



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING & ZONING BOARD STAFF REPORT

### Lake Ida Park Addition (City-Owned Property)

Ordinance No. 27-19, Annexation; Ordinance No. 28-19, Future Land Use Map Amendment; Ordinance No. 29-19, Rezoning

Meeting	File No.	Application Type
August 19, 2019	2019-267-ANX-CCA	Annexation
	2019-270-FLM-CCA	Future Land Use Map Amendment
	2019-269-REZ-CCA	Rezoning

### Request

Provide a recommendation to the City Commission on a City-initiated Voluntary Annexation of a 4.06 acre parcel from Palm Beach County, a Future Land Use Map amendment from Palm Beach County Medium Residential (MR-5) to City of Delray Beach Open Space (OS) and amendment to the Planning Area Map, and rezoning from Palm Beach County Agricultural Residential (AR) to City of Delray Beach Open Space and Recreation (OSR).

### Background Information

The subject site (PCN 00434605000007160), outlined in red, is an approximately 4.06-acre City-owned parcel that has not been developed and remains in a natural state. The property adjoins the City's municipal boundary along the southern lot line, abutting another City-owned open space parcel. The property adjoins the I-95 Interstate along a portion of the western edge. The remaining western portion and northern property lines adjoin a privately-owned parcel located within the City of Boynton Beach. The parcel does not have vehicular access from a public right-of-way; limited access for maintenance is available from I-95 and from the Lake Ida waterway.



On July 21, 2015, Palm Beach County deeded the subject parcel and the parcel immediately to the south that is located within City boundaries (PCN 12434608000003070) over to the City of Delray with restrictive provisions. The deed was granted upon the expressed condition that the properties be used as open green space or for passive park purposes, which may include accessory structures and improvements, such as pedestrian pathways, gazebos, shade structures, and temporary docking facilities. In the event the City allows the property to be developed and/or used for any other purpose, title of the property shall revert to the County.

The intention of the City is to maintain both properties as open space/ passive recreation as restricted in the deed.

### Review and Analysis

#### Annexation

#### Florida Statutes Governing Voluntary Annexations

Section 171.044 of the Florida Statutes indicates that "the owner or owners of real properties in an unincorporated area of the County, which is contiguous to a municipality and reasonably compact, may petition the governing body of said municipality that said property be annexed to the municipality." A petition for voluntary annexation was submitted to the County on July 16, 2016 by the City of Delray

Beach, the property owner of record. The parcel is contiguous to the City of Delray Beach along the southern property line, which extends approximately 516 feet.

Pursuant to F.S. 171.044 (5) "land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves." F.S. 171.031, Definitions – (13) defines "Enclave" as "(a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality."

The subject property is contiguous to the City of Delray Beach to the south, and is surrounded on three sides by municipalities: City of Boynton Beach to the north and west, City of Delray Beach to the south, and Palm Beach County to the east. Therefore, granting this request will not create an enclave.

#### **Land Development Regulations Governing Annexations**

Pursuant to the Land Development Regulations 2.4.5 (C)(1), "the owner of land may seek the annexation of contiguous property, under his ownership" pursuant to Florida Statutes.

The voluntary annexation petition was submitted to the County on July 16, 2019 by the City of Delray Beach, property owner, in accordance with Chapter 171, Florida Statutes, and the subject property is contiguous to the City of Delray Beach as noted above.

#### **Comprehensive Plan Regulations Governing Annexation**

Upon adoption of the 1989 Comprehensive Plan, the City's "reserve annexation area" was replaced by the boundaries of its "Official Planning Area". The Official Planning Area is the area upon which most calculations and projections in the City's Comprehensive Plan are predicated upon. It is also considered the City's ultimate boundaries. The Planning Area is specifically delineated on Map #1, Future Land Use Element (attached). The subject property is not located within the Planning Area; however, this amendment will include the subject parcel within the Planning Area.

Future Land Use Element Policy B-3.5, states that the City should "accommodate individual voluntary annexations as the opportunities arise."

#### **Provision of Services**

When annexation of property occurs, services are to be provided in a manner which is consistent with services provided to other similar properties already in the City (Future Land Use Element Policy B-3.1). The provision of services, with respect to public health, safety, and welfare, will be provided as is for the adjacent parcel to the south (City-owned with the same FLUM and Zoning designations as the proposed property), as well as other open space/passive recreation parcels within the City boundaries. As the parcel is to be maintained as open space/passive recreation, full service to the site is not planned nor required.

Emergency services are provided through a mutual aid agreement with the neighboring municipalities, including Boynton Beach.

Police: The annexation of this site will not require additional staffing to facilitate service.

Fire and Emergency Services: The annexation of this parcel will not require additional staffing to facilitate service to this site.

#### **Financial Impacts**

As the property is currently undeveloped and will be used for its intended purpose as open greenspace/ passive park, there is no tax revenue fiscal impact.

#### **Future Land Use Map Amendment**

Pursuant to **LDR Section 2.4.5(A)**, Comprehensive Plan amendments must follow the procedures outlined in the Florida Statutes. The FLUM amendment is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

#### **Findings**

Pursuant to LDR Section 3.1.1, Required Findings, "findings shall be made by the body which has the authority to approve or deny the development application." These findings relate to the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

### **Future Land Use Map**

The subject property is not currently within the City's Planning Area. By amending the Future Land Use Map and incorporating the property into the municipal boundary, this amendment also updates and expands the City's Planning Area. The current Future Land Use Designation is Palm Beach County Medium Residential (MR-5). The requested Future Land Use Map Designation is City Open Space (OS). The Future Land Use Element of the Comprehensive Plan, Table L-6, identifies which zoning districts are consistent with the FLUM designations. Pursuant to Table L-6, the proposed Open Space (OS) FLUM designation and the proposed Open Space and Recreation (OSR) Zoning District are consistent.

### **Consistency**

A finding of Consistency requires that the requested designation is consistent with Goals, Objectives, and Policies of the most recently adopted Comprehensive Plan. An amendment to the Comprehensive Plan (Always Delray) is currently under review by City Commission, but the application is subject to the plan that was adopted at the time of review. The applicable Objectives and Policies from the plan adopted at time of review are provided below.

Open Space and Recreation Element Objective B-2 *Natural areas shall be protected and preserved through the following policies.*

Open Space and Recreation Element Policy B-2.2 *The Open Space (OS) and Open Space and Recreation (OSR) Zone Districts of the Land Development Regulations shall be applied to "Recreation", "Open Space" and "Conservation" parcels. The OS Zone shall provide for distinct standards applicable to open space lands and to conservation lands.*

The subject property is vacant and intended for open space/passive recreation purposes. Furthermore the property is deed restricted to such limited uses.

Future Land Use Element Policy A-1.7: *Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:*

- Demonstrated Need -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.*

Not applicable to the subject parcel as it is being annexed into the City of Delray Beach with an Open Space FLUM designation.

- Consistency -- The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan.*

Open Space and Recreation Element Objective B-2 *Natural areas shall be protected and preserved through the following policies:*

Open Space and Recreation Element Policy B-2.2 *The Open Space (OS) and Open Space and Recreation (OSR) Zone Districts of the Land Development Regulations shall be applied to "Recreation", "Open Space" and "Conservation" parcels. The OS Zone shall provide for distinct standards applicable to open space lands and to conservation lands.*

Open Space and passive recreation uses are supported in the Comprehensive Plan. Annexation and assignment of the appropriate FLUM and corresponding Zoning designation for this parcel's restrictive use are consistent with City directive and the purpose for City ownership as an asset to the City of Delray Beach.

It is important to note that, while not yet formally adopted, the City's Always Delray Comprehensive Plan update includes new policies related to parks and open space, including new policies that establish 5.7% as the minimum amount of the Planning Area to be dedicated to publicly owned parks. The approval of this annexation, land use, and zoning procedure will add 4.06± to the City's inventory.

- ❑ *Concurrency -- Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

The property was previously subject to Palm Beach County land use and zoning at a much higher intensity allowing residential development. The proposed designation is for open space or passive park uses. Any development of the site as a passive park with limited uses would meet concurrency.

Traffic. It has been determined by the City that a traffic study is not necessary because vehicular traffic access does not exist and is not planned to be provided to the site.

Schools. The proposed land use and zoning is for passive park/open space. In addition, a deed restriction is in place for the property that prevents the site from becoming a residential development. Therefore, no negative impact on the public school system will result from this change.

Utilities. The Comprehensive Plan Future Land Use Element, Policy B-3.2, indicates water and sewer facilities may be provided to unincorporated areas by the City, upon demand, along with an annexation agreement. Availability of utilities is discussed below; however, it is important to note there is no demand for services on this site as it will remain as passive open space in perpetuity.

Water. The City's Water Atlas and the survey indicates water is not provided to the site by the City. The adjoining parcel located to the north is serviced by the City of Boynton Beach via a private force main. The parcel adjoining on the south side (also owned by the City of Delray Beach) does not have water service. Water service is not needed as the site will remain undeveloped.

Sewer. The City's Sewer Atlas indicates that sewer service is not provided to the site by the City. Sewer service is not needed as the site will remain undeveloped, not just due to the land use and zoning designations, but also through the limitations of the deed restriction.

Solid Waste. The Solid Waste Authority (SWA) is the waste collector for both the City and the County. This site is vacant and will remain undeveloped; waste collection is not needed. Access to the site is provided via limited access from I-95 and Lake Ida for maintenance of the vegetation.

Drainage. The site will remain undeveloped.

- ❑ *Compatibility -- The requested designation will be compatible with existing and future land uses of the surrounding area.*

The proposed land use on the site is less intense than the abutting properties. Under the proposed Open Space (OS) Future Land Use, Open Space and Recreation (OSR) zoning is considered a compatible zoning district. Furthermore, the proposed zoning is compatible with the existing use. The subject property does not possess any specific characteristics that would be negatively impacted by the adoption of the OS designation. The adjacent FLUM designations are indicated below:

Land Use Map Designations	
North	City of Boynton Beach Low Density Residential (LDR), 7.5 units per acre
South	City of Delray Beach Open Space (OS)

East	Unincorporated Palm Beach County Medium Density Residential (MR-5), 5 units per acre
West	I-95 Right-Of-Way City of Boynton Beach Medium Density Residential (MEDR), 11 units per acre

The proposed open space/passive park use is consistent with the OS FLUM designation, and consistent with the surrounding FLUM designations.

- Compliance -- Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.*

The intended use of the property is open space or passive park. Any placement of amenities on the site will necessitate an application to be processed by Development Services that will be subject to all applicable provisions and requirements of the Land Development Regulations.

### Rezoning Amendment

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 these requirements.

#### Findings | LDR Section 2.4.5(D)

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 application fulfills the last criteria. The change of circumstance (annexation from Palm Beach County and FLUM amendment) necessitates the adoption of City zoning. Additionally, concurrent with annexation, an initial zoning designation must be applied to the property consistent with the requested FLUM designation, and match the intensity of the proposed land use. The proposed zoning is less intense than the existing Palm Beach County zoning, and the intended use is compatible with the surrounding parcel uses.

#### 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. [Amd. Ord. 13-99 3/16/99]*

Given that the subject property is located in unincorporated Palm Beach County, a category on the Residential Neighborhood Categorization Map has not been assigned. This standard is not applicable as an Open Space Recreation (OSR) zoning designation is requested.

- (B) *Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95. [Amd. Ord. 13-99 3/16/99]*

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. [Amd. Ord. 13-99 3/16/99]

Not applicable.

(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. [Amd. Ord. 13-99 3/16/99]

Under the proposed Open Space land use, Open Space and Recreation (OSR) is identified as a compatible zoning district. Furthermore, the proposed zoning is compatible and appropriate for the existing natural area. The current land use designations and zoning districts surrounding the proposed development are as follows:

	Zoning District	Future Land Use	Existing Use
<b>North</b>	City of Boynton Beach R1AA Single Family, 5.5 units per acre	City of Boynton Beach Low Density Residential, (LDR), 7.5 units per acre	Warehouse Single Family Residence
<b>South</b>	City of Delray Beach Open Space and Recreation (OSR)	City of Delray Beach Open Space (OS)	Vacant and adjacent to Lake Worth Drainage District L-30 Canal
<b>East</b>	Palm Beach County Agricultural Residential (AR)	Palm Beach County Medium Residential (MR-5)	Lake Ida
<b>West</b>	City of Boynton Beach I-95 Right-Of-Way	City of Boynton Beach Medium Density Residential (MEDR), 11 units per acre	I-95

The proposed zoning district is the same as assigned to the parcel to the south. A portion of the western edge adjoins the I-95 Interstate. The proposed open space designation is compatible with the residential uses allowed by the zoning designations of the adjacent parcel to the north and west. It is important to note, the parcel to the east, though designated for Agriculture land, is comprised of a water body (Lake Ida).

(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. [Amd. Ord. 13-99 3/16/99]

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

### Review By Others

The subject property is not within a redevelopment area or overlay.

**Palm Beach County Notice:** On July 16, 2019, the Palm Beach County Planning Division was notified of the intent to annex this property. No objection has been received from Palm Beach County to date.

**Interlocal Plan Amendment Review Committee (IPARC):** On August 6, 2019, notice of the Future Land Use Amendment was provided to the IPARC, which distributes the information to adjacent municipalities. No opposition has been received to date.

The item is anticipated to go before the City Commission on October 1, 2019 for first reading.

## Board Action Options

### Annexation

- A. Move a recommendation of **approval** of Ordinance No. 27-19, a City-initiated request to annex 4.06 acres from Palm Beach County, finding that the annexation and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **denial** of Ordinance No. 27-19, a City-initiated request to annex 4.06 acres from Palm Beach County, finding that the annexation and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- C. Continue With Direction.

### Future Land Use

- A. Move a recommendation of **approval** of Ordinance No. 28-19, a City-initiated request for a Future Land Use Map amendment from Palm Beach County Medium Residential (MR-5) to City of Delray Beach Open Space (OS), finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **denial** of Ordinance No. 28-19, a City-initiated request for a Future Land Use Map amendment from Palm Beach County Medium Residential (MR-5) to City of Delray Beach Open Space (OS), finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- C. Continue With Direction.

### Rezoning

- A. Move a recommendation of **approval** of Ordinance No. 29-19, a City-initiated request to rezone from Palm Beach County Agricultural Residential (AR) to City of Delray Beach Open Space and Recreation (OSR), finding that the rezoning and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **denial** of Ordinance No. 29-19, a City-initiated request to rezone from Palm Beach County General Agricultural Residential (AR) to City of Delray Beach Open Space and Recreation (OSR) finding that the rezoning and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- C. Continue With Direction.

## Public and Courtesy Notices

Courtesy Notices are not applicable to this request.

Courtesy Notice was provided to the City of Boynton Beach.

Public Notices are not required for this request.

Public Notice was posted at the property 7 calendar days prior to the meeting, on August 12, 2019.

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

Public Notice was mailed to the adjacent property owners 20 days prior to the meeting.

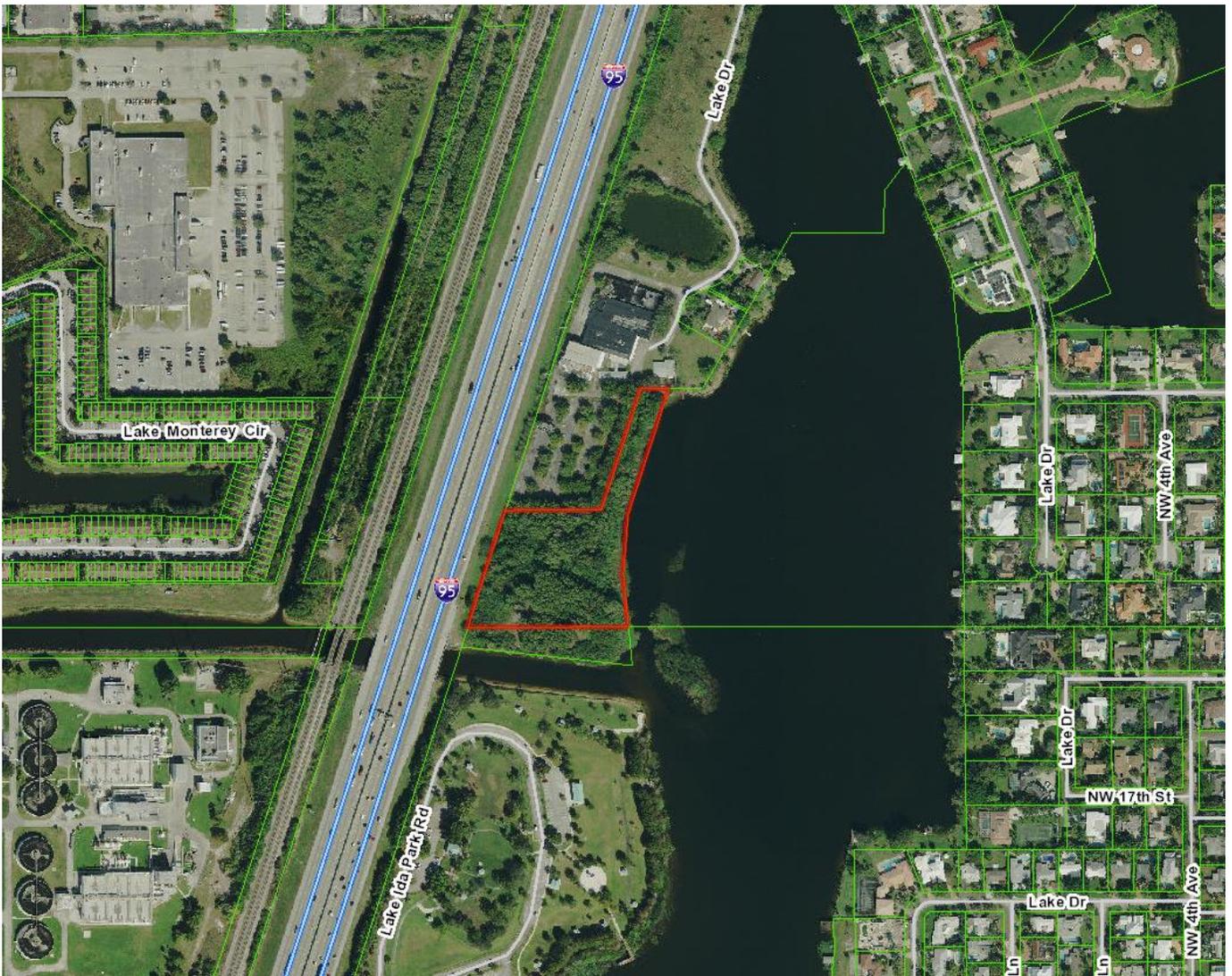
Public Notice was published in the Sun Sentinel August 9, 2019, 10 calendar days prior to the meeting.

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

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

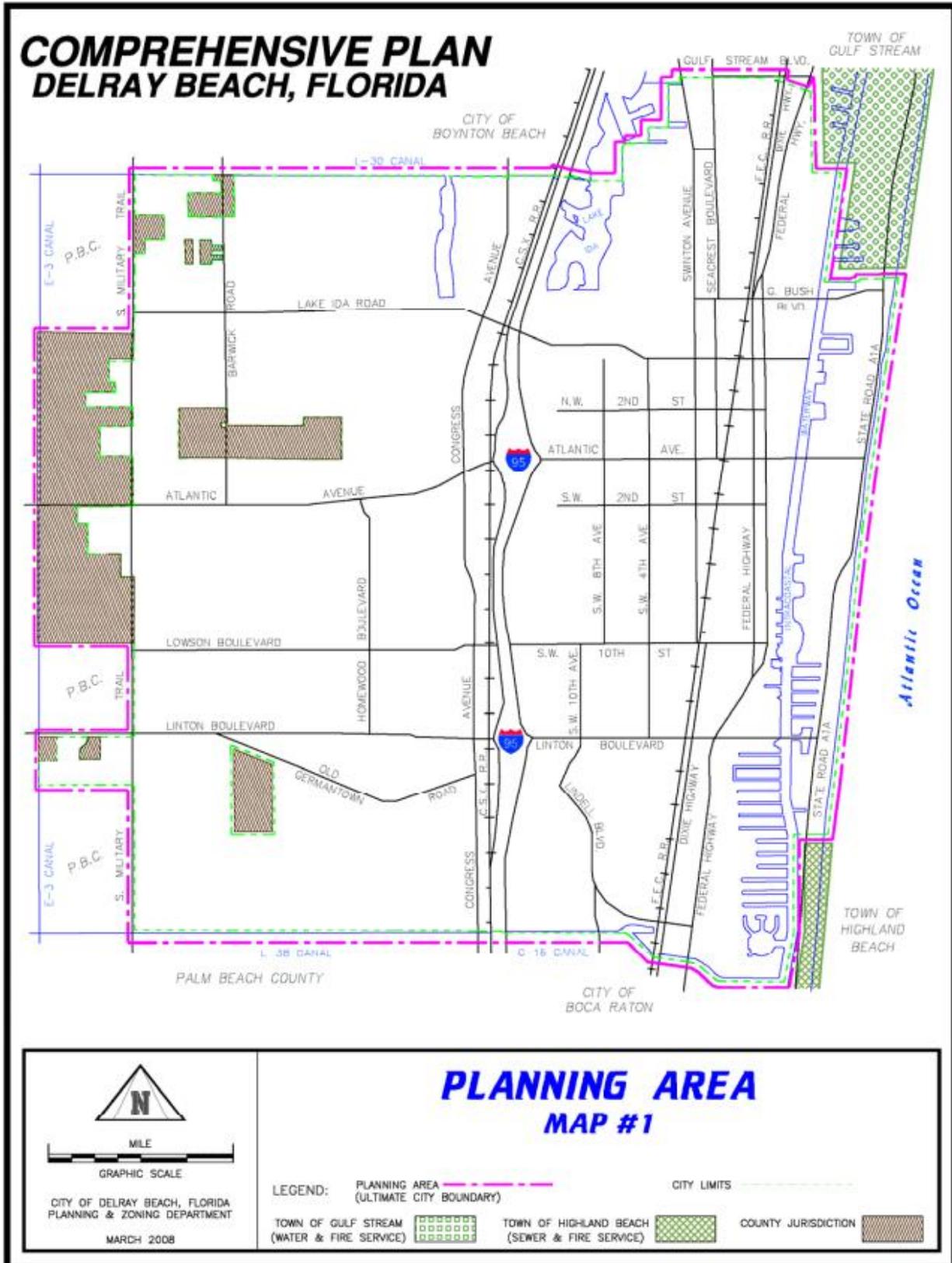
Agenda was posted on Monday, August 10, 2019, at least 5 working days prior to meeting.

### Aerial View of Lake Ida Park Addition

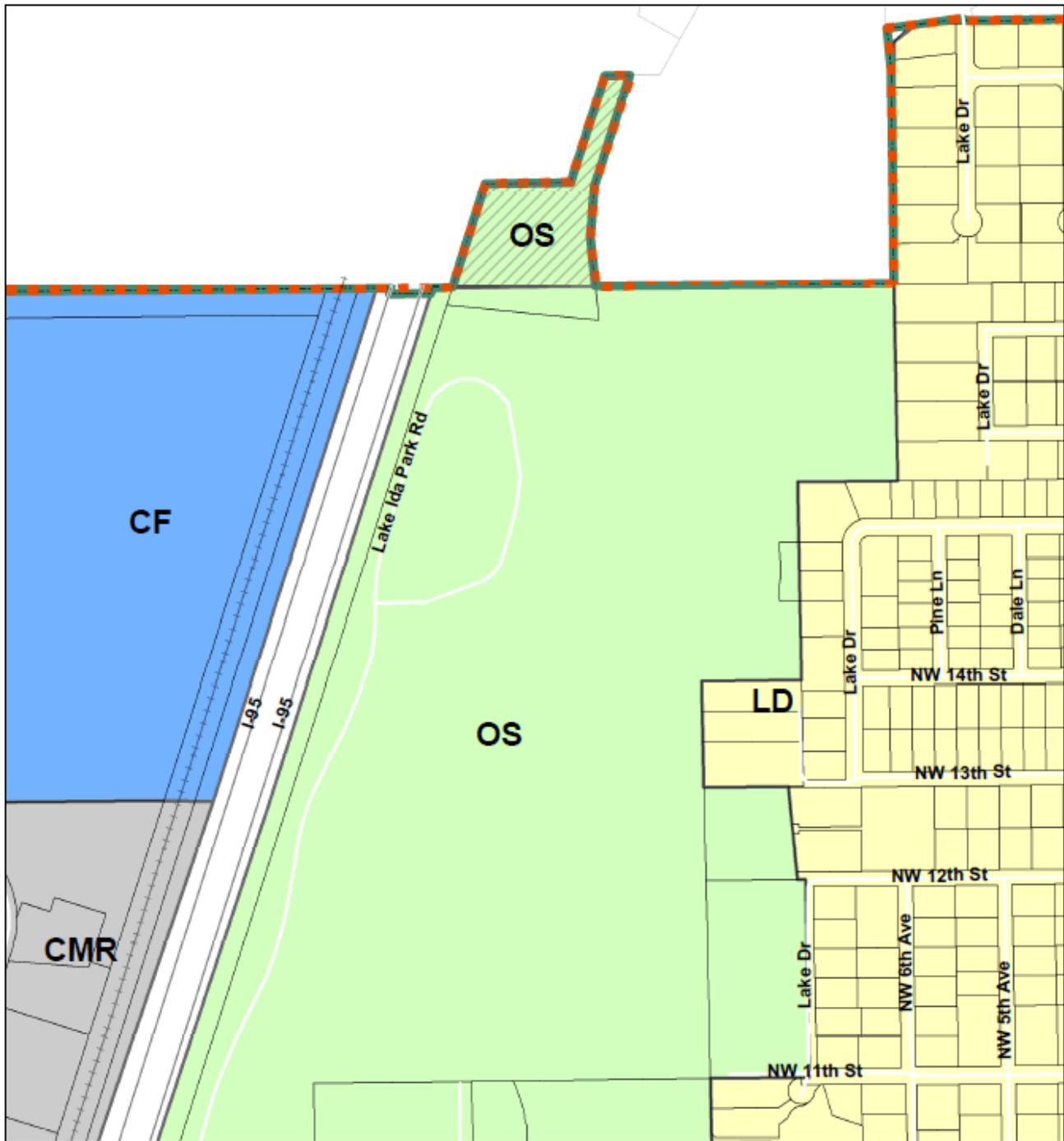


\* Subject Parcel Outlined in Red

# Planning Area Map



## Proposed Future Land Use Map and Planning Area Boundary Update





**Future Land Use Designation (Proposed)**  
**Lake Ida Park Addition**



LD - LOW DENSITY, 0-5 UNITS PER ACRE

CMR - COMMERCE

CF - COMMUNITY FACILITIES

OS - OPEN SPACE

Subject Parcel

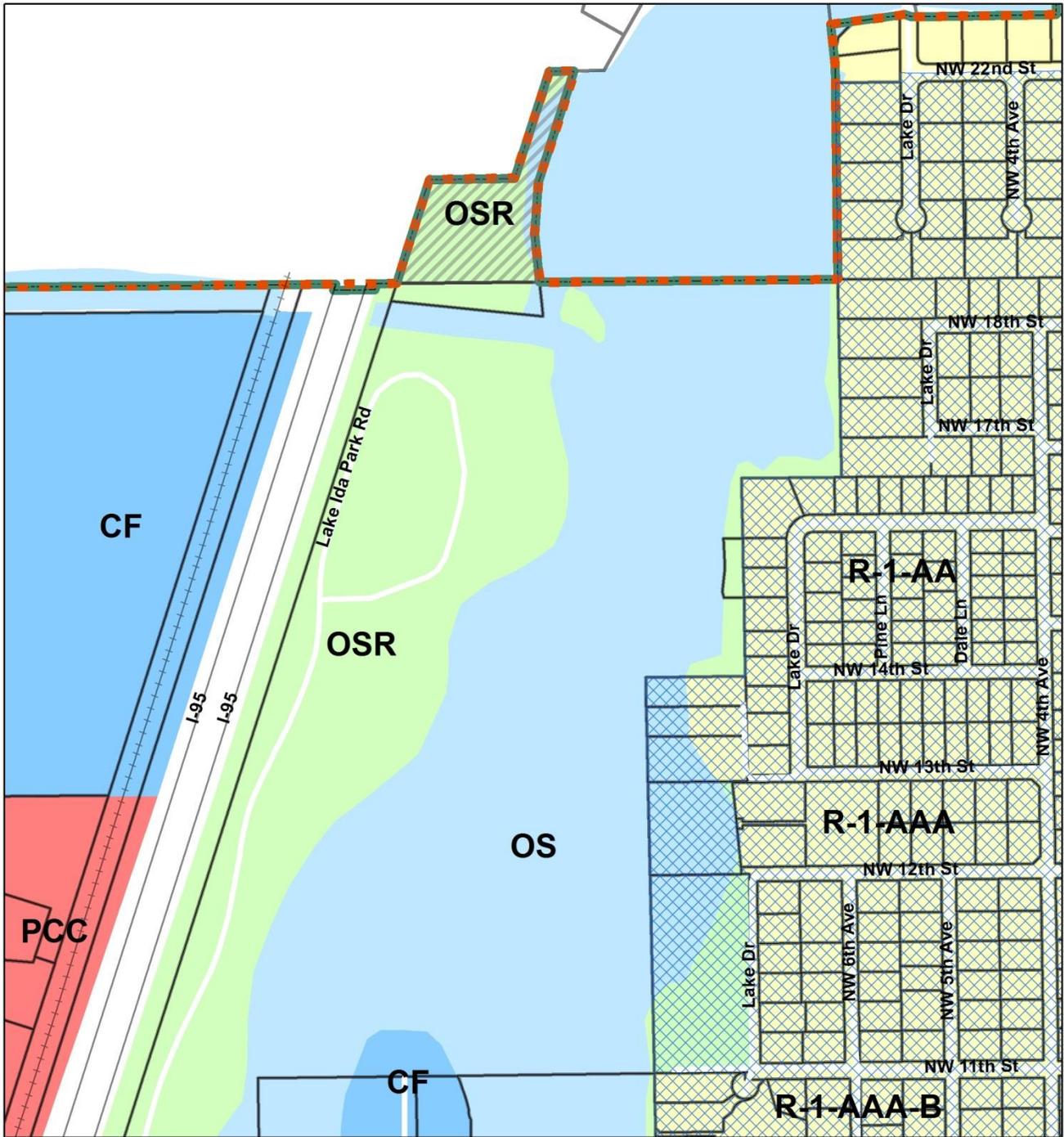
Municipal City Limits

Planning Area

0 150 300  
 Feet  
 Development Services  
 Department

Date: 7/18/2019 Document Path: S:\Planning & Zoning\DBMS\GIS\GIS Projects\2019\2019\_0411\_CBD\_Expansion\01\_Mxd\00434605000007160\_FLUM\_Proposed\_85\_by\_11\_.mxd

## Proposed Zoning Map





**Zoning District (Proposed)  
Lake Ida Park Addition**

- R-1-AAA - SINGLE FAMILY RESIDENTIAL
- R-1-AA - SINGLE FAMILY RESIDENTIAL
- CF - COMMUNITY FACILITIES
- PCC - PLANNED COMMERCE CENTER
- OSR - OPEN SPACE & RECREATION

- Municipal City Limits
- Planning Area
- Subject Parcel
- Lake Ida



0 150 300  
Feet

Development Services  
Department