



## Legislation Details (With Text)

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**On agenda:** 9/5/2019      **Final action:**

**Title:** ORDINANCE NO. 30-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING LAND APPROXIMATELY 0.957± ACRES IN SIZE FROM MEDIUM DENSITY (MD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6TH AVENUE, 40 SOUTHWEST 6TH AVENUE, 46 SOUTHWEST 6TH AVENUE, 48 SOUTHWEST 6TH AVENUE, 41 SOUTHWEST 7TH AVENUE, AND 37 SOUTHWEST 7TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Ordinance No. 30-19, 3. Ordinance No. 30-19 Current FLUM, 4. Ordinance No. 30-19 Proposed FLUM, 5. PZB Staff Report Frog Alley-BH3

Date	Ver.	Action By	Action	Result
9/5/2019	1	City Commission	approved on first reading	

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

ORDINANCE NO. 30-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING LAND APPROXIMATELY 0.957± ACRES IN SIZE FROM MEDIUM DENSITY (MD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, 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, 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. 30-19 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 FLUM amendment from MD to CC will allow for a potential increase in residential density in this location. The MD 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 CC designation and 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(A)**, Comprehensive Plan amendments must follow the procedures outlined in the Florida Statutes. The Future Land Use Map is adopted as part of the Comprehensive Plan. Therefore, 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.

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.

Pursuant to **LDR Section 3.1.1(A), Future 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 Future Land Use Map.”

The Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies which zoning districts are consistent with the Future Land Use Map designations. The proposed CC designation and the requested zoning designation of CBD are consistent with each other.

Pursuant to **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, including but not limited to the minimum amount of land required to accommodate the

medium population projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period, 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.

The MD designation currently assigned to the properties supported previous development patterns, but the adopted Delray Beach CRA Community Redevelopment Plan, West Atlantic Redevelopment Plan, and Southwest Area Neighborhood Redevelopment Plan support an increase in intensity as a way to provide neighborhood amenities and housing opportunities for diverse incomes. The change in land use supports the proposed mixed-use development and allows for higher density, which will also assist in the revitalization of the West Atlantic and Southwest Neighborhoods as envisioned in adopted plans.

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

Future Land Use Element Goal A: "Land within the Planning Area shall be developed or redeveloped to sustain and enhance the existing quality of life, compliment and be compatible with existing land use and result in a mixed, but predominately residential community with a balanced economic base and encourage accessible affordable everyday services."

The proposed future land use designation and zoning district allow for a mix of commercial and residential uses. The CC land use designation limits density to a level that is compatible with the surrounding land uses. It is important to note that the implementing zoning district for the CC land use, CBD, limits the extension of commercial uses south from West Atlantic Avenue into the neighborhood, which will result in residential redevelopment in this area. In addition, the CBD zoning uses form-based techniques to ensure compatibility among uses and provide for seamless transitions to a mix of uses.

Future Land Use Element Objective A-1: "Property shall be developed or redeveloped in a manner so that the future use and intensity is appropriate in terms of soil, topographic and other applicable physical considerations, is complimentary to adjacent land uses and fulfills remaining land use needs."

Development under the proposed CC land use designation will be consistent with the CC land use designation along the West Atlantic Avenue corridor. The requested land use on these parcels will not negatively impact the existing land uses in the area by maintaining a multi-family development pattern and encouraging the provision of workforce housing fulfilling a need within the West Atlantic Avenue neighborhood area.

Future Land Use Element, Goal Area C: Blighted areas of the city shall be redeveloped and renewed and shall be the major contributing areas to the renaissance of Delray Beach.

The subject properties are located in an area that has been classified as “blighted”, and the City and CRA have worked to improve the neighborhood through beautification projects, streetscape improvements, and new development. Changing the FLUM designation to CC and the zoning to CBD will provide more redevelopment opportunities, thereby improving the quality of life potential for the southwest neighborhood. Once the anticipated development is submitted, this Goal will be considered in the review to ensure the new development contributes to the neighborhood.

Future Land Use Element - Objective C-1: Blighted areas, as designated by the City Commission, shall receive special attention and assistance in renewal. This objective shall be implemented through the following policies and activities.

The subject properties are located in an identified blighted area of the CRA. The CRA has invested in infrastructure projects to improve the neighborhood. The requested FLUM designation will assist in encouraging private investment to create a quality mixed-use development within the West Atlantic Avenue neighborhood.

Future Land Use Element - Policy C-1.5: The following pertains to the redevelopment of the West Atlantic Avenue Area: this area extends in a corridor along Atlantic Avenue eastward from 1-95 to Swinton Avenue. The present land uses in this area include single family homes, duplexes, miniparks, commercial uses along Atlantic Avenue and N. W 5th Avenue and scattered vacant parcels. The West Atlantic Avenue Redevelopment Plan was adopted by the City Commission on July 11, 1995. The plan establishes Future Land Use Map designations, zonings, special development standards, and design guidelines for the Redevelopment Area. Future development in the area must be in accordance with the provisions of the redevelopment plan.

Prior to the adoption of the West Atlantic Avenue Redevelopment Plan in 1995, the West Atlantic Redevelopment Area was designated or known as "Redevelopment Area #1" on the City of Delray Beach Future Land Use Map. This designation was intended to serve as a temporary "holding" category, until such time that the Redevelopment Plan was completed, and permanent Future Land Use Map designations applied.

The West Atlantic Avenue Redevelopment Plan indicates that commercial structures will be limited to a depth of 150' from Atlantic Avenue, with accessory uses permitted within those areas beyond 150'. These limitations are provided for in the CBD land development regulations. The subject properties are located between approximately 384' and 530' of West Atlantic Avenue. These parcels are anticipated to be part of a larger project that has a contiguous footprint that extends north to West Atlantic Avenue. The proposed FLUM amendment and rezoning allow for more intense uses and larger development that will allow the CRA to continue with its mandate of stimulating commercial businesses in the West Atlantic Avenue area and improving the quality of life by providing a range of housing choices that appropriately transitions to the properties to the south.

Future Land Use Element Policy C-1. 7: The following pertains to redevelopment of the Southwest Neighborhood Area:

- This area is generally defined as the area bounded by West Atlantic Avenue on the north, SW 10th Street on the south, Interstate 95 on the west, and Swinton

Avenue on the east.

- Many of parcels in the area contain vacant or dilapidated structures, substandard parking and substandard landscaping. The area also contains residential areas identified as "Rehabilitation" on the Residential Neighborhood Categorization Map contained in the Housing Element.
- The Southwest Area Neighborhood Redevelopment Plan was adopted by the City Commission at its meeting of June 3, 2003. The Plan establishes a blueprint for the revitalization and stabilization of the area. The Southwest Area Neighborhood Redevelopment Plan is divided into five sub-areas based upon current and proposed land uses. The subareas serve to define potential boundaries for the phased implementation of the various plan components. Future development in the area must be in accordance with the provisions of the Redevelopment Plan.

The subject properties are located within the boundaries of the Southwest Area Neighborhood Redevelopment Plan area; the subject properties are within Sub-Area #5. Sub-Area #5 is identified as "infill area" where "infill development, housing rehabilitation, and code enforcement are the recommended tools to enhance and protect the stability of the neighborhoods in this area." Development potential of the individual vacant parcels may be limited due to their size; however, their aggregation with the other properties may further assist in achieving infill development to enhance the neighborhood. The proposed FLUM amendment and rezoning are associated with an overall development proposal that will provide a mix of both market rate and affordable housing units; office space; retail uses, including a neighborhood grocery store; and entertainment options. The subject parcels, due to their location in the neighborhood will provide for housing development opportunities.

Future Land Use Element Objective C-3: The Central Business District (CBD) and surrounding neighborhoods, including A-1-A, Seacrest and Swinton Avenue represents the essence of what is Delray Beach i.e. a "village by the sea". The continued revitalization of the CBD is essential to achieving the overall theme of the City's Comprehensive Plan by managing growth and preserving the charm.

The proposed FLUM and zoning designations will assist in furthering the continued revitalization efforts within the surrounding area, while striving to "preserve the charm". For this purpose, the CBD zoning district provides regulations specific to the West Atlantic Avenue Neighborhood Sub-district, which also compliment the recommendations and guidelines found in the applicable neighborhood plans, to ensure an overall compatible and appropriate development with respect to site design, intensity, and density.

Housing Element Goal Area "A." To maintain a safe and adequate supply of housing for all income levels and to preserve existing stable neighborhoods, stabilize and enhance neighborhoods that are in transition, and restore and rehabilitate neighborhoods that have declined.

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

Traffic. The applicant has provided a traffic study, dated June 27, 2019. The parcels are located within the City's Transportation Concurrency Exception Area (TCEA), which exempts development from complying with the Palm Beach County Traffic Performance Standards Ordinance, and allows the City to mitigate any impacts from the development through diverse strategies. The study evaluated the potential impact of the land use amendment for the full block (including the church property that is not included in the ordinance) based on the maximum intensity of the CC land use of a 3.0 FAR for commercial uses. Under this scenario, the daily trips will result in 85 more peak hour morning trips and 464 more peak hour evening trips. It is important to note, the performance standards and design guidelines in the Land Development Regulations limit the development permitted on these parcels to residential in a slightly higher density (30 du/ac) than permitted by the MD land use designation (up to 24 du/ac). Commercial development is only allowed within 150 feet of West Atlantic Avenue (with the exception of full-service grocery uses when appropriate transition is applied, and parking). The subject properties are more than 400 feet from Atlantic Avenue. Therefore, the impact of commercial development will be limited because the majority of the development on the subject parcels will be limited to residential uses.

Schools. The Palm Beach County School District must approve the development proposal for compliance with the adopted Level of Service for School Concurrency. Verification from the Palm Beach County School District was received on August 14, 2019.

Water and Sewer. Municipal water service is available via connections to an existing 8" water main located within SW 6th and 7<sup>th</sup> Avenues. Sewer service is available via connections to existing sanitary sewer lines within SW 6th and 7<sup>th</sup> Avenues. Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out. The Comprehensive Plan also 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 FLUM. The FLUM amendment to CC will not significantly increase the demand on these services, as the parcel is part of a larger development already accommodated for in the present capacity calculations, and commercial development potential on the two subject parcels is limited due to its distance from West Atlantic Avenue.

Solid Waste. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2047. The following generation rates will be used to calculate impact:

- Multi-Family Residential Greater Than 5 Units: 0.52 tons / unit
- Office: 5.4 pounds per square foot per year
- Restaurant: 24.9 pounds per square foot per year
- Retail: 10.2 pounds per square foot per year

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 conditional use 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 City's sewer system. A letter from the Deputy Director of Public Utilities stating that the City's system has sufficient capacity to treat proposed flows will be issued upon review and approval of submitted site plans.

Parks and Open Space. The Open Space and Recreation Element of the City's Comprehensive Plan indicate in its conclusion that "the City will have sufficient recreation facilities at build-out to meet the adopted standards." The adopted LOS standard for open space and recreation in the city is 3 acres per 1,000 residents. The amount of land currently provided in activity-based recreation facilities, the municipal beaches, and the two public golf courses, establishes a level of service of 6.2 acres per 1,000 residents (2007), which exceeds the general guideline. Additionally, a park impact fee is collected to offset any impacts that a residential project may have on the City's recreational facilities. Pursuant to LDR Section 5.3.2, a park impact fee of \$500.00 per dwelling unit will be collected prior to issuance of a building permit for each residential unit at the time a project is presented for approval at the Building Department. This item will be addressed during the site plan review process.

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

The CC designation is assigned along West Atlantic Avenue and transitions down in intensity and scale to the south to MD, and then ultimately to LD (Low Density) single-family areas. CC has density limitations that are slightly more intense than MD, but which will result in a similar development pattern - and maintain the gradual reduction in intensity from West Atlantic Avenue to the neighborhood. The CC designation is implemented by the CBD zoning designations, which uses form-based code techniques and sub-district standards to customize a development pattern that is consistent with the area.

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

The applicant intends to submit a Site Plan application in November 2019. The application 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 West Atlantic Neighborhood Sub-district, as well as the requirements of the West Atlantic Avenue Redevelopment Plan.

**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.