



## Cover Memorandum/Staff Report

**File #:** 19-873

**Agenda Date:** 9/5/2019

**Item #:** 9.C.

**TO:** Mayor and Commissioners  
**FROM:** Steve Tobias, Interim Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** September 5, 2019

ORDINANCE NO. 31-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH BY REZONING AND RE-DESIGNATING LAND PRESENTLY ZONED MULTIPLE FAMILY RESIDENTIAL - MEDIUM DENSITY (RM) DISTRICT TO CENTRAL BUSINESS (CBD) DISTRICT, WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT; FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6<sup>TH</sup> AVENUE, 40 SOUTHWEST 6<sup>TH</sup> AVENUE, 46 SOUTHWEST 6<sup>TH</sup> AVENUE, 48 SOUTHWEST 6<sup>TH</sup> AVENUE, 41 SOUTHWEST 7<sup>TH</sup> AVENUE, AND 37 SOUTHWEST 7<sup>TH</sup> AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017" AND FURTHER AMENDING THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT AND REGULATING MAPS IN SECTION 4.4.13, LAND DEVELOPMENT REGULATIONS ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

**Recommended Action:**

Review and Consider Ordinance No. 31-19 on First Reading.

**Background:**

On August 21, 2018, the City of Delray Beach Community Redevelopment Agency (CRA) issued a Request for Proposals (RFP) in search of qualified proposals for the redevelopment of 7.4 acres on the south side of West Atlantic Avenue spanning from SW 6<sup>th</sup> Avenue to SW 9<sup>th</sup> Avenue. The 7.4-acre site, which is largely zoned CBD, includes four CRA-owned parcels zoned RM. To facilitate the redevelopment, a request by the selected respondent, BH-3, has been submitted to rezone these four parcels from RM to CBD; to ensure compatibility, the future land use designation would also need to be amended from MD to CC. The application indicates that the redevelopment, currently called "Frog Alley", is envisioned as a mixed-use environment with a combination of residential units, a grocery store, health and wellness facilities, financial institutions, family entertainment venues, and associated parking.

Two additional parcels, which are not CRA-owned, are included in the Future Land Use Map (FLUM) amendment and rezoning to provide contiguity of the proposed future land use designation and zoning district. The applicant has secured owners' consent forms for these change from the property owners of these parcels, which are located at 41 SW 7th Avenue and 40 SW 6th Avenue. Initially, the application also included the church located on the northeast corner of SW 1st Street and SW 7th Avenue; however, since the property owner has not signed consent documents and the current use as a church is not expressly permitted in the proposed zoning district (Central Business

District), this parcel is no longer included in the proposed FLUM amendment and rezoning.

The rezoning from RM to CBD will allow for a potential increase in residential density in this location. The RM designation allows residential density of 5-12 dwelling units per acre (du/ac), which can be increased to 18-24 du/ac in the Southwest Neighborhood Overlay District and Infill Workforce Housing Area. The CBD zoning district allow the density to increase from 12 du/ac to 30 du/ac for the subject parcels, through an incentive program for the provision of workforce housing. It is important to note that both Comprehensive Plan policies and land development regulations do not allow commercial uses in this location.

Pursuant to LDR Section 2.4.5(D)(1), the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board. The submitted application complies with the submittal requirements in LDR Section 2.4.3.

LDR Section 2.4.5(D)(2) outlines the procedures for a zoning change, which includes the standard application items in Section 2.4.3. Valid reasons for approving a change in zoning, pursuant to LDR Section 2.4.5(D)(2) are:

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

The requested rezoning is to be considered under the third criteria. The CRA Plan, West Atlantic Avenue Redevelopment Plan, and Southwest Area Neighborhood Plan support higher density, intensity, and workforce / family housing for this area. The extension of the CBD zoning has the potential to be catalytic to the area and contribute to the revitalization of the West Atlantic Neighborhood by providing neighborhood amenities and additional housing opportunities for diverse incomes. The proposed FLUM designation of CC supports a greater intensity of development consistent with these plans, and the density of the proposed CBD zoning designation is compatible with and supports the land use designation and the provision of workforce units.

Pursuant to LDR Section 3.2.2, Standards for Rezoning Actions, rezoning requests must meet five standards, which are described below as they relate to the proposed rezoning under consideration.

- (A) The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied 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.

Not applicable. The subject properties are considered "Needing Rehabilitation."

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

Not applicable. Auto dealerships are not a proposed use.

- (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 CBD zoning is a form-based code and does not permit strip-type commercial development; neighborhood-serving commercial services and residential uses will ultimately result in a node with cohesive site design that addresses the relationship between the residential and non-residential components of the development.

- (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.*

Under the proposed CC future land use designation, the proposed CBD zoning district will be compatible. The existing zoning and uses surrounding the proposed development are as follows:

North: CBD            Single-family residential/vacant

South: RM          Church/single-family residential

East:            RM            Multi-family/Single-family residential/vacant

West:           RM            Single-family/vacant

The requested rezoning from RM to CBD will result in compatibility among existing and future land uses with the surrounding area. The CBD zoning uses form-based techniques to ensure compatible transitions in building scale and intensity. There are several examples throughout Delray Beach where CBD zoned property directly abuts single family and multiple family residential areas, notably in the northwest area. The CBD zoning requires additional setbacks from single-family houses and districts. Regulations limit commercial uses from extending further than 150' from West Atlantic Avenue, which will establish a largely multi-family infill pattern, consistent with the surrounding land use designations. The CBD zoning uses open space and architectural regulations to provide for a high quality urban environment.

- (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.*

Not applicable. The proposed development is not within the coastal planning area.

As part of the rezoning, the City must amend the Zoning Map, and the West Atlantic Neighborhood Sub-district Map and Regulating Plan in Figure 4.4.13-3 and Figure 4.4.13- 6 in Section 4.4.13 Central Business (CBD) District of the Land Development Regulations. The ordinance includes these amendments.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

The Second Reading and Public Hearing for this Ordinance is scheduled for October 15, 2019.