



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

The North Edge

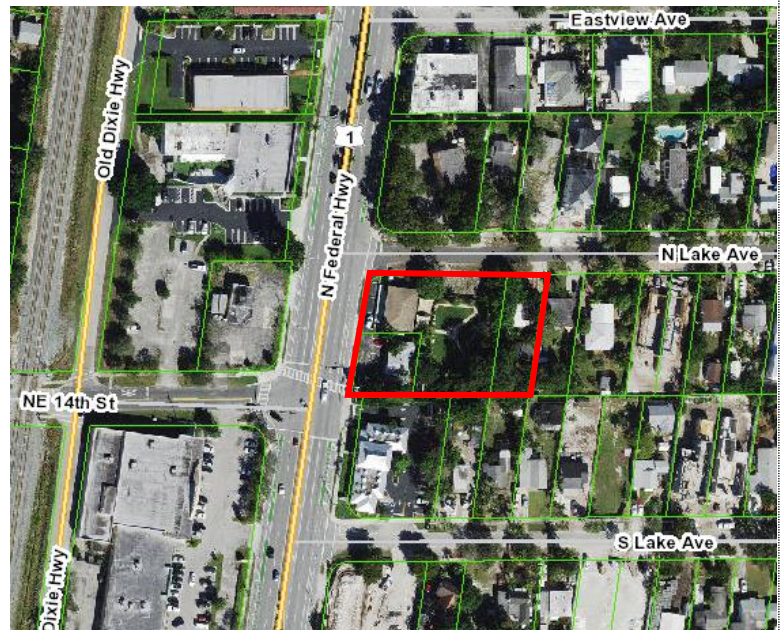
Meeting	File No.	Application Type
November 14, 2022	2022-239-USE-PZB	Conditional Use, Free Standing Multiple-Family Housing
Property Owner	Applicant	Authorized Agent
Lake Ave Federal LLC	Lake Ave Federal LLC	Jeffrey Costello, JC Planning Solutions LLC

Request

Provide a recommendation to the City Commission regarding a Conditional Use request to allow free standing multiple-family housing at 1405 N. Federal Highway and 716 N Lake Avenue within the General Commercial (GC) zoning district.

Background Information

The subject property consists of three parcels totaling 0.82 acres located at the southeast corner of the intersection of North Federal Highway and North Lake Avenue: 1405 N. Federal Highway (PCN 12-43-46-09-11-004-0012 and 12-43-46-09-11-004-0011) and 716 N. Lake Avenue. The property is zoned General Commercial (GC) with an underlying Land Use Map (LUM) designation of General Commercial (GC). GC land use has a maximum standard density of 12 dwelling units per acre. Per Section 4.4.9(A), GC zoning generally is intended to provide *basic regulations for small parcels which are best suited for general retail and office uses*, but free standing multiple-family housing is allowed subject to the requirements of RM zoning, except for height and setbacks established in Section 4.4.9.



The property's development history is outlined below:

- The existing structures were constructed in 1926 (716 N Lake Avenue primary structure and accessory dwelling unit), 1947 (south structure, 1405 N. Federal Highway) and 1959 (north structure, 1405 N. Federal Highway).
- In 1988, the subject property was annexed into the City of Delray Beach from unincorporated Palm Beach County and was assigned a land use designation of General Commercial (GC) and a zoning district of General Commercial (GC) at the time of annexation.
- Since annexation, the structures on the subject property have contained varying primary uses including retail and personal services (north structure) and residential (west and south structures).
- In July 2022, the applicant submitted a request for conditional use approval for a free standing multiple-family housing development (subject request) described in further detail in subsequent sections.

Project Planner:
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Attachments:

- Resolution No.190-22
- Property Survey
- Site Plan
- Architectural Rendering and Elevations
- Landscape Plan

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A corrective Land Use Map Amendment is being processed concurrently with the subject request for the parcel identified as 716 N Lake Avenue. The Land Use Designation is inaccurately reflected on the LUM as Medium Density (MD) whereas the correct Land Use Designation is General Commercial (GC), which is consistent with the existing zoning designation of General Commercial (GC). This is a result of a data conversion error from 2017 that was discovered during a pre-application meeting for this request. The subject request will be considered after the corrective Land Use Map amendment has been processed and approved, pursuant to the schedule outlined below.

- Corrective LUMA: City Commission (1st Reading), November 1, 2022
- Conditional Use: Planning and Zoning Board, November 14, 2022
- Corrective LUMA: City Commission 2nd Reading), November 15, 2022
- Conditional Use: Consideration at City Commission, January 10, 2023 (if PZB recommends approval)

Project Description

Pursuant to LDR Section 4.4.9(D)(10), free standing multiple-family housing is only permissible within the GC zoning district if conditional use approval is granted. Accordingly, the applicant is requesting Conditional Use approval for multiple-family housing on the subject property.

The development as proposed will include nine units of varying sizes and bedroom mix - including 2-bedroom, 3-bedroom, and 4-bedroom units ranging from 2,000 sq. ft. to 3,080 sq. ft., a ground floor parking structure with 26 parking spaces, designated storage areas for individual units, and a detached amenity building including a fitness area and pool. The proposed primary structure is three-stories (35 feet) in height and approximately 41,000 sq. ft. in gross building area. The development is subject to the requirements of the RM district (**LDR Section 4.4.6**, including the performance standards in Subsection (I)), except for setback and height requirements which are pursuant to the requirements of the GC district (**LDR Section 4.4.9**). The project also proposes a perimeter masonry wall around the majority of the property boundary that is further supplemented by perimeter landscaping.



Final approval of a Class V site plan by the Site Plan Review and Appearance Board (SPRAB) for the multiple-family development is required if the requested conditional use is approved.

Review and Analysis

Pursuant to **LDR Section 2.4.5(E)(1), Rule**, the City Commission, by motion, after review and recommendation for approval by the Planning and Zoning Board may approve or reject a request for a Conditional Use.

If the Board provides a recommendation of approval, the request will be scheduled for an upcoming City Commission meeting. However, if the Board does not provide a recommendation of approval, the application would not move forward with the review process to the City Commission unless an appeal is submitted by the applicant. If there are concerns with the request, conditions may be imposed in accordance with the following provisions:

LDR Section 2.4.5(E)(4), Establishment of a Conditional Use: Conditions, conditions may be imposed pursuant to Section 2.4.4(C). In addition, limitations on the hours of operation and/or the longevity of the use may be imposed.

LDR Section 2.4.4(C), Imposition of conditions


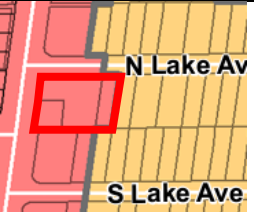
In granting approval to any development application, the granting body may impose whatever conditions it deems necessary in order to insure:

- The compatibility of the use with nearby existing and proposed uses.
- Concurrency.
- Consistency with objectives and policies of the Comprehensive Plan.
- The fulfillment of requirements of these Regulations which should have or could have been fulfilled prior to the approval action but which were not, due to conditions beyond the control of the applicant.
- The fulfillment of requirements of these Regulations which could have been fulfilled prior but remain outstanding; thus, providing that they will be accommodated in a later stage of processing.

LDR Section 2.4.5 (E)(5), Establishment of a Conditional Use: Findings, in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
- Hinder development or redevelopment of nearby properties.

The Board's recommendation to the City Commission must consider whether the default development standards for the project are sufficient to prevent a significantly detrimental effect upon the stability of the adjacent neighborhood, or hinder development or redevelopment of nearby properties. If the default development standards are insufficient, conditions may be imposed to mitigate any anticipated detrimental impacts with respect to the specific context of the surrounding area. Staff does not find any obvious areas of concern with the request, given that the adjacent residential neighborhood has a land use designation and zoning district that support multiple-family housing development. The adjacent zoning, land use, and existing uses are outlined in the table below:

Adjacent Zoning, Land Use, and Use					
	Zoning Designation	Land Use	Use	Land Use Map	Zoning Map
North	GC and MD	GC and Transitional	Retail		
South	GC and MD	GC	Bank		
East	Low Density Residential (RL)	MD	Single-Family Residential		
West	GC	GC	Retail		

The adjacent zoning district does carry a lower density threshold of 3 - 6 dwelling units per acre (limiting the 12 dwelling unit per acre standard density of the underlying MD land use). The Board should evaluate whether the proposed density (11 du/acre) and massing of the structure (determined by the zoning regulations) is respectful to the context of the surrounding area or whether it represents a significant departure in intensity and scale of the surrounding neighborhood. The applicable zoning regulations are discussed in detail below.

LDR Section 3.1.1, Required Findings. *Prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the following four areas*

(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.*

As noted, the subject property is zoned GC, which is a preferred zoning district under the GC land use designation. Whereas the GC zoning district typically requires that residential uses are developed in tandem with commercial uses as vertical mixed-use structures with commercial uses on the ground floor and oriented towards the frontage, the district does permit the establishment of free standing multiple-family housing on a case-by-case basis through the conditional use process. As part of the conditional use review, the Board shall find that all applicable LDR requirements are satisfied.

(B) Concurrence. *Concurrence 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, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

Schools. The applicant will be required to obtain concurrence approval through the School Board of Palm Beach County as part of the Class V Site Plan application. Any fees due will be at the discretion of the School Board.

Water and Sewer. The site is currently serviced by sanitary sewer and water connection from North Lake Avenue. The residential development will utilize the existing sewer and water lines within the right of way, providing expanded connections wherever necessary.

Solid Waste. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2054.

Drainage. Drainage will be accommodated on site. All stormwater runoff will be collected and contained within the subject property and directed to city stormwater pipes through a utility drainage system as approved by the discretion of the City Engineer and Utility Plans Reviewer.

Traffic. The submitted Traffic Statement indicates the proposed 9-unit residential development will result in an anticipated net reduction of 38 daily trips. The applicant has provided a TPS letter indicating the project meets the Palm Beach County requirements for traffic performance standards.

(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.*

The following Comprehensive Plan objectives and policies are relevant to the Conditional Use request:

Neighborhoods, Districts, and Corridors Element

Objective NDC 1.3 *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 1.1.2 *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide: Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods. Uses that meet the daily needs of residents. Public open spaces that are safe and attractive.*

Policy NDC 1.3.10 *Use the General Commercial land use designation to accommodate a wide range of non-residential and mixed-use development, and limited stand-alone residential development, along major corridors and in certain districts in the city.*

The comprehensive plan allows for the provision of limited free standing multiple-family housing development within the General Commercial Land Use designation, and further emphasis that similar uses, intensities, heights, and development patterns should orient towards each other when new developments are proposed. Furthermore, potential impact on residential neighborhoods should be carefully considered. The Board should consider whether this specific proposal fits within the context of the adjacent area in an appropriate way such that it represents a good opportunity to introduce limited stand-alone multiple-family housing into the commercial corridor. Moreover, consideration should be made as to whether the scope and scale of the proposed project is appropriate in relation to the residential neighborhood to the east. It is important to note that, while there are a number of single-family homes dispersed throughout the adjacent neighborhood, the underlying land use and zoning district supports and encourages multiple-family housing development.

Policy NDC 2.7.9 *Review and update the North Federal Highway Redevelopment Plan to include new development and other improvements that have occurred since the Plan's adoption in 1999, and re-evaluate the vision for the North Federal Highway Redevelopment Area; new development shall comply with the provisions of the adopted Plan until an updated plan is adopted.*

The redevelopment plan is somewhat vague with respect to specific guidance as it relates to prospective multiple-family housing development within the GC district. However, conclusions can be made that the plan is generally in support of and encourages multiple-family housing development within the redevelopment plan study area. The plan specifically states that stabilization and preservation of existing residential neighborhoods is a priority; and that new development, redevelopment, and removal of blighted properties are potential strategies to achieve neighborhood stabilization. While the existing structures on the subject property are not blighted, the redevelopment plan is receptive to the idea of new development, and furthermore, the plan states that a healthy mix of residential and commercial uses should be promoted within the study area.

Housing Element

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.*

Policy HOU 5.1.1 *Encourage construction of mixed-income housing developments to avoid a concentration of affordable units in one development or neighborhood and to provide a full range of residential unit types and prices.*

The Comprehensive Plan emphasizes the importance of encouraging the growth of the city's housing stock in a way that ensures the development and availability of accessible housing that meets the needs of a diverse range of household types. While this project is proposing to develop at the maximum allowable standard density (12 dwelling units per acre, or 9 units), there are no workforce housing or density incentives available at this location to allow the property to develop in the incentive density range of 12-30 dwelling units per acre in GC land use. If incentives were available to developers of small infill projects (which are the predominant residential development proposed in Delray) to increase the feasibility of providing residential units at diverse price points – rather than solely a luxury typology, it would be more reasonable to request the provision of workforce housing. While the applicant is providing a range of bedroom types from 2-4 bedrooms, the Board should consider whether the proposed project meets the intent of the Housing Element of the Comprehensive Plan and whether there is opportunity to ensure a greater diversity of unit types at varying income levels, given the absence of revitalization incentives available for this location. Conditions may be imposed on the conditional use approval, if deemed appropriate, but the City may not require affordable housing where it is not required as part of an incentive program, and any approval or denial must be based on the required findings in LDR Section 2.4.5 (E)(5).

(D) Compliance with the LDRs. *Whenever an item is identified elsewhere in the LDR, 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 Class V site plan must be reviewed and approved by SPRAB. The site plan will be evaluated against these standards. While site design elements are subject to SPRAB, not PZB consideration, the LDR provides specific regulations for multiple-family housing development to ensure quality developments that are consistent and compatible with the surrounding area that the Board can consider. Free standing multiple-family housing is permissible subject to approval of a conditional use within the GC district, and any free standing

multiple-family housing project proposals shall comply with all applicable regulations RM zoning - except for setback and height requirements. As part of the Class V site plan, the applicant has also elected to propose a side interior setback adjacent to the neighboring lower density RL zoning district of 16 feet, which exceeds the minimum RL side setback of 15 feet and is significantly greater than the minimum required side interior setback in the GC district that the project is subject to (0 to ten feet, depending on site conditions). Similarly, the applicant has proposed a height of 35 feet, rather than the maximum height in GC zoning (48 feet). The applicant is not obligated to maintain the proposed setback or height, unless the Board conditions it as part of the conditional use approval, finding that doing so would meet the approval criteria in **LDR Section 2.4.4(C), Imposition of conditions**.

It is also worth noting that the performance standards in **LDR Section 4.4.6(I)** indicate that multiple-family housing developments shall at minimum include 1-bedroom, 2-bedroom, and 3-bedroom units when additional density above 6 du/acre is requested. While the applicant is not providing any 1-bedroom units, Section 4.4.6(I) acknowledges that some performance standards may not apply to small infill residential projects. The Board should consider whether the omission of 1-bedroom units still meets the intent of the performance standards listed in LDR Section 4.6.6, and whether or not the project is considered a small, infill type residential project.

Board Action Options

- A. Move to recommend **approval** to the City Commission of a Conditional Use request for **The North Edge** to allow free standing multiple-family housing on the subject property addressed as 1405 N. Federal Highway and 716 N. Lake Avenue, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan.
- B. Move to recommend **approval** to the City Commission of a Conditional Use request for **The North Edge** to allow free standing multiple-family housing on the subject property addressed as 1405 N. Federal Highway and 716 N. Lake Avenue, finding that the request is consistent with the Comprehensive Plan and meets the criteria in the Land Development Regulations, **subject to conditions**.
- C. Move to **deny** the Conditional Use request for **The North Edge** to allow free standing multiple-family housing on the property addressed as 1405 N. Federal Highway and 716 N. Lake Avenue, finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria in the Land Development Regulations.
- D. **Continue with direction.**

Public and Courtesy Notices

X Courtesy Notices were provided to the following neighborhood associations:

- La Hacienda
- North Palm Trail

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

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

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

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

X Agenda was posted at least 5 working days prior to meeting.