



CITY OF DELRAY BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



PLANNING & ZONING BOARD STAFF REPORT

214 NE 22nd Lane

Meeting	File No.	Application Type
June 20, 2022	2022-162-REZ-CCA	Rezoning
Applicant	Owner	Authorized Agent
City of Delray Beach	Spiritual Warrior Delray LLC	N/A

Request

Provide a recommendation to the City Commission on Ordinance No. 19-22 a City initiated rezoning request from Neighborhood Commercial (NC) to Single Family Residential (R-1-AA) for the +/-0.63-acre property located a 214 NE 22nd Lane.

Background Information

City staff recently identified a data conversion error on the adopted Zoning Map for the property located at 214 NE 22nd Lane, east of the intersection of Seacrest Boulevard and NE 22nd Lane (see map at right). The single parcel, which totals 0.63 acres is currently designated on the adopted Zoning Map as Neighborhood Commercial (NC). However, this designation is the result of a data conversion error; the correct zoning designation is Single Family Residential (R-1-AA). The site was developed in 1955 with a 3,648 square foot single-family residence, which remains on the site.

The subject parcel has had a Single Family Residential (R-1-AA) zoning designation dating back to 1970. The June 2016 Zoning Map was the last map adopted with the correct zoning of R-1-AA (see maps below). The 2017 zoning map changed the zoning of the property from R-1-AA to NC when the City's data was converted from AutoCAD to ArcGIS. It is important to note that between June 2016, when the adopted Zoning Map is confirmed to have the correct designation of R-1-AA, and the present, no rezonings have been proposed or adopted for the subject area.

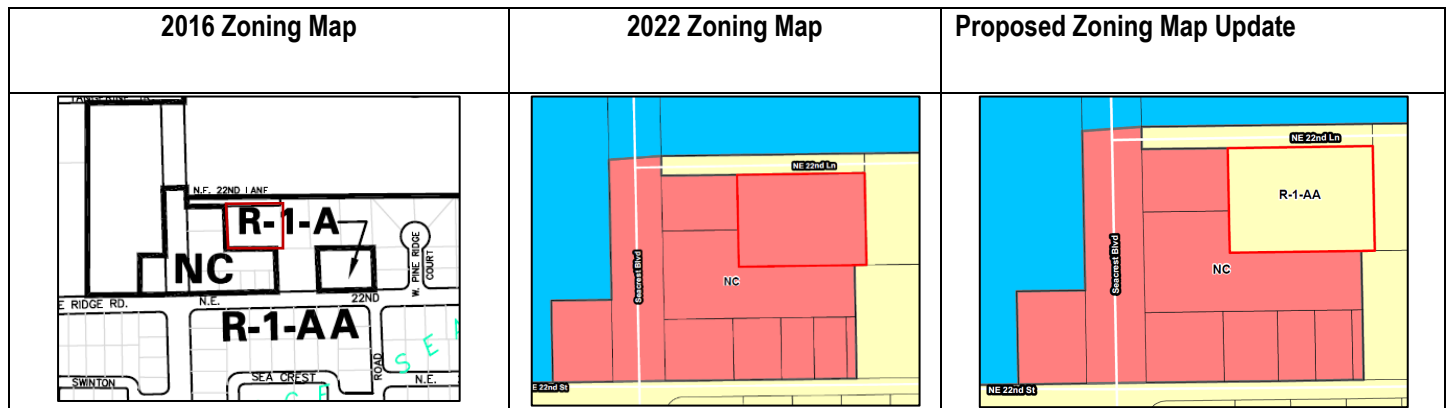


The land use designation for this parcel is Low Density Residential (LD), which is implemented by the R-1 zoning districts, and is specified as a preferred implementing zoning district in the Always Delray Comprehensive Plan. The City's adopted 1979 Land Use Map indicated a land use designation of Single Family (SF) for the property. Between 1979 and 1989, the City established the Low Density (LD) land use category, and the property's land use designation changed from SF to LD. It is important to note that the conversion of the land use map from AutoCAD to GIS maintained the appropriate land use designation for the parcel.

Note: City staff consulted with the State of Florida Department of Economic Opportunity (DEO), the state regulating agency for comprehensive planning, regarding a previously discovered error on the Land Use Map related to the AutoCAD / GIS conversion. The Staff at the DEO determined that an official update to the Land Use Map is the most appropriate course of action to correct the data conversion error given that the map was officially readopted in 2020 with the Always Delray Comprehensive Plan. Therefore, Staff is following the same procedure with the subject rezoning to correct the adopted error and revert to the correct zoning as R-1-AA pursuant to previous direction from DEO.

Description of Proposal

The subject request is to correct the data conversion error designating the subject property with NC zoning and return the zoning to the R-1-AA as was previously applicable. The 2016 zoning map, which reflects the correct zoning, the current zoning map with the incorrect designation, and the proposed map to correct the error are provided below.



Review and Analysis

Pursuant to **Land Development Regulations (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.

Criterion one is the most applicable criterion as the current zoning of NC was erroneously made by a data conversion error as the single-family residential use and zoning of the property has remained the same since 1965.

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 Three 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. 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.

Table NDC-1, Land Use Designation: Density, Intensity, and Implementing Zoning District, identifies the preferred and compatible implementing zoning districts for each land use designation. The existing zoning of NC is not a preferred zoning district under the LD land use designation, nor is it deemed compatible. The proposed zoning of R-1-AA is both a compatible and preferred implementing zoning district under the LD land use designation. Further, the R-1-AA zoning district is consistent with the neighborhood and surrounding uses. The surrounding properties are zoned Community Facilities (CF) to the north (Plumosa School of the Arts), NC to the west and south, and R-1-AA to the east. The NC zoning, which allows limited commercial uses to complement surrounding neighborhoods, provides a low-scale buffer to the residential neighborhood from Seacrest Boulevard.

Table NDC - 1			
Land Use Designations: Density, Intensity, and Implementing Zoning Districts			
Land Use Designation	Residential Density (Maximum Dwelling Units Per Acre)	Intensity (Maximum Floor Area Ratio)	Implementing Zoning Districts
Residential			
Low Density (LD)			
Standard	Up to 5	---	Preferred: R-1, RL, PRD Compatible: A, RR, CF, OS, OSR

(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.*

To make a positive finding of concurrency, it must be established that development at the highest intensity possible under the requested designation can meet the adopted levels of service standards. The requested rezoning is not associated with any development proposal, and the requested R-1-AA was previously determined to have sufficient level of service.

(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.*

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 performance standards set forth in the following sections as well as compliance with items specifically listed as required findings in appropriate portions of Section 2.4.5 shall be the basis upon which a finding of overall consistency [Section 3.1.1(C)] is to be made. However, exclusion from this Article shall not be a basis for not allowing consideration of other objectives and policies found in the adopted Comprehensive Plan in the making of a finding of overall consistency.

The following objectives and policies from the Always Delray Comprehensive Plan apply to the rezoning request:

Neighborhoods, Districts, and Corridors Element

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

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

Policy NDC 1.2.3 *Allow the Low-Density Residential land use designation on land that is or will be developed for detached, single family residential housing or for residential uses within a mix of housing types under a planned residential zoning district.*

Policy NDC 3.4.2 *Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation (See Table NDC-1).*

The unintentional “adoption” to change the zoning district designation for the subject parcel from R-1-AA to NC was not supported by data and analysis. The subject property was never intended to have the NC zoning applied. The proposed corrective rezoning reverts

to the R-1-AA zoning district that was previously adopted by the City. Additionally, the corrective rezoning will meet the intent of Policies NDC 1.2.3 and NDC 1.1.11.

While the subject property abuts both commercial and residential land use and zoning, the potential development intensity and variety is more consistent with the proposed R-1-AA zoning designation, highlighting the significant impact of the data conversion error. In addition, the Comprehensive Plan limits the implementation of the land use designations by specifying the preferred and compatible zoning districts for each land use designation. The current NC zoning district is not compatible with the existing LD land use.

Pursuant to **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. 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 R-1-AA zoning is a preferred zoning to the LD land use designation and is not more intense.

- (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 LD land use designation is implemented by the R-1-AA zoning designation. The subject property is surrounded by NC on the South and West, CF to the north (separated by NE 22nd Lane), and R-1-AA to the East. An overview of the properties is provided in the chart below.

Location	Development Type / Uses	Land Use Designation	Zoning District
North	School	CF	CF
South	Commercial	Transitional (TRN)	NC
East	Single Family Home	LD	R-1-AA
West	Commercial	TRN	NC

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

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

No development proposals are associated with this request, which is limited to correcting a data conversion error on the zoning map. Any future development proposals would be subject to all applicable provisions and requirements for the LD land use designation and the implementing R-1-AA zoning district.

Review By Others

The subject property is located within the **Delray Beach Community Redevelopment Agency (DBCRA)** area, Sub-Area 6 (Northeast (Seacrest/Del-Ida) Neighborhoods) The DBCRA was notified of the request.

The **City Commission** is anticipated to review the proposed rezoning at July 2022 (First Reading) and August 2022 (Second Reading) meetings.

Alternative Actions

- A. Recommend **approval** to the City Commission on Ordinance No. 19-22, a City-initiated rezoning for the property located at 214 NE 22nd Lane from Neighborhood Commercial (NC) to Single Family Residential (R-1-AA) to correct a data conversion error, by finding that the rezoning and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **denial** to the City Commission on Ordinance No. 19-22, a City-initiated rezoning for the property located at 214 NE 22nd Lane from Neighborhood Commercial (NC) to Single Family Residential (R-1-AA) to correct a data conversion error, by finding that the rezoning and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.
- C. **Continue With Direction.**

Public and Courtesy Notices

X Courtesy Notices were sent to the following:

- Chamber of Commerce
- Seacrest Neighborhood Association
- Lake Ida Park Neighborhood Association

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

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

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

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

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

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