



**DUNAY  
MISKEL  
BACKMAN** LLP

Gary Dunay  
Bonnie Miskel  
Scott Backman  
Eric Coffman  
Hope Calhoun

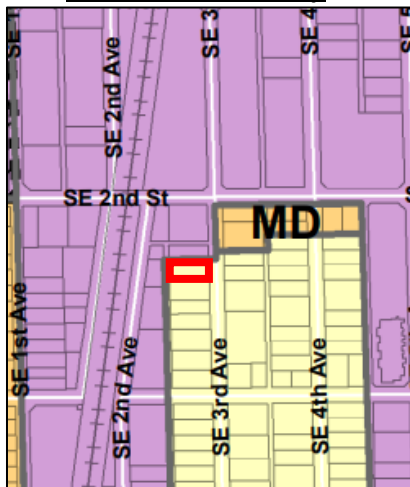
Dwayne Dickerson  
Ele Zachariades  
Matthew H. Scott  
Matthew Kwasman  
Christina Bilenki

Lauren G. Odom  
Nicole Jaeger  
Rachael Bond Palmer

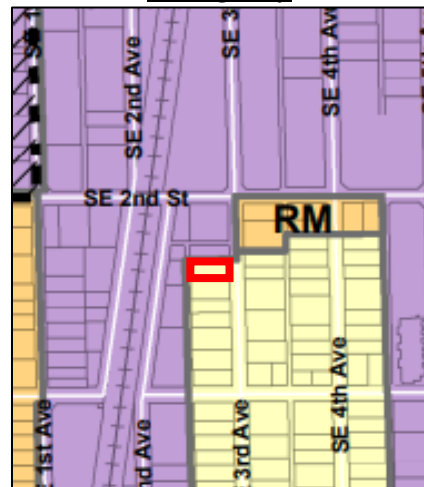
**Osceola Condos  
210 SE 3<sup>rd</sup> Avenue  
Project Narrative and Land Use Statement for  
Future Land Use Map Amendment and Rezoning Application**

Gulfstream Developers South, LLC ("Petitioner") is the contract purchaser of the +/- 0.21 acre property located at 210 SE 3<sup>rd</sup> Avenue ("Property"), which is generally located on the west side of SE 3<sup>rd</sup> Avenue south of SE 2<sup>nd</sup> Street within the City of Delray Beach ("City"), Palm Beach County ("County"), Florida. The Property is referenced by parcel control number 12-43-46-16-04-087-0160. As shown on the excerpts from the City's Future Land Use Map ("FLUM") and Zoning Map below, the Property is designated LD, Low Density 0-5 DU/Acre, on the City's FLUM and located within R-1-A, Single-Family Residential, zoning district. The Property is currently developed as a single family residence.

**Future Land Use Map**



**Zoning Map**



As illustrated above, the Property is bounded on the north and west by properties that are designated CC, Commercial Core, on the City's FLUM and within the CBD-RC, Central Business District – Railroad Corridor, zoning district. These properties are developed with older, outdated strip commercial development including restaurant, bar, office, and retail uses. The properties to the south and east of the Property are designated LD, Low Density 0-5 DU/Acre, on the City's FLUM, located within R-1-A, Single-Family Residential, zoning district, and developed with a mix of single-family and multifamily residences. As such, there is a need for a proper transitional area that is sized in a manner that results in an appropriate transitional use between the existing commercial properties to the north/west and the lower density residential uses to the south/east.

**PROJECT DESCRIPTION**

Petitioner proposes to redevelop the Property with a four (4) story condominium with 12 dwelling units ("Project") in order to produce additional housing opportunities for the City's growing population, provide a contextually appropriate use that will serve as a catalyst for high quality redevelopment of the non-residential and mixed use development to the north and west, and create a more logical transition

between the F.E.C. Railway corridor and non-residential uses located to the north and west to the single-family residential neighborhood to the south and east. The Property will be aggregated with the property located immediately to the north in order to provide a cohesive and well-planned transition between the CBD-RC and the single family residential uses to the south and east. This creates a natural extension based on common ownership of the underlying parcels, thus providing the City with an opportunity to combine what are in some instances sub-standard lots and expand them to create opportunity for better projects, as is proposed here. In order to develop the Project, Petitioner respectfully requests approval for:

**Amendment to the Future Land Use Map from the LD, Low Density 0-5 DU/Acre, designation to the CC, Commercial Core, designation (“FLUM Amendment”) to allow a maximum of twelve (12) dwelling units on the Property; and**

**Change of Zoning District from the R-1-A, Single Family Residential, zoning district, to the CBD-RC, Central Business District – Railroad Corridor, zoning district (“Rezoning”).**

In accordance with Table NDC-1 of the Neighborhoods, Districts, and Corridors Element of the City’s Comprehensive Plan, the CC FLUM designation allows a range of maximum density from 30 DU/Acre to 100 DU/Acre. Petitioner is proposing to limit the maximum density to 54 DU/Acre to ensure consistency and compatibility with the lower density residential uses to the south and east. Although the density is proposed to be limited to 54 DU/Acre, the analyses for the FLUM Amendment below assumes a density of 100 DU/Acre for purposes of computing the impact of the Project on the City’s public facilities and services.

The proposed infill redevelopment of the Property will better serve the community by locating additional housing options and residents to support the existing neighborhood serving commercial uses, further contributing to the City’s Comprehensive Plan NDC Goal 2 to “transform underutilized and blighted areas into attractive and thriving neighborhoods, districts, and corridors.” The Property is ideally located for the proposed development considering its location adjacent abutting the existing CBD zoning and near the major F.E.C. corridor. Further, the proposed change is consistent with the Future Land Use and Zoning pattern that exists with similarly situated property located immediately west of the F.E.C. Railroad. As shown on the Future Land Use and Zoning Maps above, the CC FLU designation and CBD zoning extend south to SE 3<sup>rd</sup> Avenue for the entire block located immediately west of the F.E.C. Railroad corridor, thus creating an area that promotes redevelopment and eliminates blight. The proposed FLUM Amendment and Rezoning simply seeks to provide a logical extension of the CC FLU and CBD-RC zoning on the east side of the railroad tracks that is identical to the regulatory framework immediately west of the railroad tracks, thereby treating like properties alike and enabling revitalization of a blighted area. In addition, the City’s CBD core extends farther north of Atlantic Avenue to George Bush Boulevard) than it does south, thus creating an imbalance with the downtown impacts falling more heavily on the northern portion of the City. Allowance for additional well-planned development south of the Atlantic Avenue corridor will provide a more balanced distribution of the City’s downtown core, thus ensuring a more even distribution of traffic and other downtown related impacts. Approval of the Project will promote a more balanced, walkable, and sustainable atmosphere in the City.

The Project is also consistent with the Osceola Park Neighborhood Redevelopment Plan vision of preserving the single-family neighborhood. The intent of this FLUM Amendment and Rezoning is to provide the appropriate FLUM and Zoning designations needed to aggregate this small parcel with the existing blighted commercial parcels to the north in order to provide for beneficial redevelopment of the existing dilapidated commercial uses and provide a more appropriate transition to the existing single-

family uses to the south and east. Although one single family residential unit will be removed, the proposed development will actually serve to protect the property values and single-family character of the Osceola Park Neighborhood by eliminating the existing blight and providing a more compatible use to transition between the F.E.C. Railway and the existing community, thus improving the quality of life and serving to preserve the existing single-family neighborhood.

### **CONSISTENCY WITH THE COMPREHENSIVE PLAN**

In accordance with Section 2.4.3(M)(5), Petitioner will demonstrate below that the FLUM Amendment and Rezoning are consistent with and will promote the Always Delray Comprehensive Plan. The requested FLUM Amendment and Rezoning are necessary to allow development of the Project, which is consistent with the Goals, Objectives, and Policies of the Neighborhoods, Districts, and Corridors Element, Economic Prosperity Element, and Mobility Element as described below.

### **NEIGHBORHOODS, DISTRICTS AND CORRIDORS ELEMENT**

*Goal NDC 1: Enhance the quality and character of the city's neighborhoods, districts, and corridors to continue to provide a sustainable community in which to live, work, and play.*

**Approval of the FLUM Amendment and Rezoning will enhance the quality and character of the surrounding area, which has been identified as a neighborhood in need of revitalization on the City's Residential Neighborhood Stabilization Map. The location of an additional housing option for the City's residents in an area that is adjacent to commercial uses and near the downtown activity hub and recently developed Delray Marketplace promotes the creation of a sustainable community in which one can live, work, and play. As such, the Project is consistent with and will support the success of Goal NDC 1.**

*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.*

**Approval of the FLUM Amendment and Rezoning will allow for a complementary mix of land uses by allowing appropriate multifamily residential development to be located within an existing commercial area, and near the F.E.C corridor and downtown activity center. This synergy of uses will ensure that the daily needs of residents are met, while also providing an economic stimulus and catalyst for improvement of the existing commercial uses.**

*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.*

**Approval of the FLUM Amendment and Rezoning will allow the Property to be developed in a manner such that the intensity and density are appropriate with regard to soil, topographic, and other applicable physical considerations; provision of affordable goods and services is encouraged;**

compatibility with adjacent uses is ensured; and the City's remaining land use needs are fulfilled. There are no soil, topographical or physical conditions that would be in conflict with the proposed use. The Data, Inventory, and Analysis for the NDC Element of the Always Delray Plan identifies a need for approximately 1,200 dwelling units that cannot currently be accommodated by the City's existing residential areas. In addition, the City's NDC Data, Inventory, and Analysis indicates that "incentive programs continue to be needed" to provide the additional units, promote transit-oriented development patterns, provide housing affordable for all household incomes, and attract investment to areas of the City in need of revitalization. Approval of this FLUM Amendment and Rezoning will allow for a well-planned housing opportunity that is inclusive to a range of income groups in an area identified as needing revitalization. The Project is ideally suited to help the City meet the remaining land use need for additional residential units in a sustainable development pattern given its location in proximity to existing commercial uses, the F.E.C. corridor, and the downtown activity center. Considering the foregoing, the requested Text Amendment is consistent with Policy NDC 1.1.14.

#### ECONOMIC PROSPERITY ELEMENT

*Policy ECP 6.4.1: Implement the vision in the Delray Beach Next Great Street report by protecting commercial and industrial uses to maintain and enhance the jobs base; ensuring diverse housing options for varying income levels; attracting higher education institutes; encouraging sustainable redevelopment; and, establishing a balance of appropriate uses along the corridor.*

**Approval of the FLUM Amendment and Rezoning promotes Policy ECP 6.4.1 by ensuring diverse housing options for the City's residents and income levels, encouraging sustainable redevelopment of lands, and establishing a balance of appropriate uses which fit the needs of the area's existing and future residents. The residents will patronize existing commercial creating demand for existing products or services which results in new job opportunities, thereby strengthening and supporting the viability of the City's commercial base.**

#### Required Findings for Rezoning Application – Section 3.1.1 of the City's LDRs

*Prior to 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.*

- (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.*

**Per Table NDC 1 of the City's Comprehensive Plan, the proposed CBD zoning designation is consistent with the proposed CC FLUM designation. In accordance with Table NDC 1, the CC FLUM designation is intended to allow for between 12 and 100 dwelling units per acre. Further, the proposed CBD zoning allows up to 70 DU/acre for properties south of SE 2<sup>nd</sup> Avenue within the Railroad Corridor Sub-District. Petitioner proposes to limit the density to 60 DU/acre to ensure that the Project is consistent and compatible with the character of the area while also providing the density needed to revitalize the area, support the surrounding commercial uses, and create new housing opportunities for the City's anticipated population growth. The maximum development potential proposed under the FLUM Amendment and Rezoning is provided in the table below.**

Maximum Development Potential			
Existing FLU			
Designation	Max Density Allowed	Property Area (Acres)	Maximum Development Potential (DU)
LD	5 DU/Acre	0.2053	1
Proposed FLU			
Designation	Max Density Allowed	Property Area (Acres)	Maximum Development Potential (DU)
CC	100 DU/Acre	0.2054	20
NET CHANGE IN DENSITY			+19 DU

Considering that the proposed density is within the maximums allowed by the proposed CC FLUM designation and CBD zoning, approval of the requested FLUM Amendment and Rezoning results in use of the Property in a manner that is consistent with the proposed CC FLUM designation.

- (B) *Concurrency. Concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the 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 CI-GOP-1 of the adopted Comprehensive Plan of the City of Delray Beach.*

Concurrency, as defined under Goal NDC 3.1 of the Always Delray Plan will be met by the Project, as described in greater detail below with regard to Potable Water, Sanitary Sewer, Drainage, Transportation, Parks and Open Space, Solid Waste, and Schools. In addition, Petitioner has submitted letters verifying availability of service from all applicable utility providers.

#### **Potable Water**

The anticipated potable water demand generated by the Project is detailed in the table below.

ESTIMATED POTABLE WATER DEMAND				
Use	Net Density Increase	Formula for Demand* (GPD)	Anticipated Demand (GPD)	Anticipated Demand (MGD)
Multi-Family (Units)	19 DU (45 residents)	234.8 gal per person per day	10,566	0.010566
TOTAL EST. POTABLE WATER DEMAND			10,556	0.010566
* Per Always Delray Plan for Residential Uses				

In accordance with the most recent Delray Beach Utilities WTP Monthly Progress Report, there is 26 MGD of capacity for potable water and a maximum daily demand of 16.30 MGD. As such, there is sufficient potable water capacity available to meet the demand generated by the Project.

### Sanitary Sewer

The anticipated sanitary sewer demand generated by the Project is detailed in the table below.

ESTIMATED SANITARY SEWER DEMAND				
Use	Net Density Increase	Formula for Demand* (GPD)	Anticipated Demand (GPD)	Anticipated Demand (MGD)
Multi-Family (Units)	19 DU (45 residents)	115 gal per person per day	5,175	0.005175
TOTAL EST. SANITARY SEWER DEMAND			5,175	0.005175
* Per Always Delray Plan for Residential Uses				

In accordance with Table PFE-2 of the Always Delray Plan, there is 24 MGD of capacity for sanitary sewer and a current average flow of 17 MGD. As such, there is sufficient sanitary sewer capacity available to meet the demand generated by the Project.

### Drainage

Please refer to the November 11, 2021 Drainage Statement prepared by Simmons & White, a third party civil engineer. The Drainage Statement concludes that the Project will meet the requirements of the City and South Florida Water Management District.

### Transportation

Please refer to the November 4, 2021 Traffic Statement prepared by Simmons & White, a third party traffic engineer. The Traffic Statement concludes that the Project will meet the requirements of the Palm Beach County Traffic Performance Standards. In addition, Petitioner has requested a Traffic Performance Standards concurrency determination from Palm Beach County Traffic, which will be provided upon receipt.

### Solid Waste

The anticipated solid waste demand generated by the Project is detailed in the table below.

ESTIMATED SOLID WASTE DEMAND			
Use	Net Density Increase	Formula for Demand*	Anticipated Demand (Pounds per Day)
Multi-Family (Units)	19 DU (45 residents)	7.13 pounds per person per day	320.85
TOTAL EST. SOLID WASTE DEMAND			320.85
* Per Always Delray Plan for Residential Uses			

In accordance with the Data, Inventory, and Analysis for the Public Facilities Element of the Always Delray Plan, there is sufficient solid waste capacity to serve the Project.

### **Public Schools**

Petitioner has requested a concurrency determination from Palm Beach County School District, which will be provided upon receipt.

Considering the foregoing analyses, the Project will meet all aspects of the City's adopted concurrency requirements.

- (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.

As is more fully discussed in "Standards for Rezoning Application – Section 3.2.2 of the City's LDRs", below, the Project is consistent with the performance standards contained within Article 3.2.

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

The Project will be designed to comply with the City's LDRs, which will be detailed in the required site plan and building permit applications following approval of this FLUM Amendment and Rezoning.

### **Statement of Reasons for Rezoning Application – Section 2.4.5(D)(2) of the City's Land Development Regulations ("LDRs")**

*The rezoning from the R-1-A zoning district to the CBD zoning district requires a statement of justification per Land Development Regulations (LDR'S) Section 2.4.5(D)(2). The valid reasons stated in the code 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; or, 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.*

*A. That the zoning had previously been changed, or was originally established, in error.*

**Petitioner is not aware of any previous changes to the existing zoning or errors in its establishment.**

*B. That there has been a change in circumstance which makes the current zoning inappropriate; or*

**There has been a change in circumstance that makes the current zoning inappropriate. Over the last several decades, development trends have favored low-density, subdivision development, which contributed to the widening area of urban sprawl across the country and within the City. As population rates continue to grow, the City must find ways to keep up with the increasing demand for housing. Specifically, the Data, Inventory, and Analysis for the NDC Element of the Always Delray Plan identifies a need for approximately 1,200 dwelling units that cannot currently be**

accommodated by the City's existing residential areas. An innovative and much-needed solution is to integrate well-designed, higher-density developments into existing communities, particularly at transition points between commercial and single-family residential communities. Considering the City's increasing population, and need for additional housing solutions, there are changed circumstances that make 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.*

Per Table NDC 1 of the City's Comprehensive Plan, the proposed CBD zoning designation is consistent with the proposed CC FLUM designation. In accordance with Table NDC 1, the CC FLUM designation is intended to allow for between 12 and 100 dwelling units per acre. Further, the proposed CBD zoning allows up to 70 DU/acre for properties south of SE 2<sup>nd</sup> Avenue within the Railroad Corridor Sub-District. Petitioner proposes to limit the density to 60 DU/acre to ensure that the Project is consistent and compatible with the character of the area while also providing the density needed to revitalize the area, support the surrounding commercial uses, and create new housing opportunities for the City's anticipated population growth. The maximum development potential under the proposed CBD zoning, which allows up to 70 DU/Acre is provided in the table below:

Maximum Development Potential			
Existing FLU			
Designation	Max Density Allowed	Property Area (Acres)	Maximum Development Potential (DU)
LD	5 DU/Acre	0.2054	1
Proposed FLU			
Designation	Max Density Allowed	Property Area (Acres)	Maximum Development Potential (DU)
CC	70 DU/Acre	0.2054	14
<b>NET CHANGE IN DENSITY</b>			
			<b>+13 DU</b>

The maximum development potential proposed under the FLUM Amendment and Rezoning with the applicant's proposed limitation on density to 60 DU/Acre is provided in the table below.

Maximum Development Potential			
Existing FLU			
Designation	Max Density Allowed	Property Area (Acres)	Maximum Development Potential (DU)
LD	5 DU/Acre	0.2054	1
Proposed FLU			
Designation	Max Density Allowed	Property Area (Acres)	Maximum Development Potential (DU)
CC	60 DU/Acre	0.2054	12



NET CHANGE IN DENSITY	+11 DU

The downtown commercial core has expanded beyond the Atlantic corridor in the last decade. If you look at growth to the north of Atlantic, the City has seen extensive growth beyond N.E. 2<sup>nd</sup> Street (The Ray Hotel is an example). The area to the south of Atlantic has experienced much slower growth but is ripe to provide the southern business and residential communities with redevelopment opportunities.

Considering that the proposed density is within the maximums allowed by the proposed CC FLUM designation and CBD zoning, and redevelopment south of Atlantic has lagged behind that north of Atlantic, approval of the requested Rezoning results is allowable with the proposed CC FLUM designation and is more appropriate for the Property based on the surrounding commercial uses and need for a transition from the commercial/F.E.C. corridor to the lower density residential neighborhood.

#### **Standards for Rezoning Application – Section 3.2.2 of the City’s LDRs**

*Standards for rezoning actions:*

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

The Property is located within a neighborhood identified as RHB, Needing Revitalization, on the Residential Neighborhood Categorization Map. As such, this Rezoning is allowable under this criterion. Further, the development of the Project will provide for a contextually appropriate redevelopment opportunity within an area identified for revitalization, while also providing additional housing opportunities to help the City meet the projected population growth and helping to stimulate the existing commercial uses to the north and west.

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

The Project does not involve rezoning to the AC zoning district. As such, this criterion is 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 should be given to increasing the depth of the commercial zoning in order to provide for better project design.*

The proposed zoning change will not result in strip development. Rather, the Project involves well planned residential development in a contextually appropriate location to provide a logical transition between the existing commercial uses to the north and west and single-family

community to the east and south. The addition of a high-quality multifamily development on the Property will likely serve as a catalyst for rejuvenation of the existing commercial uses and may result in the replacement of existing strip development with higher quality commercial uses that better serve the surrounding community.

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

The Project is designed to ensure compatibility with adjacent and nearby land use both existing and proposed. As illustrated above, the Property is bounded on the north and west by properties that are designated CC, Commercial Core, on the City's FLUM and within the CBD, Central Business District, zoning district. These properties are developed with older, outdated strip commercial development including restaurant, bar, office, and retail uses. The properties to the south and east of the Property are designated LD, Low Density 0-5 DU/Acre, on the City's FLUM, located within R-1-A, Single-Family Residential, zoning district, and developed with a mix of single-family and multifamily residences. As such, there is a need for a transitional use, such as the Project, between the existing commercial properties to the north/west and the lower density residential uses to the south/east.

Further, the Project will comply with all separation, buffering, and setback requirements imposed by the City's LDRs in order to properly mitigate any potential adverse impacts to the Project's residents. Accordingly, the requested Rezoning will allow land uses that are compatible with adjacent and nearby land uses, both existing and proposed, and will properly mitigate any adverse impacts.

- (E) *Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.*

The Property is not located within the coastal planning area. As such, this criterion is not applicable.