



## Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Second Reading

**File created:** 1/30/2020      **In control:** City Commission

**On agenda:** 3/3/2020      **Final action:**

**Title:** ORDINANCE NO. 08-20: 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 0.752± ACRES IN SIZE FROM LOW DENSITY (LD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 26 NORTHWEST 6TH AVENUE, 32 NORTHWEST 6TH AVENUE, 34 NORTHWEST 6TH AVENUE, 27 NORTHWEST 7TH AVENUE, AND 31 NORTHWEST 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 08-20 600 Block W Atlantic Ave FLUM, 3. Ord No. 08-20 PZB Staff Report, 4. Ord No. 08-20 Location Map, 5. Ord No. 08-20 FLUM Maps (Existing & Proposed), 6. Ord No. 08-20 Applicant Justification Statement, 7. Legal Review Ord 08-20 FLUM Amendment

Date	Ver.	Action By	Action	Result
3/3/2020	1	City Commission	approved on first reading	Pass

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** George Gretsas, City Manager  
**DATE:** March 3, 2020

ORDINANCE NO. 08-20: 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 0.752± ACRES IN SIZE FROM LOW DENSITY (LD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 26 NORTHWEST 6<sup>TH</sup> AVENUE, 32 NORTHWEST 6<sup>TH</sup> AVENUE, 34 NORTHWEST 6<sup>TH</sup> AVENUE, 27 NORTHWEST 7<sup>TH</sup> AVENUE, AND 31 NORTHWEST 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. 08-20 on First Reading, a Future Land Use Map amendment to redesignate approximately 0.752 acres of land from Low Density to Commercial Core, for the properties located at 26 NW 6th Avenue, 32 NW 6th Avenue, 34 NW 6th Avenue, 27 NW 7th Avenue, and 31 NW 7th Avenue.

### **Background:**

The properties located at 26 Northwest 6<sup>th</sup> Avenue, 32 Northwest 6<sup>th</sup> Avenue, 34 Northwest 6<sup>th</sup> Avenue, 27 Northwest 7<sup>th</sup> Avenue, and 31 Northwest 7<sup>th</sup> Avenue, are zoned Single-family Residential (R-1-A) with a Future Land Use Map (FLUM) designation of Low Density (LD). The request is accompanied by Ordinance No. 09-20 for a rezoning request from single-family residential (R-1-A) to Central Business District (CBD). Three of the properties are vacant; the properties at 32 and 34 NW 6<sup>th</sup> Avenue each contain a single-family residence built in the 1990's. Four of the properties are owned by the Delray Beach Community Redevelopment Agency (CRA). The property located at 32 NW 6<sup>th</sup> Avenue is privately owned, and the owner has provided consent to the CRA to include their property in this request.

At the Planning and Zoning Board meeting of November 18, 2019, the Board expressed concerns that, if the request were approved, more intense and larger scaled development would have a negative impact on the remaining single-family residential zoned properties located to the north, east, and west. Therefore, the Public Hearing for the FLUM amendment and Rezoning was continued to provide time for the drafting of an amendment to the Land Development Regulations to address the Board's concerns and mitigate impacts of future requests. The accompanying LDR Amendment (Ordinance No. 07-20) seeks to establish a Limited Height Area for properties rezoned from Single-family Residential to CBD within the West Atlantic Neighborhood Sub-district. The Limited Height Area would limit development to three stories and 35 feet, which is the same height allowed for single-family zoned properties.

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, 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, 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 FLUM amendment from LD to CC is consistent with CBD zoning, which allows commercial and residential uses, including an increased density. The LD designation allows a density up to 5 dwelling units per acre (du/ac), while the West Atlantic Neighborhood Sub-district of the CBD allows a density up to 12 du/ac. The density could be further increased from 12 du/ac to 30 du/ac for the subject parcels, through an incentive program for the provision of workforce housing. The LD designation currently assigned to the properties supports the original development pattern for the single-family neighborhood; however, the adopted Delray Beach CRA Community Redevelopment Plan and West Atlantic Redevelopment Plan support an increase in intensity as a way to provide neighborhood amenities and additional housing opportunities for diverse incomes. The change in land use allows for higher density, which will also assist in the revitalization of the West Atlantic Neighborhood 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 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 north from West Atlantic Avenue into the neighborhood, which will result in predominantly residential redevelopment in this area. However, commercial uses are also allowed subject to the approval of a conditional use where findings are required to ensure that the proposed use will not “have a significantly detrimental effect upon the stability of the neighborhood within which it will be located, or hinder development or redevelopment of nearby properties.” In addition, the accompanying CBD zoning request uses form-based techniques to ensure compatibility among uses and provide for seamless transitions to a mix of uses and adjacent properties.

**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 adjacent CC land use designation to the south, which is contiguous with the CC 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. If a non-residential or mixed-use development is proposed for the subject properties, consideration of this Objective will be part of the conditional use review.

**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 identified as “blighted”, and that has been

classified as “needing rehabilitation” in the current Comprehensive Plan; needing rehabilitation is defined as numerous code violations; deteriorated and non-maintained structures; high level of absentee ownership; significant crime problems; large number of vacant lots. The City and CRA have worked to improve the neighborhood area through beautification projects, streetscape improvements, and new development. Changing the FLUM designation to CC and the zoning to CBD will provide additional opportunities to improve the quality of life potential for the neighborhood. Once a new development request is submitted, this Goal will be further 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 area. The requested FLUM designation will assist in encouraging private investment in quality 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 Land Development Regulations applicable to the West Atlantic Neighborhood Sub-district of the CBD. The subject properties are located between approximately 275’ (along NW 6th Avenue) and 330’ (along NW 7th Avenue) north of West Atlantic Avenue. The proposed FLUM amendment and rezoning allow for more intense uses and larger development than is presently allowed 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 adjacent properties.

**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 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.*

**Housing Element Goal Area “B.”** *To ensure that an adequate supply of quality new housing is available in a range of types and cost levels to meet the needs of the City’s Future population.*

The proposed FLUM designation assists in achieving these Goal Areas by permitting additional density to promote infill workforce housing opportunities in new development.

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

Concurrency review of traffic, schools, water and sewer, solid waste, drainage and parks and open space will be thoroughly reviewed upon the submittal of a site plan, or a conditional use request if non-residential uses are proposed. Additional review of concurrency was required for traffic and schools. While the properties are located within the City’s Transportation Concurrency Exception Area (TCEA), they are more than 275 feet from West Atlantic Avenue. Therefore, the impact of commercial development will be limited because a majority of the development on the subject parcels will be limited to residential uses unless a conditional use is approved by the City Commission allowing commercial uses. Additionally, the Palm Beach County School District evaluated the requested FLUM and zoning designations for compliance with the adopted Level of Service for School Concurrency and found that “there will be a negative impact on the public school system...to address the school capacity deficiency generates by this proposed development at the District elementary school level, and the property owner shall contribute \$16,108 to the School District of Palm Beach County prior to issuance of first building permit.”

- **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 north to LD, which consists of an established single-family neighborhood. While the CC designation has density limitations that are more intense than LD at a maximum of 5 du/ac, the maximum density for the West Atlantic Neighborhood Sub-district is 12 du/ac with a Residential Incentive available to increase the density up to 30 du/ac. 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.*

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 West Atlantic Neighborhood Sub-district, as well as the requirements of the West Atlantic Avenue

Redevelopment Plan.

At the meeting of January 27, 2020, the Planning and Zoning Board considered the subject request, and voted 5 to 2 to recommend approval of Ordinance No. 08-20.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Second Reading is anticipated to occur in April, 2020.