



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD STAFF REPORT

210 SE 3rd Avenue

Meeting	File No.	Application Type
September 12, 2022	2022-058-LUM-CCA 2022-059-REZ-CCA	Land Use Map Amendment Rezoning
Applicant	Owner	Authorized Agent
Gulfstream Developers South LLC	206 Delray Beach LLC	Dunay, Miskel and Backman, LLP

Request

Provide a recommendation to the City Commission on Ordinance No. 35-22 and 36-22, privately initiated requests related to the .21-acre parcel located at 210 SE 3rd Avenue, amending the Land Use Map from Low Density (LD) to Commercial Core (CC) and rezoning the property from Single Family Residential (R-1-A) to Central Business District (CBD), with an associated amendment to the Land Development Regulations (LDR) Figure 4.4.13-7, Railroad Corridor Sub-district Regulating Plan, to add the subject property.

Background Information

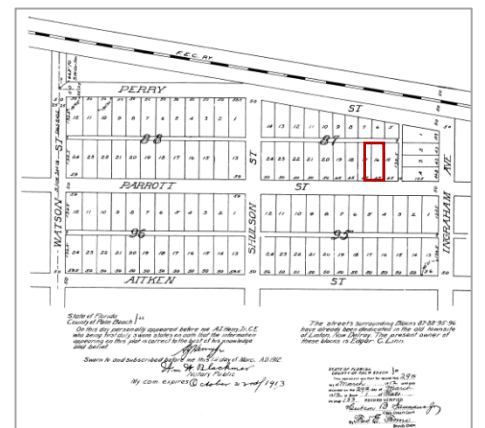
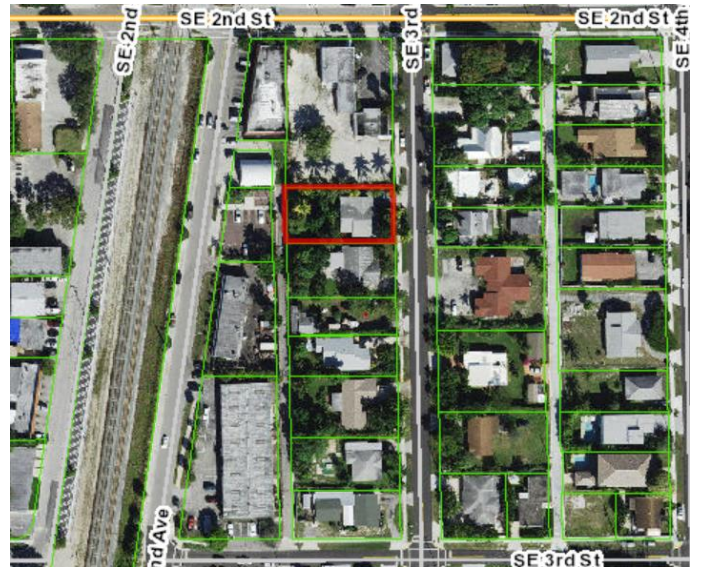
The subject property is located east of the FEC rail line and south of SE 2nd Street within the Delray Beach Community Redevelopment Agency (DBCRA) Sub-Area # 7 boundary. It is also located within the Osceola Park neighborhood, which is generally bordered by SE 2nd Street to the north, SE 5th Avenue to the east, SE 10th Street to the south and the FEC rail line to the west. Therefore, the property is subject to the Osceola Park Neighborhood Redevelopment Plan which was last updated and adopted in 2018.

The property is currently developed as a single-family home which was constructed in 1996. The home exemplifies the low-density development pattern and single-family character found throughout Osceola Park.

The existing land use is Low Density (LD), 0-5 dwelling units per acre, and the zoning is Single Family Residential (R-1-A), which is consistent with the neighborhood character and current development of the property.

The property history is outlined below:

- 1912 – The subject property was platted, as part of “Linn’s Addition to Osceola Park,” in a clearly defined residential development pattern (identified on the figure at right).
- 1961 – The property is identified as being zoned R-3 (Multiple Family Dwelling District) on the zoning map in the 1961 comprehensive plan.
- 1979 – The subject property is identified as having a land use designation of Single Family and a zoning designation of RM.



Project Planner:
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Attachments:

- Ordinance No. 35-22 and 36-22
- Existing and Proposed Zoning
- Applicant Justification Statement
- Traffic Statement

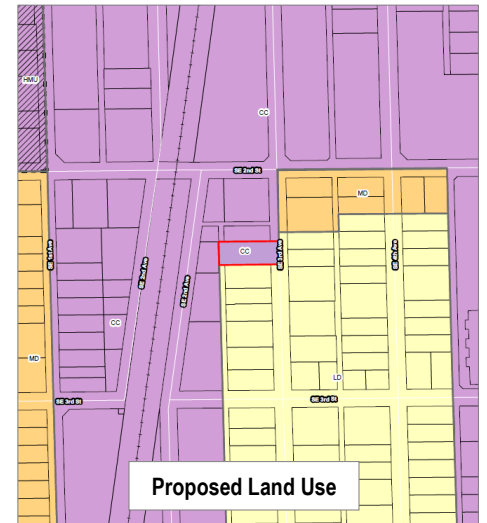
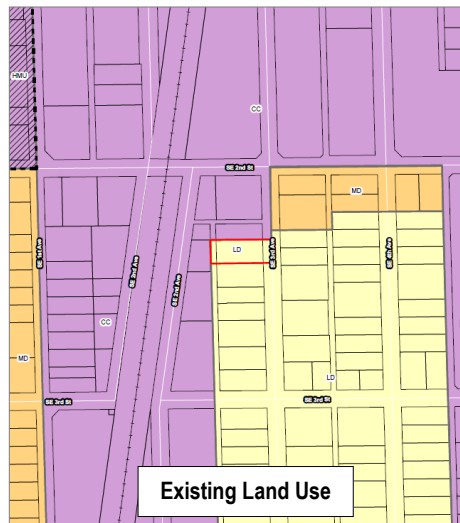
- 1989 – The subject property was identified as being in Redevelopment Area #5 per the Future Land Use Map.
- 2005 – On September 20, 2005, the City Commission adopted Comprehensive Plan Amendment 2005-1 (via Ordinance No. 31-05), which changed the FLUM designation from RDA-5 to LD for 19.75 acres within Osceola Park, including the subject property. Concurrently, Ordinance No. 37-05 was adopted which rezoned 33 properties, including the subject property, from RM (Medium Density Residential) to R-1-A. These actions were in accordance with the recommendations of the adopted Osceola Park Redevelopment Plan.
- 2021 - The subject request was submitted in December 2021.

Description of Proposal

The subject request is for a land use map amendment from Low Density (LD) to Commercial Core (CC) and a rezoning from Single Family (R-1-A) to Central Business District (CBD). The associated LDR Amendment is necessitated by the rezoning to include the properties on the CBD Railroad Corridor Sub-district Regulating Plan.

Land Use Map Amendment

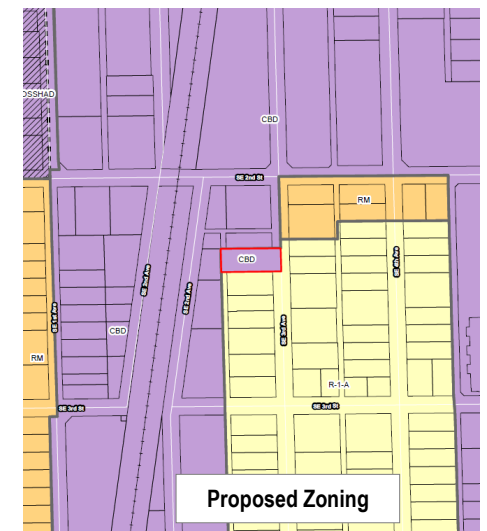
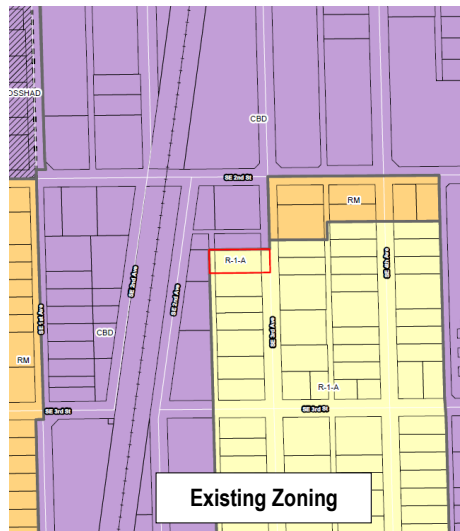
Pursuant to Comprehensive Plan Objective NDC 1.3, mixed-use land use designations, such as Commercial Core, should be applied to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city. Furthermore, pursuant to Policy NDC 1.3.7, the Commercial Core land use designation should be implemented using form-based code to provide for adaptive-reuse, development, and redevelopment that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area continue to evolve into a traditional, self-sufficient downtown. This designation is applied to the Community's downtown area. The existing and proposed land use map are provided at right. CC land use has a maximum density of 100 dwelling units per acre.



Rezoning

Pursuant to **LDR Section 4.4.13, Sec. 4.4.13. - Central Business (CBD) District**, the requested CBD district 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.

Pursuant to Table NDC-1 in the Always Delray Comprehensive Plan, the proposed CBD zoning district is a preferred zoning district under the CC land use designation. The existing and proposed zoning maps are



provided at right. The subject property is adjacent to the Railroad Corridor Sub-district, and would be subject to the Sub-district regulations. The Railroad Corridor Sub-district has a standard density of 30 dwelling units per acre and a revitalization incentive density of 70 dwelling units per acre.

LDR Amendment

If the requested amendment is approved, the regulating plan for the Railroad Corridor-subdistrict must be amended to include the subject property (figure at right). The Railroad Corridor Sub-district is intended “to allow for development of light industrial type and mixed commercial and nonresidential uses on properties that are in the downtown area, but are also in close proximity to the FEC Railway. The purpose of the area is to recognize the long-standing light industrial character of this railroad corridor; to provide for the upgrading and expansion of existing uses when appropriate; and to enhance the economic growth of the CBD by providing additional employment opportunities in the downtown area.” Density incentives related to the provision of workforce housing are available in the southern part of the sub-district; the maximum revitalization incentive density is 70 dwelling units per acre.



Review and Analysis

Land Use Map Amendment

Pursuant to **LDR Section 2.4.5(A), Amendments to the Comprehensive Plan**, amendments must follow the procedures outlined in the Florida Statutes; the land use map is adopted as part of the Comprehensive Plan. Because the subject property is less than 50 acres, it is considered a small-scale plan amendment subject to state coordinated review and the LUMA is being processed as such pursuant to Florida Statutes, F.S. 163.3187.

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, and are discussed below.

(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 following review provides a comparison of the current (LD) and proposed (CC) land use designations.

Neighborhoods, Districts, and Corridors Element

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 land use designation and zoning district are considered compatible. CBD zoning is not listed as an implementing zoning district for the LD land use designation. The proposed CBD zoning designation is a preferred implementing zoning district for the CC land use designation. Therefore, the applicant has requested both a land use map amendment and a rezoning to meet the consistency requirement.

The table below provides a comparison of density and intensity limitations for both the LD and CC land use designations. The proposed land use map amendment would increase both the maximum density and intensity on the parcel and allow a commercial component that was not allowed under the LD land use designation. In mixed-use land use designations such as CC, development is subject to both density and intensity limitations.

The NDC objectives and policies listed below describe the intent of the land use designations and provide direction regarding the implementation of the existing and proposed land use designations.

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 1.1.2 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.

Land Use Designation	Density (Standard dwelling units/acre)	Intensity (Maximum Floor Area Ratio)
LD (Existing)	0 – 5	---
CC (Proposed)	Standard: 30 du/acre Incentive: 100 du/acre	3.0
NOTE: The maximum density in CC land use is 100 dwelling units per acre; however, in the Railroad Corridor Sub-district, the maximum incentive density is 70 dwelling units per acre.		

Policy NDC 1.1.3 Provide transitions between land use designations at the rear of properties or at major corridors so that the prescribed uses and potential development patterns are arranged to achieve compatible and appropriate changes in intensity, height, and scale.

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.

The property is surrounded by the LD designation to the south and east, with the CC designation to the north and west (separated by an alley).

Location	Development Type / Uses	Land Use Designation	Zoning District
North	Single-story, low-scale commercial	Commercial Core (CC)	CBD
South	Single-Family Residential / Osceola Park Neighborhood	Low Density (LD)	R-1-A
East	Single-Family Residential / Osceola Park Neighborhood	Low Density (LD)	R-1-A
West	Single-story, low-scale commercial and industrial	Commercial Core (CC)	CBD

SE 3rd Avenue is a local street and provides a limited amount of separation between the potential higher intensity uses allowed on the subject property, if the request is approved, and the adjacent residential neighborhood. The proposed land use designation does not meet the intent of Policy NDC 1.1.2 which provides direction to have “similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.” Additionally, the transition desired by Policy NDC 1.1.3 is not met, as the LDR land use designation is not located at the rear of the property or along a major corridor. Therefore, the proposed land use change is not complementary to or compatible with adjacent land uses.

The Board should consider if the current land use designation is more appropriate than a mixed-use category that could allow for different complementary or compatible uses. Likewise, the applicant has indicated that the impetus of the request is a need for better transitions of uses between the existing CC designated properties to the north/west and the Osceola Park neighborhood to the south/east (which is largely comprised of low-scale residential development). In fact, the existing land use pattern better serves the intent of the Comprehensive Plan with respect to transitions as the separation between land use designations currently occurs to the rear of the block along the alley. Furthermore, allowing the CC land use designation – which carries with it significantly greater density and intensity potential, along with a variety of permissible commercial uses – does not achieve a better transition as the CC designation would still continue to directly border the low-density residential neighborhood. Piecemeal zoning of properties one by one does not facilitate adequate transitions. Spot rezoning of individual parcels is inconsistent with planning best practices as the result is a development pattern that is out of balance with the context of the surrounding area.

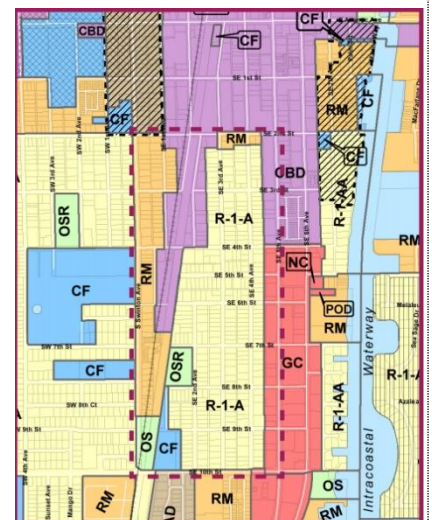
Alternatively, if there is consensus that better transitions are needed between the CC designated downtown area and the residential neighborhood, then consideration should be given to whether the entire block should be reclassified as a more appropriate land use designation. Even still, staff finds that in this scenario, the CC land use designation would be inappropriate as any perceived transitional issues would still be present, only instead shifted southward to the following block south of SE 3rd Street.

There are other land use designations that may more appropriately provide for transitional areas between residential districts and higher intensity commercial cores. For example, a multi-family designation provides an avenue to encourage residential development at a density greater than what can be accommodated in a single-family district, while still resembling the scale and form of lower density development. The majority of the CC land use and CBD zoning districts found elsewhere in the city are wrapped and bordered by the Medium Density (MD) Land Use designation and the RM zoning district in order to provide a transition into the lower scale residential neighborhoods. Similarly, Transitional Land Use provides a very specific designation designed to support transitional buffer between designations with noticeable discrepancies in permissible density and intensity thresholds. The applicant's proposal would place land use of the highest density adjacent to the least intense land use designation, without the benefit of the alley that currently separates the two land uses. This raises concerns relative to the proposal's compatibility with the existing single-family neighborhood, and approval of the request would likely only further exacerbate any perceived transitional issues between the Osceola Park neighborhood and the downtown core.

Even if better transitions are needed, the adopted Osceola Park Neighborhood plan specifically requires the preservation of single-family properties, pursuant to the historic character of the neighborhood. Prior to the adoption of the Osceola Park Redevelopment Plan in 2004, the Osceola Park Redevelopment Area was designated or known as "Redevelopment Area #5 (RDA-5) on the City of Delray Beach Land Use Map. This designation was intended to serve as a temporary "holding" category, until such time that the Redevelopment Plan was completed, and permanent Land Use Map designations applied. The 2004 Redevelopment Plan identified deficiencies and assets within the Osceola Park area, evaluated the existing and potential uses, and identified specific measures for arresting decline, facilitating new development, and enhancing the quality of life for the neighborhood. Within the Redevelopment Plan area, several distinct clusters of land use patterns were identified that included (i) the commercial/mixed-use uses along the SE 2nd Street frontage and along South Federal Highway; (ii) the commercial/industrial land uses along the Railroad corridor (SE 2nd Avenue); and, (iii) the residential land uses south of the commercial frontage on SE 2nd Street.

To accomplish the visions of the plan, a LUM designation of LD was recommended to encompass an area of approximately 19.75 acres that extended just south of the commercial frontage along SE 2nd Street to SE 5th Street, and between the commercial frontages along SE 5th Avenue and SE 2nd Avenue. Zoning changes from RM (Medium Density Residential) to R-1-A were also recommended for 5.9 acres located south of the commercial properties fronting on SE 2nd Street to SE 3rd Street.

The adoption of the LD land use map designation in 2005 for the residential cluster area south of SE 2nd Street, was one of the goals identified in the Plan. The Redevelopment Plan states, *"the two-block area between SE 2nd and SE 3rd Streets is currently zoned for multiple family development. The remaining parcels in this area, with the exception of Currie Commons Park and the community facilities parcels near SE 10th Street, are zoned for single-family development. Although it includes some duplex and multi-family scattered throughout the area, this part of Osceola Park is exclusively single-family homes. Therefore, the primary focus for this is to protect and enhance the single-family character of the neighborhood. To accomplish this goal, it is recommended that most of the multi-family zoned parcels, between SE 2nd and SE 3rd Streets, be rezoned to single family. The parcels, which front directly on SE 2nd Street and one additional parcel to the rear, will retain multi-family zoning as a buffer from this busy commercial street and the Central Business District zoning to the north."* The 2019 Osceola Park Redevelopment Plan Update affirmed this direction from the 2004 Plan.



As supported by the adoption of the LUM and zoning changes, the focus was to maintain and protect the residential uses and character of the area. Compatible commercial development and redevelopment was recommended to occur in select areas which include the parcels fronting along SE 2nd Street, SE 2nd Avenue, and the commercial/industrial area south SE 4th Street west of the FEC Railroad. The areas identified for commercial development do not include the subject property.

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.*

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 1.2.5 *Use the Low Density Residential land use designation to create and maintain low density residential neighborhoods up to five dwelling units per acre with high quality amenities.*

Objective NDC 1.3 Mixed-Use Land Use Designations *Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.*

Policy NDC 1.3.3 *Apply the density and intensity in mixed-use land use designations to encourage adaptive re-use, development, and redevelopment that advances strategic, policy-driven goals, such as diverse residential housing opportunities, sustainable building practices, historic preservation, public parking, civic open space, or economic development strategies.*

Policy NDC 1.3.7 *Implement the Commercial Core land use designation using form-based code to provide for adaptive-reuse, development, and redevelopment that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area continue to evolve into a traditional, self-sufficient downtown.*

Policy NDC 1.3.13 *Allow a wide range of residential and low intensity nonresidential uses for properties with a Transitional land use designation to address varied community needs, unique development patterns, and/or distinctive uses.*

Policy NDC 1.3.14 *Use the Transitional land use designation for properties located between two or more land use designations that allow different building scale, heights, uses, or levels of intensity to create development patterns that balance the changes in intensity relative to the specific, unique surrounding conditions.*

The requirement for compatible land use patterns with *similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods* dictates the establishment of land use designations. The LD land use designation is applied to low density detached single family development or planned residential development, whereas the CC land use designation is intended to be applied in areas *with the goal to stimulate the vitality and economic growth of the city while simultaneously enhancing and preserving the cultural and historic downtown area.*

The Board should consider whether a change in land use to CC on this particular parcel would be detrimental to the existing character of the residential neighborhood, or if it enhances and preserves it. Similarly, the board should consider whether this parcel is more appropriately classified as being included within the downtown core, or if its current identification as part of the Osceola Park neighborhood is appropriate, given its single-family character and the single-family character of the surrounding development. The CC land use designation carries with it vastly increased density and intensity thresholds than the existing LD designation. The maximum density is 100 dwelling units per acre (currently restricted to 70 dwelling units per acre by the regulating plan and CBD LDR), and the maximum FAR is 3.0. The expected building typology and mix of uses feasible on this property with a change of land use designation and subsequent rezoning could produce a built environment in stark contrast with the surrounding area that is incompatible with the scale of the Osceola Park neighborhood. Again, if there is consensus that different transitions are needed between the downtown core and the adjacent residential neighborhoods, the CC designation would not be the best choice to deliver adequate transition.

Policy NDC 2.7.5 *Deny requests to change residential land use or zoning designations to designations other than Community Facilities or Open Space land use designations or zoning categories unless the proposed changes implement an adopted neighborhood or redevelopment plan.*

The policy quite clearly states that residential designations should not be changed unless it is to accommodate a community facility or open space – both land use designations that can serve as supporting amenities for residential neighborhoods. The exception being if a neighborhood plan specifically directs for the change in designation. However, in the case of this property, the Osceola Park

Neighborhood Plan gives specific directive to limit new development of areas currently designated Low Density Residential (LD), to remain Single Family Residential in character. Furthermore, Priority 1, Strategy 1.1 of the Neighborhood Plan indicates the need to preserve the existing single-family neighborhood. Therefore, the requested land use change and rezoning are inconsistent with the directive of the Comprehensive Plan and Osceola Park Neighborhood Plan.

Staff analysis supports the retention of the existing LD land use designation and (primarily) single family zoning, given the low-density development potential and lower-scale of the adjacent residential properties. If the Board determines that inadequate transitions currently exist between the downtown core and adjacent residential neighborhood, the Board should consider the appropriateness of Medium Density (MD) land use and Medium Density Residential (RM) zoning or Transitional (TRN) land use and Neighborhood Commercial (NC) zoning as lower density and intensity alternatives to the requested CC and CBD change, that would allow the applicant the ability to develop the site in a way that facilitates a better transition in scale, intensity, and use mix. Even still, spot rezoning of single parcels is both prohibited and not best practice, and would need to be requested for the entire block – which is not advisable given the adopted Osceola Park Neighborhood Plan.

Policy NDC 3.4.1 Amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances, and the following findings can be determined:

- That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan; and,
- That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,
- That the requested land use designation is compatible with the land use designations of the surrounding area; and,
- That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.

Consistency with the applicable goals, objectives, and policies of the Comprehensive Plan is analyzed throughout the report; Pursuant to Policy NDC 3.4.1, a determination of compatibility with the surrounding area is required for approval.

A review of concurrency is provided in the following section.

(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.*

Schools. Any development proposal will require final SCAD review, and any negative impact on the public school system will result in a required contribution to the School District of Palm Beach County to offset the impact prior to issuance of the building permit.

Water and Sewer. The existing single-family home on subject property is currently served by municipal sewer and water. If the proposed land use is approved, the development of property to the maximum density and intensity would result in a significant increase from the existing use. Sewer and water calculations will be required as part of any development application.

Solid Waste. The landfill serving the property is projected to have sufficient capacity to meet the needs of city residents through the depletion year in 2054.

Drainage. At site plan submittal, the applicant will be required to provide a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3(D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into the City's sewer system.

Parks, Recreation, and Open Space. Park impact fees are assessed at \$500 per dwelling unit for all residential development and is collected prior to issuance of the building permit. Any development applications for a residential use would be subject to this requirement.

Traffic. The submitted traffic statement considers both the existing traffic generation and the anticipated impact from potential redevelopment at the maximum thresholds allowed by a change in land use. The statement finds that the increase in trips from 5 trips per day existing to 109 trips per day if the request is approved) meets the requirements of the Palm Beach County Traffic Performance Standards (TPS). The Palm Beach County TPS letter and traffic study are attached.

(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.*

Sections of Chapter 3, Performance Standards, are provided throughout the report, in other appropriate areas. LDR Section 3.2.1, Performance Standards, Basis for Determining Consistency, also specifies that *"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."*

In addition to the Goals, Objectives, and Policies from the Comprehensive Plan discussed above, several Goals, Objective and Policies from the Housing Element are also important to consider relative to the subject request.

Housing Element

GOAL HOU 2 NEIGHBORHOOD ENHANCEMENT *Preserve the integrity of existing stable neighborhoods, stabilize, and enhance neighborhoods that are in transition, and revitalize and rehabilitate neighborhoods that have declined.*

Objective HOU 2.3 Neighborhoods Needing Revitalization *Implement strategies to prevent further decline, and prioritize measures needed to improve the classification of those neighborhoods identified as Needing Revitalization on the Residential Neighborhood Categorization Map.*

Policy HOU 3.1.1 *Designate sufficient land area on the Land Use Map with appropriate development densities to accommodate population growth and housing requirements to ensure the continued provision of diverse residential types.*

Policy HOU 3.1.4 *Encourage development of vacant or underdeveloped land for housing and mixed-uses and promote rehabilitation of underutilized housing into desirable places to live.*

Objective HOU 3.2 Expansion of the Housing Supply *Expand the housing supply by allowing different unit types in a variety of locations for all income levels.*

Policy HOU 3.2.1 *Allow a variety of housing types to reflect the needs of all household types, including both rental and ownership opportunities for single people, couples, families, seniors, persons with disabilities and multi-generational families.*

Although the proposed land use change would increase the number of housing units that could be introduced into the city housing supply, and the request could be considered a revitalization strategy, the Comprehensive Plan clearly requires the preservation of existing single-family neighborhoods, particularly in Osceola Park. While City policy generally supports mixed-use development, the central question relates to appropriateness of a mixed-use land use designation at this location.

(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 Section 2.4.5 and in special regulation portions of individual zoning district regulations.*

A comparison of the development standards in the existing R-1-A zoning and proposed CBD zoning is provided below.

Rezoning

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.*

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) outlines the valid reasons for approving a change in zoning:

- *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 Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

The applicant justification statement indicates that the request is related to the second criteria above: *that there has been a change in circumstance which makes the current zoning inappropriate.* The applicant justification claims there is a need for better transitions between the downtown core, which over time has encroached southward as the City has experienced significant investment in redevelopment. Additionally, the applicant states that more intense residential development can help support the neighborhood commercial and industrial uses that currently exist adjacent to the FEC railway corridor. The board should consider whether there is, in fact, a need for a better transition between districts of varying intensity; and if so, whether the proposed CBD zoning district – which allows for significant increases in allowable density, intensity, and use mixture – is the most appropriate zoning district to help achieve the desired transitional improvements between the downtown core and the residential district. CC land use and CBD zoning would not necessarily provide a transition; rather, it is likely to exacerbate any inappropriate transitions that may currently exist. Detailed staff analysis has been provided under the land use section of this report, and the analysis of the rezoning request largely parallels the land use request. Staff encourages the Board to apply the same considerations with respect to scale, intensity, transitions, and to consider the directive of the Comprehensive Plan and Osceola Park Neighborhood Plan relative to the preservation of the character of existing residential neighborhoods.

Pursuant to **LDR Section 3.2.2, Performance Standards: Standards for Rezoning Actions**, *in addition to the standards listed below, rezoning 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 subject property is in an area characterized as “needing revitalization” on the Residential Neighborhood Stabilization map (Always Delray Map AD-5). The most restrictive zoning is the existing Single Family zoning classification. The Board should consider whether the proposed change to a mixed-use zoning district intended for downtown areas helps achieve the desired revitalization needed as identified in Map AD-5, or if the rezoning would be in conflict with other goals and objectives of the comprehensive plan. The Board should consider whether a rezoning away from Single Family is a necessary and effective method for achieving revitalization that is consistent and compatible with the surrounding neighborhood.

- (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.

The proposed CBD zoning carries with it form based development regulations that would prevent the project from taking the form of a strip commercial development.

(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 surrounding properties to the south and east are zoned R-1-A, and the adjacent properties to the north and west are zoned CBD. The properties surrounding the subject property are varied in existing uses as well as what would be permissible within the framework of the current zoning. To the north and west there are low scale commercial properties that are zoned CBD and could be redeveloped as a number of different uses; rezoning the subject property provides the opportunity for the property to be combined with the parcel the north to be developed with a much larger footprint and much larger scale than the existing development. To the northeast across SE 3rd Avenue is low-scale multi-family on property that is zoned RM. To the south and east are primarily single-family homes on properties zoned R-1-A within the Osceola Park neighborhood. The board should also consider, in the case that inadequate transitions are identified to currently exist between the downtown core (zoned CBD) and the Osceola Park neighborhood (zoned R-1-A), whether the proposed CBD rezoning of the subject property would actually help cultivate a better transition or if it would further exacerbate any existing incompatibilities found within the area. The development regulations for each land use category and zoning district are provided in the chart below.

	Density	Setbacks	Building Height	Lot Coverage	Open Space
CBD Railroad Corridor Sub-district (Proposed)	<u>Standard</u> - 12-30 du / acre <u>Revitalization*</u> - 30-100 du / acre <u>Railroad Corridor Sub-district Revitalization</u> - 70 du / acre	<u>Front</u> – 10 feet min/15 feet max <u>Front, above 3rd floor</u> – 20 feet <u>Side</u> – 0 feet or 5 feet min <u>Side, abutting a res. district, 1st to 3rd floor</u> – 10 feet <u>Side, abutting a res. district, above 3rd floor</u> – 30 feet <u>Rear</u> – 10 feet minimum	5 stories and 54 feet	NA	Civic Open Space: Sites < 40,000 SF – 5% of area above 20,000 SF + 9% of area above 40,000 SF
R-1-A (Existing)	Standard – 0-5 du / acre	<u>Front</u> – 25 feet <u>Side</u> – 7.5 feet <u>Rear</u> – 10 feet	35 feet	N/A	25% non-vehicular open space

If the subject requests are approved, careful consideration of any proposed development will be needed, particularly given the maximum FAR for CC land use at 3.0, whereas the MD designation relies on the maximum density and development standards in the LDRs, including a maximum building height of 35 feet. While the CBD zoning regulations strive to support the historic lot pattern in the downtown area by providing incentives for adaptive reuse and small-scale development through the provision of lower on-site parking requirements for lots 65 feet wide or less, the ability to build to 54 feet in height encourages large scale redevelopment, particularly given the cost of land. Additionally, the potential agglomeration of properties will continue the trend of larger scale redevelopment, as opposed to redevelopment that maintains the current lot pattern. Consideration is needed regarding whether the proposed amendments, as presented, achieve compliance with or meet the intent of the identified GOPs, particularly related to compatibility with adjacent properties.

The Board should consider whether allowing the CBD designation to further encroach into the residential neighborhood is compatible with the existing context and future vision of the Neighborhood Plan, and whether the regulations in the proposed CBD zoning provide sufficient rules to mitigate any potential negative impact of the increased density, intensity and height conveyed to the site via the

rezoning. To address potential impact on neighboring residential properties and to assist in the provision of an appropriate transition, the City recently adopted a Limited Height Area within the West Atlantic Neighborhood Sub-district. The Limited Height Area established a maximum height of three stories and 38 feet, as opposed to 4 stories and 54 feet, for properties rezoning from R-1-A to CBD. A similar limitation could be added to address impact concerns regarding larger scale and mass.

- (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.

LDR Amendment

As part of the rezoning, the City must amend the Zoning Map, the Railroad Corridor Sub-district Regulating Plan in Figure 4.4.13-7 in LDR Section 4.4.13, Central Business (CBD) District. The adoption ordinance includes this amendment.

Board Considerations

The Board should consider the following in reviewing the subject request:

Land Use Map Amendment

- Whether the proposed Commercial Core (CC) Land Use designation is in line with the goals and objectives of the Always Delray Comprehensive Plan and Osceola Park Neighborhood Plan, or whether the existing Low Density (LD) Land Use Designation more effectively achieves the goals and intent, and better aligns with the future vision for the existing residential neighborhood.
- If the proposed CC Land Use would help establish more adequate transitions between the downtown core and the residential neighborhood or if there are other designations that may more effectively achieve transitional balance.

Rezoning

- Whether the proposed CBD zoning allows a use mixture and intensity and scale of development that is more appropriate than the existing zoning.
- Whether the requested zoning is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.
- Whether the proposed zoning better serves the vision, goals, and objectives of the Comprehensive Plan and Osceola Park Neighborhood Plan.

Review By Others

Delray Beach Community Redevelopment Agency (CRA): The subject property is located within the Delray Beach Community Redevelopment Agency. The CRA was notified of the request.

City Commission: The request requires two readings by the City Commission. The first and second reading dates by the City Commission are anticipated to take place in October and November 2022, with the Second Reading as a Public Hearing.

Alternative Actions

- A. Move a recommendation of **approval** of Ordinance Nos. 35-22 and 36-22, a privately initiated request to change the land use designation of the subject property located at 210 SE 3rd Avenue from Low Density (LD) to Commercial Core (CC) and rezone the subject property from Single-Family Residential (R-1-A) to Central Business District (CBD), finding that the amendment and approval thereof is consistent with the Always Delray Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** of Ordinance Nos. 35-22 and 36-22, a privately initiated request to change the land use designation of the subject property located at 210 SE 3rd Avenue from Low Density (LD) to Commercial Core (CC) and rezone the subject property from Single-Family Residential (R-1-A) to Central Business District (CBD), finding that the amendment and approval thereof is consistent with the Always Delray Comprehensive Plan and meets the applicable criteria set forth in the

Land Development Regulations.

- C. Motion to **deny** Ordinance Nos. 35-22 and 36-22, a privately initiated request to change the land use designation of the subject property located at 210 SE 3rd Avenue from Low Density (LD) to Commercial Core (CC) and rezone the subject property from Single-Family Residential (R-1-A) to Central Business District (CBD), finding that the amendment and approval thereof is not consistent with the Always Delray 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 mailed on September 2, 2022 to:
- Osceola Park

X Public Notice was posted at the property on Friday, September 2, 2022, at least 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius on Friday, September 2, 2022, 10 days prior to the meeting.

X Public Notice was published in the newspaper on Friday, September 2, 2022, 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website on Friday, September 2, 2022, 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall on Friday, September 2, 2022, at least 10 calendar days prior to the meeting.

X Agenda was posted on Friday, September 2, 2022, at least five working days prior to meeting.