



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD STAFF REPORT

Delray Swan

Meeting	File No.	Application Type
February 22, 2021	2021-052-FLUM 2021-051-REZ	Land Use Map Amendment Rezoning
Applicant	Owner	Authorized Agent
Clifford Rosen, Delray Swan Holdings, LLC	HMH I, LLC; and Aglantine LaFond and Alies LaFond; and Marie Desrosiers and Onance Seme; and Avilus Pierre; and Jean B. Seme and Marie K. Seme; and Cinelia Joseph; and TAH 2017 2 BORROWER LLC; and Richard Reading; and Rodney Karstetter	Jeff Costello, AICP, FRA-RA, JC Planning Solutions

Request

Provide a recommendation to the City Commission on Ordinance Nos. 09-21 and 10-21, privately-initiated requests for a Land Use Map Amendment (LUMA) from Medium Density (MD) to Commercial Core (CC) and rezoning from Medium Density Residential (RM) to Central Business District (CBD) for the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue 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 properties.

Background Information



The subject properties (215, 219, 223, 227, 231, 237, 243, 251, and 253 SE 1st Avenue) are located along the east side of SE 1st Avenue, between SE 2nd and 3rd Streets, west of the FEC railroad. The nine parcels, which are located within the Osceola Park Redevelopment Plan area, currently contain a mix of single-family residences and duplexes. The properties, which total 1.41 acres, have a land use designation of MD and are zoned RM. RM allows a density up to 12 du/ac. The properties are also located within an identified Workforce Housing Infill Area, which allows for a density increase up to 18 du/ac based on the provision of workforce housing units. Until the citywide rezonings in 1990, the properties were zoned RM-10; the numerical suffix limited the density to 10 du/ac.

Under the RM zoning district, with the MD Land Use designation, a total of 16 units could be built at a density of 12 du/ac. Utilization of the additional density available within the Infill Workforce Housing Area would yield a maximum of 25 units at 18 du/ac.

The LDRs describe the "Purpose and Intent" of the RM zoning district as one that "provides a residential zoning district with flexible densities having a base of six units per acre and a maximum of 12 units per acre...based upon [the development's] ability to achieve certain performance standards which are intended to mitigate the impacts

Project Planner:

Rebekah Dasari, Senior Planner;
dasari@mydelraybeach.com
561.243.7044

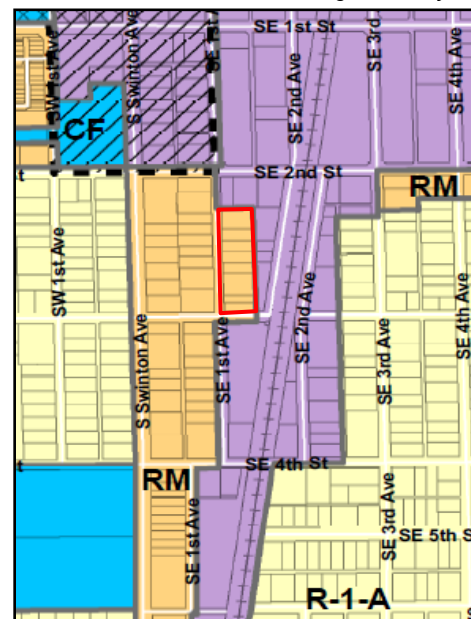
Attachments:

- Applicant Justification Statement
- Ordinance No. 09-21, Land Use Map Amendment
- Ordinance No. 10-21, Rezoning
- Existing and Proposed Land Use and Zoning
- Railroad Corridor Sub-district Existing & Proposed Regulating Plan

of the increased density and ensure that the project is compatible with surrounding land uses...provides for implementation of those objectives and policies contained within the Housing Element of the Comprehensive Plan which call for accommodating a variety of housing types.” Objective NDC 1.2, Residential Land Use Designations, of the Always Delray Comprehensive Plan states that the Low Density Residential and Medium Density Residential land use designations should be applied “to maintain and enhance the City’s established neighborhood characteristics, while supporting new and revitalized housing that compliments the desired development pattern and intensity.”

Surrounding Area

The other properties in the subject block (properties to the north facing SE 2nd ST and those to the east facing SE 2nd AVE) are not under consideration nor part of the subject request. These properties are currently zoned CBD (non-hatched purple on the map to the right) and are located within the southern Railroad Corridor Sub-district. These mixed use properties have always been zoned consistently with one another. They were previously zoned Specialized Commercial (SC) until the zoning was changed to General Commercial (GC) in 1990. In 1995, they were rezoned to Central Business District – Railroad Corridor (CBD-RC), when the new district was established, and then to CBD in 2015. The rezoning to CBD placed the properties within the newly created Railroad Corridor Sub-district of the CBD. The block across the street from the subject properties is also zoned RM with an MD land use designation and consists of a mix of one and two-story single-family residences, duplexes, and multi-family residences.



Description of Proposal

The applicant is requesting a LUMA from MD to CC and a rezoning from RM to CBD for the nine parcels located at 215, 219, 223, 227, 231, 237, 243, 251, and 253 SE 1st Avenue. The associated LDR Amendment is necessitated by the rezoning to include the properties on the CBD Railroad Corridor Sub-district Regulating Plan.

CBD Zoning and CC Land Use

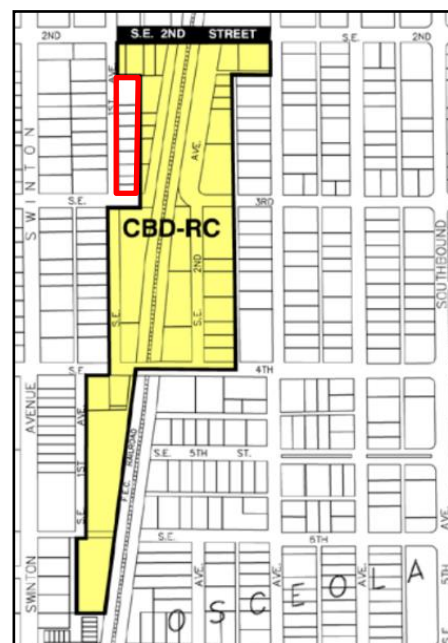
The requested CC land use has a standard density of 12-30 du / acre, and a revitalization incentive of 30-100 du / acre in targeted areas. Development intensity is regulated by a maximum Floor Area Ratio (FAR) of 3.0 for all properties with a CC land use designation. The CBD zoning, which is the preferred zoning district for the CC land use designation, 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”.

Railroad Corridor Sub-district

The CBD zoning district is comprised of four sub-districts; the subject properties are adjacent to the southern Railroad Corridor Sub-district. Regulations in the Railroad Corridor Sub-district of the CBD “are 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.”

Redevelopment

The application indicates an intent to redevelop both the subject properties as well as abutting properties to the east and along SE 2nd Street (already zoned CBD) “to accommodate a Florida Vernacular style, four-story mixed-use building.” The applicant’s noted development intentions include ground floor commercial uses along both SE 2nd Street and SE 2nd Avenue, and residential uses along SE 1st Avenue and within the upper stories. A development request has not been submitted; any architectural renderings presented by the applicant should not be considered in the deliberations of the request and the LUMA and rezoning should be evaluated based on the applicable criteria in the LDRs.



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 LUM is adopted as part of the Comprehensive Plan. Therefore, the LUM amendment is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

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.

(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.

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 of MD lists RM zoning as a preferred implementing zoning district. The CBD zoning designation is not listed as an implementing zoning district for the MD land use designation. Therefore, the applicant has requested both a land use designation change and a rezoning to meet the consistency requirement.

The table below provides a comparison of density and intensity limitations for both the MD and CC land use designations. The proposed land use map amendment will increase the potential building scale and the density on the parcels.

Land Use Designation	Density (Standard dwelling units/acre)	Intensity (Maximum Floor Area Ratio)
RM	5 – 12	---
CC	12 – 30	3.0

The NDC Policies listed below describe the intent 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 difference 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.

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.

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.

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 1.3.5 *Use the Commercial Core land use designation to stimulate the vitality and economic growth of the city while simultaneously enhancing and preserving the cultural and historic downtown area.*

Policy NDC 1.3.6 *Allow a maximum floor area ratio of 3.0 and a maximum density of 12 dwelling units per acre east of the Intracoastal Waterway, and a standard density of 12-30 dwelling units per acre with a revitalization/incentive density of 30-100 dwelling units per acre for the Commercial Core land use designation; specific standards in the Land Development Regulations adjust density and intensity based on compatibility, scale, character, adopted Redevelopment or Neighborhood Master Plans, or workforce housing incentives.*

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. This designation is applied to the Community's downtown area. It includes a substantial portion of the Transportation Concurrency Exception Area described in the Future Land Use Element and graphically shown in Map 9. The Commercial Core designation accommodates a variety of uses including commercial and office development; residential land use upper story apartments; older homes renovated to accommodate office use; and uses such as "bed and breakfast" establishment; and industrial/commerce type uses.*

Given that the subject properties are located within proximity to the downtown and contain older structures that have not maximized the development potential for their sites, it is likely that they will be redeveloped. The request must be weighed with the direction provided by Policy NDC 1.1.2, 1.1.3, and 1.1.14 regarding appropriate transitions and similar uses and development patterns facing each other. Further, the increase in density will likely have an impact on the adjacent RM-zoned properties, where the established development pattern is of a much smaller scale and lower densities, including single family houses. The graphic illustrates the appropriate transitions from more intense development to lower scale neighborhoods described in the Comprehensive Plan policies, by maintaining similar building intensity and scale facing each other across streets, with transitions occurring along the backs or sides of properties, as opposed to the front (facing each other). This development typology, which can currently be achieved under the existing land use designation and zoning district, maintains neighborhood character and provides predictability for all properties along a street. Transitioning uses in this manner particularly lessens the potential impacts of more intense building scale and commercial uses on small scale residential development. Under the proposed changes, the use of the front yards and driveways of the residential properties across the street will be negatively impacted.



Additionally, the applicant does not indicate whether SE 1st Avenue will be designated as a CBD Primary or Secondary Street; SE 2nd Street is a designated Primary Street (shaded black on the Railroad Corridor Sub-district Regulating Plan). Primary Streets, which are intended to be superior pedestrian environments with active uses in the downtown, are held to higher standards regarding the location of certain uses, including parking and "back of house" uses, but will also orient the front of new potentially 54-foot tall development along the street with a maximum 15-foot setback. The northern portion of SE 1st Avenue, which is located within the Central Core Sub-district and across from the Old School Square Historic District, is designated as a Primary Street.

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 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.

Objective NDC 3.4, Land Use Map Amendments

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.

Policy NDC 3.4.2 Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation (See Table NDC-1).

Consistency with these policies is to be considered as part of this request, per Policy NDC 3.4.1. The applicant's narrative provides a review of Policy NDC 3.4.1 (see attachment).

In consideration of the required findings for Policy NDC 3.4.1, the Board must determine if the requested land use designation is consistent with those applicable goals, objectives, and policies of the Comprehensive Plan that are analyzed throughout the report. A review of concurrency is provided further in this report and the chart below provides an overview of the adjacent properties. A determination regarding compatibility with the land use designations of the surrounding area is required. While the CC land use designation strives to provide for adaptive-reuse, development, and redevelopment that preserves the downtown's historic moderate scale, the MD land use designation strives to maintain and enhance the City's established neighborhood characteristics, while supporting new and revitalized housing that compliments the desired development pattern and intensity.

Location	Development Type / Uses	Land Use Designation	Zoning District
North	Delray Mark Downtown condominium; warehouse	CC	CBD
South	Vacant	CC	CBD
East	Warehouse / storage	CC	CBD
West	Single-family and multi-family residential	MD	RM

(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. The applicant has provided a signed School Capacity Availability Determination (SCAD) letter from the School District of Palm Beach County. The District has determined that the proposed land use map amendment and rezoning request will not have a negative impact on the school system. 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 development has water and sewer service; the maximum development capacity for the requested amendment represents an increase. The Comprehensive Plan states that adequate water and sewer treatment capacity exists to meet the adopted LOS at the City's build-out population, based on the current LUM. A sanitary sewer line within the rear yard (north/south) serves the properties; sewer main upgrades and relocation will be necessary with the redevelopment of the properties. With the Class V Site Plan application, sewage calculations will be provided based on the specific development proposal.

Solid Waste. Multi-family units with 5 or more units are calculated to generate 0.52 tons of solid waste per unit per year. With the land use providing a maximum development potential of 141 units, this represents 73.32 tons of solid waste per year and an increase of 55.41 tons from the existing units which generate 17.91 tons per year (1.99 tons per unit, per year x 9 units = 17.91 tons). 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. Within this area of the city, drainage is usually accommodated on-site via exfiltration trench systems or swale retention areas. While no problems are anticipated with obtaining South Florida Water Management District permits, technical comments and issues pertaining to the drainage will be addressed during the and site plan process. 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. If the CBD zoning is approved, the provision of a Civic Open Space will be required pursuant to the requirements of the LDRs. If the properties are redeveloped under the current zoning, a minimum of 25% non-vehicular open space will be required; depending on the number of units proposed, additional recreational amenities could be required. Park impact fees are assessed at \$500 per dwelling unit for all residential development and is collected prior to issuance of the building permit.

Traffic. The submitted traffic study, dated January 28, 2021, considers both the maximum land use impact potential and the anticipated impact from the intended development. The chart below reflects both scenarios.

	Daily Traffic Generation	AM Peak Hour	PM Peak Hour
Existing Land Use	242 trips per day	-	-
Proposed Land Use (Maximum Potential)	5,506 trips per day	107 pht* (67 In, 40, Out)	502 pht (241 In, 261, Out)
Proposed Land Use (Proposed Potential)	2,517 trips per day	37 pht (23 In, 14 Out)	217 pht (104 In, 113 Out)
* Peak hour traffic			

While the net new trips based on the intended development scenario is an increase of 2,275 trips per day, once the land use and zoning changes, the actual impact could be much higher at 5,506 trips per day. Once the land use changes, any redevelopment that meets the code, including a fully commercial proposal could be submitted with different transportation impacts. A traffic impact study will also be required at site plan application, for both City and Palm Beach County review. If approved, certain improvements may be required as part of the site plan review to implement specific policies of the Mobility Element to reduce vehicle dependence and accommodate pedestrians and bicycles.

NOTE: The subject properties are located outside (south) of the adopted Transportation Concurrency Exception Area (TCEA).

(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.*

Comprehensive Plan Neighborhoods, Districts, and Corridors Element

Policy NDC 2.8.3 *Continue to utilize workforce housing programs and incentives, such as but not limited to, increased density and smaller lot sizes where appropriate and compatible in the Land Development Code to encourage the provision of workforce housing in the city.*

Policy NDC 2.7.16 *Continue to support the variety of commercial and light industrial uses on land with mixed-use land use designations in Osceola Park.*

Policy NDC 2.7.17 *Continue to support the accommodation of compatible housing types within Osceola Park based on the recommendations and overall intent of the adopted Osceola Park 2019 Redevelopment Plan Update.*

Policy NDC 2.7.18 *Consider the vision and strategies in the Osceola Park Redevelopment Plan Update (2019) when assessing rezoning requests, reviewing development applications, and planning public infrastructure projects.*

Housing Element

Policy HOU 1.1.4 *Encourage walking, bicycling and transit use to benefit people of all ages, as a means to encourage social interaction and provide a sense of place in new developments and neighborhood improvements.*

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.*

Policy HOU 6.1.2 *Encourage income diversity by requiring a mix of unit types in new development.*

Policy HOU 6.1.4 *Implement incentives in the Land Development Regulations, such as increases in density, to establish workforce housing units within targeted areas.*

Policy HOU 6.4.10 *Encourage a shared responsibility for the private sector to address workforce housing needs by offering incentives.*

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.*

Both the existing land use and zoning offer revitalization incentive density with the inclusion of affordable housing. The subject properties are part of an area designated as “Needing Revitalization” and are located in the **Infill Workforce Housing Area**. The Infill Workforce Housing Area allows a revitalization incentive density of 18 du / acre (up to 25 dwelling units) applied through a tiered bonus system. The tiered bonus system awards units based on the approved income levels (very low, low, or moderate) for the development (eg; very low-income = 4 bonus units per workforce units provided, low-income = 3 bonus units per workforce unit provided, and moderate-income = 2 bonus units per workforce unit provided). The proposed LUMA and rezoning will increase density and development potential on the site, eliminating the revitalization incentive that requires the provision of workforce housing. The Board should consider if the elimination of this community benefit which also supports many goals, objectives, and policies of the Comprehensive Plan is advisable.

NOTE: The applicant has simultaneously submitted a request to amend the LDRs to allow up to 65 du / acre in the Railroad Corridor Sub-district for properties within a block from the FEC railroad when associated with a 20 percent workforce housing allocation for an equal distribution of very low-, low-, and moderate-income levels. Two other proposed amendments to the density within the Railroad Corridor Sub-district have been submitted to the City. One amendment requests a revitalization incentive of 70 du/acre to include a minimum of 20 percent of the total density as Workforce Housing; this amendment was approved at First Reading on February 9, 2021 and is anticipated to be heard at a Public Hearing for Second Reading at the City Commission meeting on March 2, 2021. The request by the applicant to amend the LDRs to provide a bonus density of 65 du/acre will be brought before PZB after a determination has been made on these other two requests. The subject requests should be considered on the maximum potential the land use designation and zoning afford, rather than any pending development requests.

There is a mix of land use and zoning within the Osceola Park Redevelopment Plan area, with higher density and intensity land uses located around the edge of the neighborhood. The proposed LUMA from MD to CC would reduce the MD land use within Osceola Park from 14.2 percent of the total area to 13.2 percent of the total. CC land use would increase from 16.5 percent of the total area to 17.4 percent. The Plan expressly prohibits rezoning of properties with LD land use, but it does not address land use map amendments for properties with MD or CC land use and RM or CBD zoning. Although the comprehensive plan requires ongoing support of the existing commercial and light industrial uses, much of the area is located within a wellfield protection area, limiting the types of commercial and industrial development that can take place. Because the applicant intends to redevelop the properties as a multi-family residential development, including the parcels to the east with existing light industrial uses, the board should consider if the potential **reduction of potential industrial uses** in the area conflicts with Policy NDC 2.7.16, or if it supports the accommodation of compatible housing types as required by Policy NDC 2.7.17.

While the policies under Objective HOU 2.3 do not speak to land use map amendments or rezonings as strategies to encourage revitalization, the strategies do involve activities such as code enforcement and crime prevention, capital investments in infrastructure improvements, and bike and pedestrian improvements to improve walkability.

(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 redevelopment application has not been submitted for review; however, once received, it will be processed by Development Services, and the proposed development will be subject to all applicable provisions and requirements of the Land Development Regulations, particularly those applicable to the Railroad Corridor Sub-district. The subject parcels are also subject to the Osceola Park Redevelopment Plan update.

Rezoning

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. **LDR Section 2.4.5(D)(2)** outlines the procedures for a zoning change. Valid reasons for approving a change in zoning 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 applicant justification statement states that the request is most applicable to the second and third criterion (above). Central Business District is the preferred zoning district for CC land use, which is established to “*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*”. If approved, the requested land use map amendment and rezoning would change the properties from compatible land use and zoning (MD and RM) to compatible land use and zoning (CC and CBD).

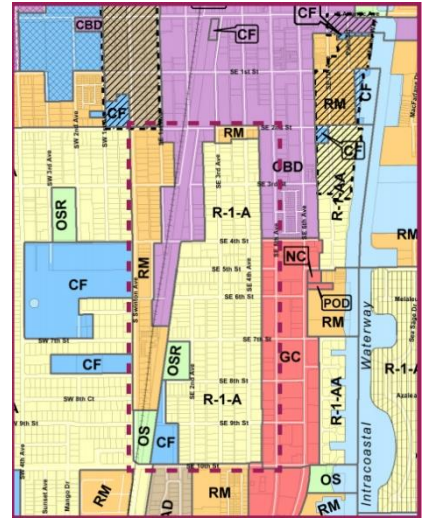
It should be noted, however, that a rezoning of these properties from RM to CBD would further the encroachment of higher density and intensity development into neighborhoods of lower density and a different scale. The properties to the west and south are surrounded almost exclusively by single-family and low-rise multi-family development, and the properties immediately to the north are three-story residential and single-story commercial. An important consideration is whether the development intensity and density of the CBD to the north, south, and east renders the current RM zoning inappropriate for these properties, making CBD a more appropriate zoning district for the property. Although both RM and CBD have regulations that lessen the impact of height on surrounding properties, CBD represents a significant height and density increase with a maximum 3.0 FAR from RM zoning, which may have a negative impact on properties to the west of the subject property.

Pursuant to **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. 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 most restrictive residential zoning district given the current development patterns and lot sizes is the existing zoning (RM). Both the existing RM zoning and the proposed CBD zoning have regulations that provide transitions between different development patterns. RM zoning, however, inherently provides more protections by requiring developments that exceed six dwelling units per acre to adhere to additional performance standards in Section 4.4.6(l). The performance standards relate to traffic circulation, building placement, building setbacks and landscaping when adjacent to a lower density zoning, varied streetscape and building design, diverse unit types, protection of natural areas, and transit access.

The subject properties are in the Delray Beach Community Redevelopment Agency (DBCRA) redevelopment area Sub-Area 7 (map at right). The development of the subject properties is guided by both the DBCRA Redevelopment Plan and the Osceola Park Redevelopment Plan. (The properties are not part of the Osceola Park Neighborhood Association, which only includes property to the east of the FEC railroad.) To preserve the character of the area, the Osceola Park Redevelopment Plan expressly discourages land use changes and rezoning of properties with LD land use and single family zoning, but it does not address the rezoning of properties with CBD or RM zoning.



- (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. This property is located east of I-95, and neither the existing RM zoning nor the requested CBD zoning allows auto dealerships.

- (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 request is to rezone nine properties to CBD along local roads (non-arterial); the CBD is a mixed-use zoning district and Form-based Code that does not allow strip commercial development where mixed-use developments are supported. However, the Board should consider if a “compatible transition” to the adjacent neighborhood is achievable through the rezoning, in accordance with Policy NDC 1.1.2.

- (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 CC designation is implemented by the CBD zoning designations, which uses form-based code techniques and sub-district standards that strive to customize a downtown development pattern that is consistent with the area. The subject properties are surrounded by the MD and CC land use designations, RM and CBD zoning districts, and a variety of residential and commercial uses (see chart provided under Land Use Map Amendment review). The allowed uses and use types, which include a variety of commercial uses, will significantly change in contrast to those allowed by the RM zoning district. The FAR resulting from the new land use designation, which is a maximum of 3.0, will allow a more intense development than possible under the MD land use designation, where intensity is not regulated; the MD land use designation is limited by maximum density and subject to the building envelope limitations allowed by the RM zoning district. A comparison of the Development Standards in the existing and proposed zoning, and the protections afforded by each, is provided 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 / ac	<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	4 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
RM (Existing)	<u>Standard</u> - 5-12 du / acre <u>Revitalization**</u> - 12-24 du / ac	1 st & 2 nd Stories / 3 rd Story <u>Front</u> – 25/30 feet <u>Side Interior</u> – 15/30 feet <u>Side Street</u> – 25/30 feet <u>Rear</u> – 25 feet	35 feet	40 percent	25 percent, non-vehicular

The proposed land use map amendment and rezoning present a greater impact on the properties to the west, in particular, than the existing land use and zoning. Each zoning district provides measures to mitigate the impact of development on adjacent properties:

RM Zoning

- RM zoned properties that wish to develop a density greater than 6 du/acre must meet the performance criteria in LDR Section 4.4.6.
- RM zoning requires any portion of a building above the 2nd floor to have an increased setback. When the property is adjacent to a lower density zoning district, additional increases to the 3rd floor setback are required. Additional landscape screening is required in the perimeter buffer.

CBD Zoning

- CBD zoning requires increased setbacks above the third story.
- CBD zoning requires the provision of civic open space. For the subject properties, a single project would be subject to the highest dedication requirements.
- Railroad Corridor Sub-district of the CBD, has a maximum height is 54 feet and four stories.

The Board should consider whether the regulations in the proposed CBD zoning provide sufficient rules to mitigate any potential negative impact of the increased density, intensity and height afforded the site by 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.

Considerations

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

Land Use Amendment: MD to CC

- Whether the subject area should be considered part of downtown or the residential neighborhood.
- Whether the requested land use designation is consistent with the applicable goals, objectives, and policies of the Comprehensive Plan.
- Whether the potential reduction of industrial uses in the area conflicts with Policy NDC 2.7.16, or if it supports the accommodation of compatible housing types as required by Policy NDC 2.7.17.

Rezoning: RM to CBD

- Whether the proposed CBD zoning provides sufficient regulations to mitigate any negative impact of the increased density, intensity and height afforded the site by the rezoning.
- Whether the elimination of the density bonus in support of Workforce Housing is appropriate.
- Whether there has been a change in circumstances on the site or within the neighborhood that renders the RM zoning inappropriate.
- Whether a limited height area for CBD zoning would be appropriate at this location.
- Whether it is appropriate to designate SE 1st Avenue as a Primary Street within the Railroad Corridor Sub-district.

Review By Others

The subject properties are located within the Delray Beach Community Redevelopment Agency (DBCRA) area, Sub-Area 7 (Osceola Park Redevelopment Area). The DBCRA was notified of the request.

The first and second reading dates by the City Commission are to be determined.

Alternative Actions

Land Use Map Amendment

- A. Move a recommendation of **approval** of Ordinance No. 09-21, a privately-initiated request to amend the land use map from Medium Density (MD) to Commercial Core (CC) for the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue, 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 **approval as amended** of Ordinance No. 09-21, a privately-initiated request to amend the land use map from Medium Density (MD) to Commercial Core (CC) for the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue, 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.
- C. Move a recommendation of **denial** of Ordinance No. 09-21, a privately-initiated request to amend the land use map from Medium Density (MD) to Commercial Core (CC) for the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue, 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.
- D. **Continue With Direction.**

Rezoning

- A. Move a recommendation of **approval** of Ordinance No. 10-21, a privately-initiated request to rezone the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue from Medium Density Residential (RM) to Central Business District (CBD), 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 **approval as amended** of Ordinance No. 10-21, a privately-initiated request to rezone the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue from Medium Density Residential (RM) to Central Business District (CBD), 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.
- C. Move a recommendation of **denial** of Ordinance No. 10-21, a privately-initiated request to rezone the properties located at 215 SE 1st Avenue, 219 SE 1st Avenue, 223 SE 1st Avenue, 227 SE 1st Avenue, 231 SE 1st Avenue, 237 SE 1st Avenue, 243 SE 1st Avenue, 251 SE 1st Avenue, and 253 SE 1st Avenue from Medium Density Residential (RM) to Central Business District (CBD), 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.

D. Continue With Direction.

Public and Courtesy Notices

X Courtesy Notices were sent to the following:

- Osceola Park Neighborhood Association
- Chamber of Commerce

X Public Notice was posted at the property on Friday, February 12, 2021, at least 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius on Friday, February 12, 2021, 10 days prior to the meeting.

X Public Notice was published in the Sun Sentinel on Friday, February 12, 2021, 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website on Friday, February 12, 2021, 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall on Friday, February 12, 2021, 10 working days prior to the meeting.

X Agenda was posted on Friday, February 12, 2021, at least 5 working days prior to meeting.