



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD STAFF REPORT

1201 George Bush Boulevard

Ordinance No. 30-23

Meeting	File No.	Application Type
August 21, 2023	2023-60-REZ-CCA	Rezoning
Applicant	Property Owner	Agent
Neil Schiller, Esq., Government Law Group	1201 George Bush Blvd, LLC	Neil Schiller, Esq., Government Law Group

Request

Provide a recommendation to the City Commission on Ordinance No. 30-23, a privately-initiated request to rezone 1201 George Bush Boulevard from Residential Office (RO) to Medium Density Residential (RM).

Background Information

The 0.4-acre subject property (map at right) is located at 1201 George Bush Boulevard, on the northeast corner of the intersection of George Bush Boulevard and Andrews Avenue.

The subject property includes a 3,984 square foot office building built in 1979. The aerial image at right shows the site.

The property has a land use designation of Transitional (TRN), which has a standard density of 5 – 12 dwelling units per acre (du/ac) and a floor area ratio (FAR) of 1.0. The zoning is Residential Office (RO). This land use and zoning was adopted via Ordinance No. 93-94 in 1994, when the Commission found that the existing office use was incompatible with the Medium Density Residential (MD) land use and Medium Residential (RM) zoning.



Project Planner:
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Attachments:

- Ordinance No. 30-23
- Applicant's Statement
- Traffic Study
- PBC Schools Capacity Letter

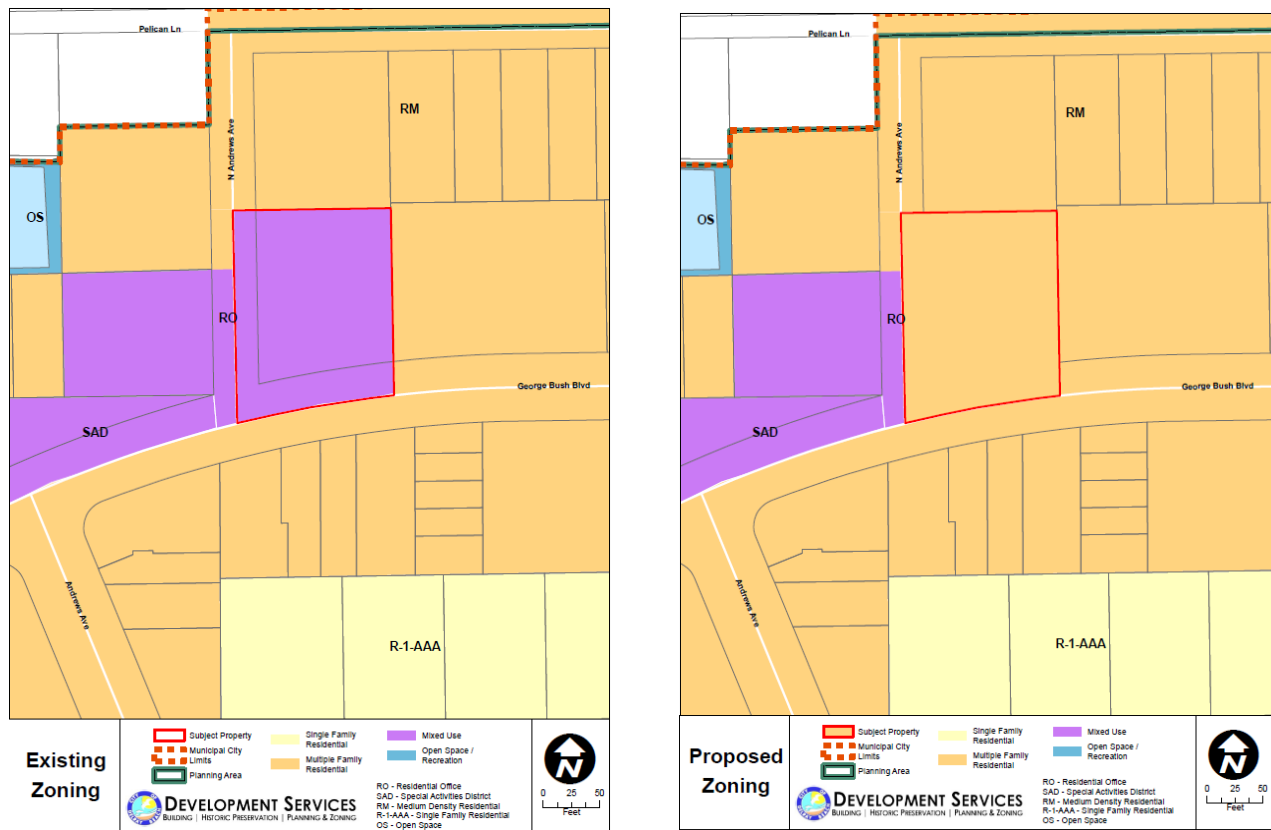
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Description of Proposal

The Applicant, 1201 George Bush Blvd LLC, ("Applicant") seeks to rezone the subject property, 1201 George Bush Blvd., ("Property") from Residential Office (RO) to Medium Density Residential (RM). The request is related to an intent to develop the property as a three-unit fee-simple townhome development. A Class V site plan is currently under review by the Department, with approval by the Site Plan Review and Appearance Board (SPRAB) needed.

Because RO zoning does not allow the applicant's intended multi-family use, the applicant is requesting rezoning to RM. Pursuant to **LDR Section 4.4.6(A)** *The Medium Density Residential (RM) District provides a residential zoning district with flexible densities having a base of six units per acre and a maximum of 12 units per acre... The actual density of a particular RM development is based upon its ability to achieve certain performance standards which are intended to mitigate the impacts of the increased density and ensure that the project is compatible with surrounding land uses. [...] Further, the Medium Density Residential District 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.*

The existing and proposed zoning is shown below, and provided as an attachment.



Review and Analysis

Pursuant to **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.*

Upon a recommendation of approval by the Board, the request 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, *requires that "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:

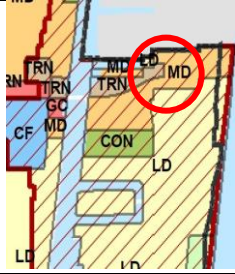
- That the zoning had previously been changed, or was originally established, in error;
- That there has been a change in circumstance which makes the current zoning inappropriate;
- That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate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

The second and third criteria apply. The Applicant states that the proposed RM zoning is more appropriate for the property because the surrounding development is primarily RM zoning. The existing RO district has a different purpose than the proposed RM zoning. It provides for mixed use of a neighborhood office and residential nature and should be used as (1) A transitional land use between a commercial or industrial area and a residential area. (2) An incentive zoning in older residential areas which are in the need of redevelopment or revitalization or are in a state of transition. (3) To accommodate professional offices which will meet needs of nearby neighborhoods. (4) An incentive zoning designation for historic districts and/or individually designated historic properties to provide for the rehabilitation of residential structures into office use. Although certain non-residential uses are allowed in RM zoning, the district is primarily residential in character.

The multi-family residential use proposed is not permitted under the current RO zoning, but there are other permitted uses that are substantially more intense than what the proposed RM zoning allows. While the proposed RM zoning allows an additional, more intense housing type, RM zoning does not allow the funeral home, NEV sales or leasing centers, office, child and adult daycare, or bed and breakfast uses permitted by the existing RO zoning, either by right or as a conditional use. The chart below summarizes the differences in permitted and conditional uses between the existing and proposed zoning districts.

District	Housing Types and Uses Permitted	Conditional Uses Permitted
Medium Density Residential*	Single family detached dwellings Duplex structures Multiple family structures Residential Licensed Service provider facilities Family daycare home	Places of worship and accessory uses Bed and Breakfast Inns Child and adult daycare Private educational facilities Community residence 4-10 persons Large family daycare home
Residential Office**	Single family detached dwellings Duplex structures Business, professional, and medical offices NEV sales or leasing centers Funeral home Assisted living facilities	Nursing homes Bed and breakfast Inns Child and adult daycare Community Residence 4-10 persons Large family child care home
*See LDR Section 4.4.6 for full list of permitted uses, structures and conditional uses		
**See LDR Section 4.4.17 for full list of permitted uses, structures and conditional uses		

Relative to the third criterion, the Applicant's statement proposes that the requested zoning is of similar intensity as allowed under the Land Use Map, and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood. Table NDC-1 identifies the proposed RM zoning as compatible with the underlying TRN land use designation. The surrounding property is largely RM zoning (see table below). The properties to the north, east and south are zoned RM with multifamily uses, while the property to the west across Andrews Avenue is vacant, and zoned RO. The Board should consider if it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

Adjacent Zoning, Land Use and Use					
	Land Use Designation	Zoning District	Use	Land Use Map	Zoning Map
North	Medium Density (MD)	Medium Density Residential (RM)	Multiple Family Residential		
South	Medium Density (MD)	Medium Density Residential (RM)	Multiple Family Residential		
East	Medium Density (MD)	Medium Density Residential (RM)	Multiple Family Residential		
West	Transitional (TRN)	Residential Office (RO)	Vacant Parcel		

Additionally relative to the third criterion, the underlying TRN land use is 5-12 dwelling units per acre (standard density), 12-24 dwelling units per acre (incentive density), with a Floor Area Ratio (FAR) of 1.0. Any development with TRN land use is subject to both the intensity and density limitations.

Pursuant to **LDR Section 2.4.5(D)(5), Change of zoning district designation: Findings**, in addition to provisions of Chapter Three, the City Commission must make a finding that the rezoning fulfills at least one of the reasons listed under Subsection (D)(2). The applicable provisions of **Chapter 3** are provided in the following analyses.

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. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the land use map, 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 land use designation is Transitional (TRN), which is a mixed-use designation that permits 5 to 12 dwelling units per acre (standard density), 12-24 dwelling units per acre (revitalization incentive density), and FAR of 1.0. Under the TRN land use, PRD, NC, and RO are considered preferred implementing zoning districts by Table NDC-1 of the Neighborhoods, Districts, and Corridors Element of the Comprehensive Plan.

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

Traffic, school, utilities, and drainage concurrency is discussed below.

Traffic. The submitted traffic impact study dated December 12, 2022, considers both the maximum zoning impact potential and the anticipated impact from the intended development. The statement letter anticipates a net decrease of 36 daily trips as a result of rezoning the subject property to RM from RO. The total estimated trips for the proposed development is 22 (11 peak AM trips and 11 peak PM trips). The site was previously used as an office building calculated to result in 58 daily trips.

According to the PBC adopted trip generation rates threshold for residential projects, a Traffic Impact Study will not be required if the development is expected to generate less than or equal to 20 Gross Peak Hour Trips. Therefore, only a Traffic Statement is required for this proposed development.

Schools. There is sufficient capacity in the school system for the residential project according to the School System analysis.

Water. The City of Delray Beach has sufficient capacity to accommodate the development of 3 multifamily dwellings. If it is determined that the City's water infrastructure requires upgrades due to the proposed development, all costs associated would be the responsibility of the Applicant.

Sewer. The City of Delray Beach has sufficient capacity to accommodate the development of 3 multifamily dwellings. If it is determined that the City's sanitary sewer infrastructure requires upgrades due to the proposed development, all costs associated would be the responsibility of the Applicant.

Solid Waste. The Solid Waste Authority (SWA) is the waste collector for both the City and the County. According to the memo titled "Availability of Solid Waste Disposal Capacity," dated January 6, 2021, the SWA forecasts that capacity will be available at the existing landfill through approximately 2054.

Drainage. The City will review drainage plans during site plan review. At site plan submittal, the applicant was required to provide a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with requirements in LDR Section 6.1.9 for the surface water management system and the South Florida Water Management District regulations per LDR Section 2.4.3 (D)(8).

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

Pursuant to **LDR Section 3.2.1. - Basis for determining consistency**, the performance standards set forth in this Article either reflect a policy from the adopted Comprehensive Plan or a principle of good planning practice. The applicable Objectives and Policies of the Always Delray Comprehensive Plan are provided below.

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 1.1.13 *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.*

HOUSING ELEMENT

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

Policy HOU 1.1.8 *Accommodate densities in established residential areas that promote compatibility with prevailing neighborhood character.*

The rezoning request supports a development pattern compatible with the existing development patterns and lot sizes in the majority of the surrounding parcels. The request to apply the medium density residential land use designation would maintain and enhance the City's established neighborhood characteristics and realize an infill development opportunity through the redevelopment of an underutilized parcel.

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

The applicant has submitted a major plat and site plan application for 3 townhouses. The applications are being reviewed by Development Services and will be considered at separate hearings. The proposed development will be subject to all applicable provisions and requirements of the Land Development Regulations (described in the subsequent section).

In addition to compliance with the standard LDR district development standards, the RM zoning district provides additional special regulations and performance standards to ensure compatibility with adjacent residential uses. Some of the standards relate to traffic, building placement and open space, and are discussed below in detail.

LDR Section. 3.2.2. - Standards for rezoning actions

*...[R]ezoning actions shall be consistent with the land use designation applied to the land to be rezoned. **Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts, of the Neighborhoods, Districts, and Corridors Element**, identifies the land use designations and implementing zoning districts that provide appropriate development and improvements that further the adopted strategies of and are compatible with the assigned land use designation.*

(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.*

The proposed rezoning to RM is a compatible zoning district in the TRN land use designation and is similar in intensity to surrounding land uses. While the residential use types are more intense than RO, the current zoning, non-residential uses are not allowed in RM zoning. Because the existing RO zoning allows non-residential uses, it could be considered more intense in other regards. Any development is subject to the requirements of the RM district, including the Performance Standards that must be met to achieve a density greater than 6 dwelling units per acre. The Performance Standards are discussed in detail below.

(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 subject property is surrounded by the RM zoning district properties on the north, south and east, with RO zoning to the west (discussed in detail above). Whereas the existing RO zoning district provides for mixed use of a neighborhood office and residential nature, the proposed RM zoning only allows residential uses. Nevertheless, there are number of relevant regulations within the LDR that limit development.

LDR Section 4.4.6(H), Medium, Density Residential

Density may exceed the base of six units per acre only after the approving body makes a finding that the project has substantially complied with performance standards as listed in 4.4.6(I). In no event shall a development's total density exceed 12 units per acre.

LDR Section 4.4.6(I) Performance Standards.

In order to increase a project density beyond six units per acre, the approving body must make a finding that the development substantially complies with the performance standards listed in this section. The intent of the standards is to mitigate the impacts of the additional density both internal and external to the site. The extent to which a project meets the standards will determine the number of units per acre that will be permitted.

The existing TRN land use allows the applicant to build to the maximum of the standard density – 12 dwelling units per acre. However, in order to achieve the maximum density that the land use allows, any development application must comply with the zoning district Performance Standards, which are provided in the table below.

LDR Section	Performance Standards
4.4.6(I)(1)(a)	Provides interior and exterior traffic circulation/traffic calming devices
4.4.6(I)(1)(b)	Provides building placement to reduce overall mass and increase the feeling of open space
4.4.6(I)(1)(c)	Provides increased landscape buffer and setback adjacent to a residential zoning district with lower density
4.4.6(I)(1)(d)	Provides varied streetscape and building design
4.4.6(I)(1)(e)	Provides a variety of unit types, sizes, and floor plans
4.4.6(I)(1)(f)	Provides preservation or enhancement of the natural area, open space or native habitat
4.4.6(I)(1)(g)	Provides a bike/ped network, and access to transit
4.4.6(I)(2)	Acknowledgment that some of the above-referenced standards may not be entirely applicable to small, infill type residential projects.
4.4.6(I)(3)	For vacant properties that are proposing a rezoning to RM with a density suffix

LDR Section 3.2.3, Standards for site plan and/or plat actions has similar standards to the Performance Standards specific to density in the RM zoning district (Appendix A). Further, the 1.0 FAR associated with the TRN land use limits the bulk of the development. Based on the FAR limitation, the maximum square footage that could be built on the property is 17,315 square feet.

(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.

The site is within the Coastal High Hazard of the Coastal Planning Area and the proposed zoning is identical to that of the surrounding area, and would result in development similar to the adjacent existing development pattern.

Board Considerations

- 3 units on the 0.4-acre lot results in a density of 7.5 dwelling units per acre. Should the board consider a maximum density of 8 dwelling units per acre, or is the FAR limitation from the land use sufficient to regulate the bulk of the land use?
- Are the regulations in the LDR sufficient to mitigate any potential negative impact of the rezoning?

Review By Others

The first and second reading dates by the City Commission are anticipated to take place in September and October 2023.

The Site Plan Review and Appearance Board (SPRAB) shall review the Class V site plan for compliance with the LDR. A plat will also be reviewed by the approving body subsequent to SPRAB review.

Options for Board Action

- A. Move a recommendation of approval of Ordinance No.30-23, a privately initiated request to rezone the property located at 1201 George Bush Boulevard from Residential Office (RO) to Medium Density Residential (RM), 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 of Ordinance No. 30-23, a privately initiated request to rezone the property located at 1201 George Bush Boulevard from Residential Office (RO) to Medium Density Residential (RM), 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 to deny Ordinance No. 30-23, a privately initiated request to rezone the property located at 1201 George Bush Boulevard from Residential Office (RO) to Medium Density Residential (RM), 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 provided to:

- Cambria Crest Homeowners Association

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 working 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.