 1940 AND RECORDED IN DEED BOOK 721, PAGE 568, PALM BEACH COUNTY PUBLIC RECORDS, EXCEPT THE NORTH 1.25 FEET OF SAID LANDS CONVEYED TO PRIEST AND WIFE.

TOGETHER WITH, the easements set forth in Declaration of Easement, Covenants, Conditions and Restrictions by and between SunTrust Bank, a Georgia banking corporation and Pierre Delray One LLC, a Delaware limited liability company, recorded at Book 29463, Page 1774.

NOTE A*:
Regarding Parcel C(a) per Deed Book 341, Page 241: Supplied document was handwritten and recorded in 1924 and is very hard to read. Based on what the Surveyor was able to decipher it is believed that the intention was to keep the width of the public right-of-way for SE 3rd Avenue a distance of 40.00 feet. Surveyor, also believes, that this document may have been recorded in conjunction with Deed Book 818, Page 22 (Parcel A-3) as part of a land swap agreement. Based on the fact that the document was illegible the location and dimension of said Parcel C(a), as depicted hereon, is approximate.

The above description is a portion of the same as the one described per Title Commitment File No. 3020-865138 issued by First American Title Insurance Company, bearing an effective date of November 13, 2017 at 3:32 PM.

ALTA/NSPS Land Title Survey

Parcel C – SunTrust Bank Parking Lot
West of 302 E Atlantic Ave
Delray Beach, Florida 33483

Surveyor's Certification:
This is to certify to: Pierre Delray Two LLC, a Delaware limited liability company, its affiliates, successors and/or assigns and First American Title Insurance Company, that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2016, and includes Items 1-4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8-9, 11, 13, 14 and 16-18 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Florida the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

****Not Valid Without The Signature And The Original Raised Seal Of A Florida Licensed Surveyor And Mapper****

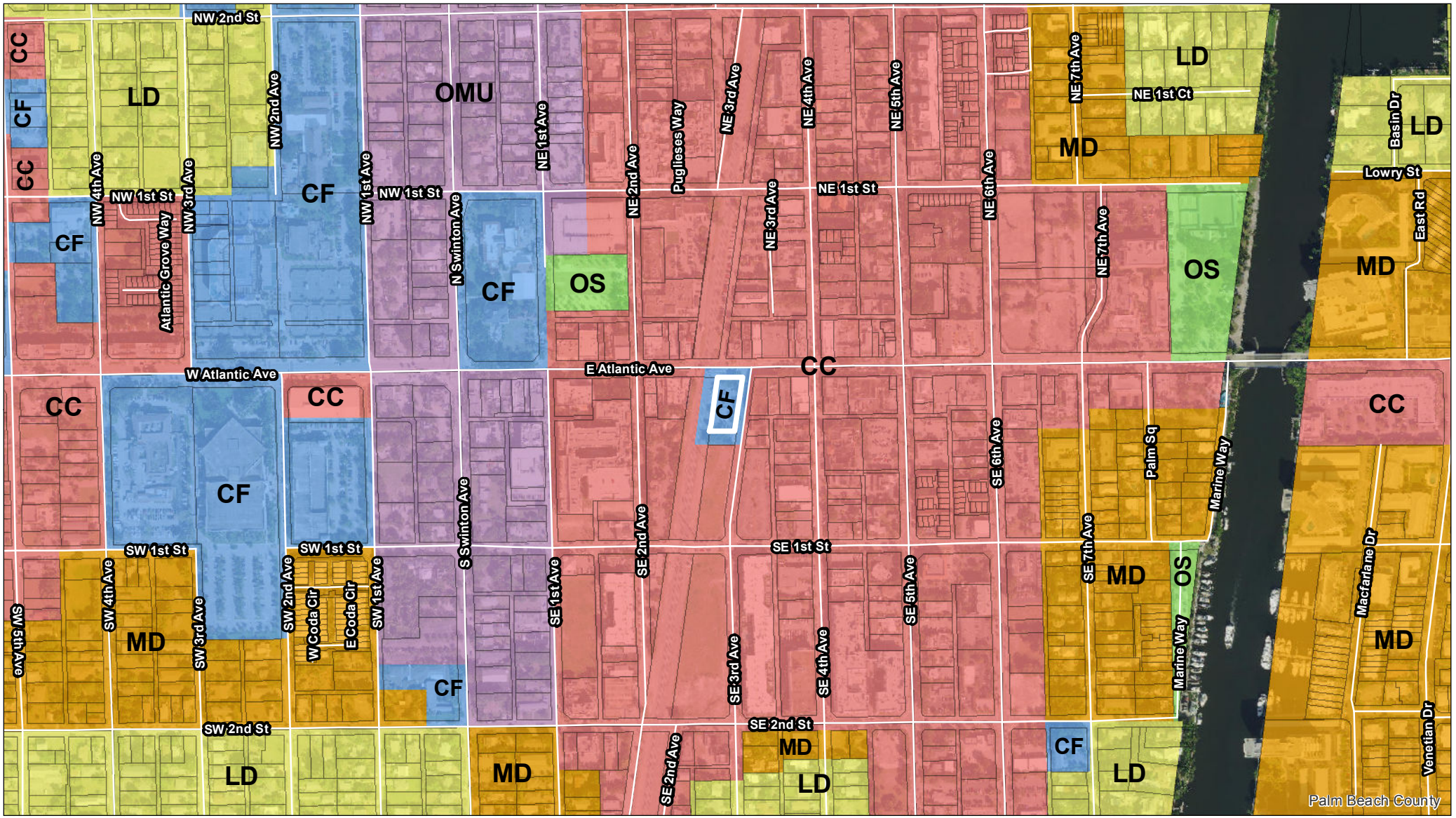
Stacy L. Brown
Florida Professional Surveyor and Mapper No: 6516
SurvTech Solutions, Inc.
Florida Licensed Business No. 7340

REVISION	DATE	INITIALS

SURVEYING TODAY WITH TOMORROW'S TECHNOLOGY

Drafted By: B. Stinson
Date Drafted: 11/06/18
Approved By: S. Brown
Date Approved: 11/14/18
Drawing Name: 20170157_6A
Phase: 6
Last Field Date: 11/06/18
Field Book/Page: 18-03_FP/53

SURVTECH SOLUTIONS, INC.
10220 U.S. Highway 92 East
Tampa, FL 33610
phone: (813)-621-4929
fax: (813)-621-7194
Licensed Business #7340
email: sbrown@survtechsolutions.com
http://www.survtechsolutions.com



City of Delray Beach
Development Services

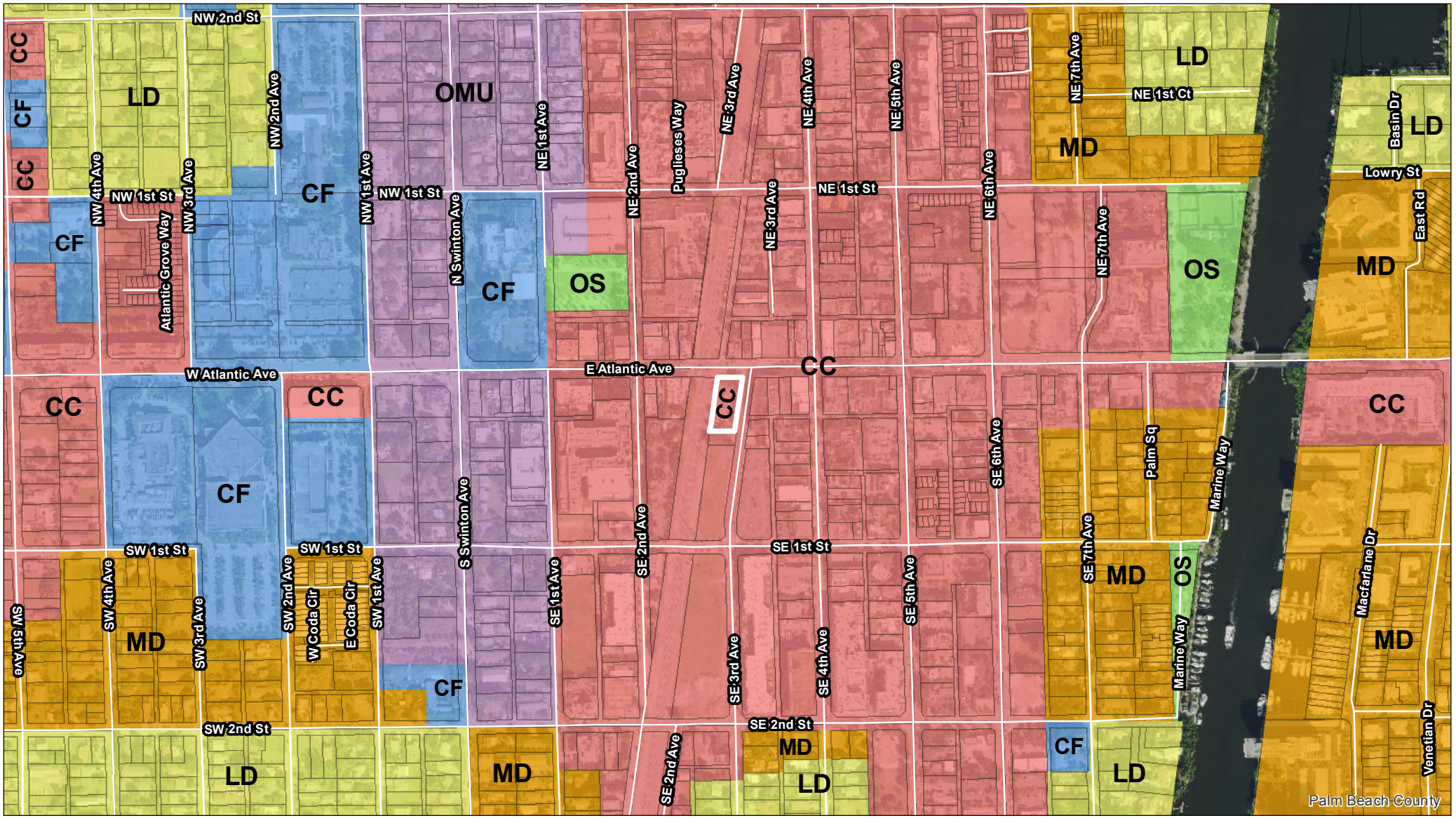
East Atlantic & SE 3rd Avenue

Future Land Use Designation (Current)

- LD - Low Density (0-5 du/ac)
- MD - Medium Density (5-12 du/ac)
- OMU - Other Mixed Use
- CC - Commercial Core
- CF - Community Facilities
- OS - Open Space

0 300 600
Feet

Print Date: 12/3/2018



City of Delray Beach
Development Services

East Atlantic & SE 3rd Avenue

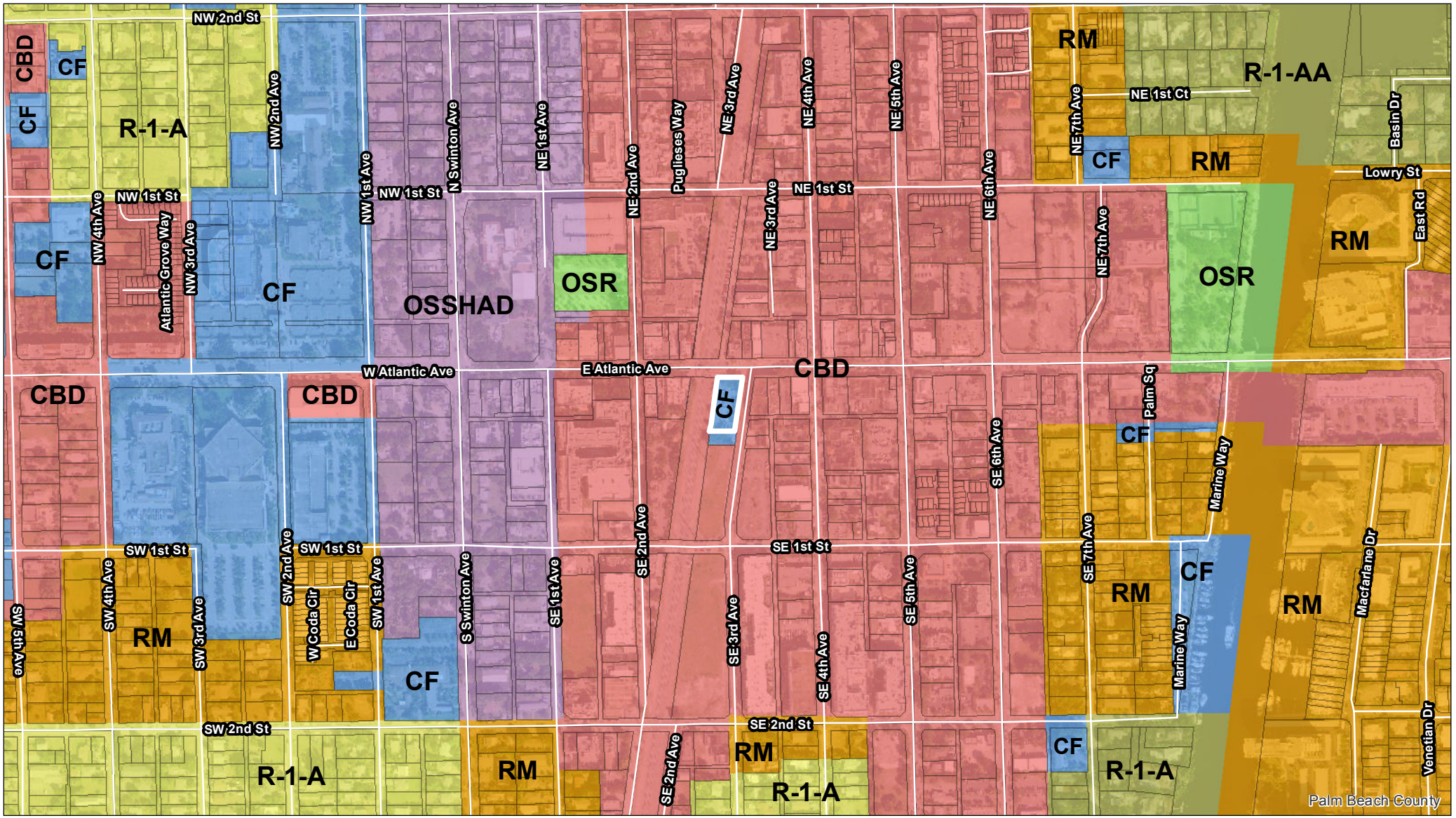
Future Land Use Designation (Proposed)

- LD, Low Density (0-5 du/ac)
- MD, Medium Density (5-12 du/ac)
- OMU, Other Mixed Use
- CC, Commercial Core
- CF, Community Facilities
- OS, Open Space

0 300 600

Feet

Print Date: 12/3/2018



City of Delray Beach
Development Services

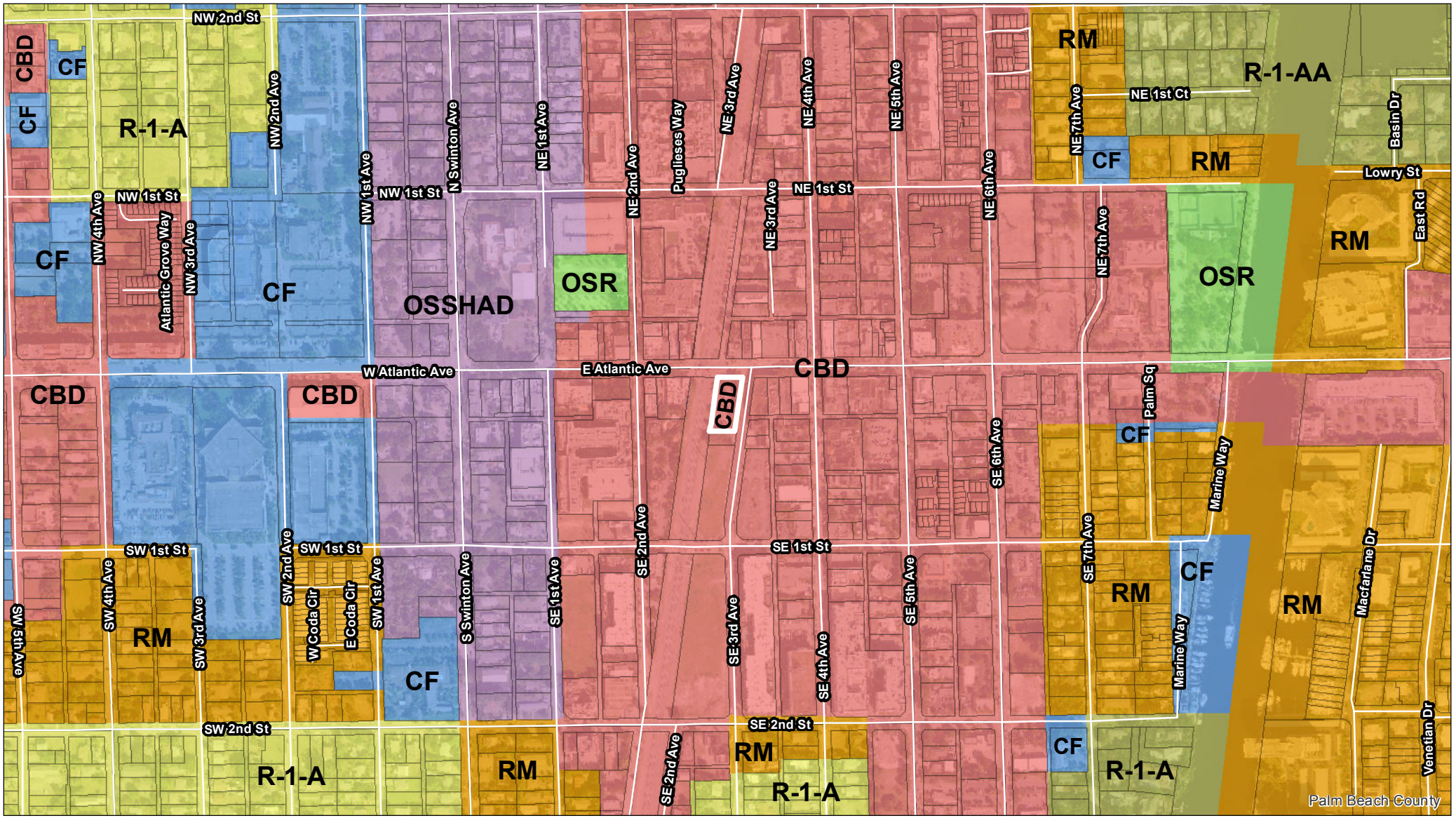
East Atlantic & SE 3rd Avenue

Zoning District (Current)

- R-1-A, Single Family Residential
- R-1-AA, Single Family Residential
- RM, Multiple Family Residential (Medium Density)
- CBD, Central Business District
- OSSHAD, Old School Square Historic Arts District
- CF, Community Facilities
- OSR, Open Space & Recreation

0 300 600
Feet

Print Date: 12/3/2018



City of Delray Beach
Development Services

East Atlantic & SE 3rd Avenue

Zoning District (Proposed)

- R-1-A, Single Family Residential
- R-1-AA, Single Family Residential
- RM, Multiple Family Residential (Medium Density)
- CBD, Central Business District
- OSSHAD, Old School Square Historic Arts District
- CF, Community Facilities
- OSR, Open Space & Recreation

0 300 600
Feet

Print Date: 12/3/2018

Table L-6 Land Use Designation/Zoning Matrix

RESIDENTIAL ZONING DISTRICTS

	ZONING DISTRICTS											
LAND USE DESIGNATION	A (2)	RR	R-1-AAA	R-1-AAAB	R-1-AA	R-1-AAB	R-1-A	R-1-AB	MH	RL	RM	PRD
LOW DENSITY RESIDENTIAL	X	X	X	X	X	X	X	X		X		X
MEDIUM DENSITY RESIDENTIAL	X	X (5)	X	X	X	X	X	X		X	X	X
TRANSITIONAL	X		X	X	X	X	X	X	X	X	X	X
COMMERCIAL CORE											X	
GENERAL COMMERCIAL	X											
INDUSTRIAL	X											
COMMERCE	X											
RECREATION & OPEN SPACE	X	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)
CONSERVATION												
COMMUNITY FACILITY	X											
MIXED USE												
CONGRESS AVENUE MIXED USE (1)												

NON-RESIDENTIAL ZONING DISTRICTS

	ZONING DISTRICTS																	
LAND USE DESIGNATIONS	GC	AC	NC	PC	CBD	POC	POD	PCC	MIC	I	LI	RO	HAD	SAD	CF	CD	OS	OSR	MROC
LOW DENSITY RESIDENTIAL														X	X		X	X	
MEDIUM DENSITY RESIDENTIAL														X	X		X	X	
TRANSITIONAL			X			X	X					X		X	X		X	X	
COMMERCIAL CORE					X							X		X	X		X	X	
GENERAL COMMERCIAL	X	X	X	X		X	X							X	X		X	X	
INDUSTRIAL								X		X	X			X	X		X	X	
COMMERCE								X	X		X			X	X		X	X	
RECREATION & OPEN SPACE														X	X		X	X	
CONSERVATION														X		X	X		
COMMUNITY FACILITY														X	X		X (4)	X (4)	
MIXED USE													X (3)	X	X				
CONGRESS AVENUE MIXED USE (1)														X	X				X

(1) CONGRESS AVENUE MIXED USE – See Congress Avenue Mixed Use description beginning on page FL - 40, for more specific details.
(2) Agricultural zoning may function as a "holding" zone in all of the noted Future Land Use Map designations except for the Rural Residential designation where it is a permanent zoning.
(3) The HAD zoning district is a special use district which is only applicable to the Old School Square Historic District.
(4) Open Space (OS), and Open Space & Recreation (OSR) zoning are utilized on the Community Facilities (CF) land use designation where more restriction is required to constrain uses.
(5) The Rural Residential (RR) zoning is utilized in the Medium Density Residential (MDR) designation as a "holding" zone
(6) Residential zoning districts are permitted within the Recreation and Open Space (OS) land use designation for open space and recreation uses (e.g. golf courses and water bodies)