



## Legislation Text

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**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Planning, Zoning and Building Director  
**THROUGH:** Mark R. Lauzier, City Manager  
**DATE:** August 21, 2018

ORDINANCE NO. 08-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT DESIGNATING A PARCEL OF LAND APPROXIMATELY 0.137 ACRE IN SIZE FROM LOW DENSITY RESIDENTIAL 0-5 DU/ACRE (LD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTY LOCATED ON THE WEST SIDE OF SE 3<sup>RD</sup> AVENUE, APPROXIMATELY 137 FEET SOUTH OF SE 2<sup>ND</sup> STREET (206 SE 3<sup>RD</sup> AVENUE), AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE. (SECOND READING)

### **Recommended Action:**

Move to deny on Second Reading, Ordinance No. 08-18, a small-scale Future Land Use Map amendment from Low Density Residential 0-5du/ac (LD) to Commercial Core (CC) for the property located at 206 SE 3<sup>rd</sup> Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Section 3.1.1, Required Findings.

### **Background:**

The item before the City of Delray Beach ("City") City Commission is consideration of a small-scale Future Land Use Map (FLUM) amendment from LD to CC for a parcel of land located on the west side of SE 3<sup>rd</sup> Avenue, 137 feet south of SE 2<sup>nd</sup> Street (206 SE 3<sup>rd</sup> Avenue). The site is dimensioned 45' by 132.5' and measures 0.137 acres. The subject property is vacant. The proposed land use change is being processed in conjunction with a rezoning request from Single Family Residential (R-1-A) to Central Business District (CBD).

The subject property lies within the Osceola Park Redevelopment Plan area. The Osceola Park Redevelopment Plan area encompasses the area immediately south of the Central Business District and is bordered by SE 5th Avenue (Federal Highway) on the east; South Swinton Avenue on the west; SE 2nd Street on the north; and SE 10th Street on the south. Prior to the adoption of the Osceola Park Redevelopment Plan in 2004, the Osceola Park Redevelopment Area was designated or known as "Redevelopment Area #5 (RDA-5)" on the City of Delray Beach FLUM. 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 redevelopment plan was developed to identify the deficiencies and assets within the Osceola Park area, evaluate the existing and potential uses, and identify specific measures for arresting decline, facilitating new development, and enhancing the quality of life for the neighborhood. On

September 20, 2005, the City Commission adopted Comprehensive Plan Amendment 2005-1 (via Ordinance No. 31-05), which changed the FLUM designation from RDA-5 to LD for 19.75 acres within Osceola Park, including the subject property. Concurrently, Ordinance No. 37-05 was adopted which rezoned 33 properties, including the subject property, from RM (Medium Density Residential) to R-1-A. These actions were in accordance with the recommendations of the adopted Osceola Park Redevelopment Plan.

Within the Osceola Park Redevelopment Plan area, several distinct clusters of land use patterns were identified that included (i) the commercial/mixed-use uses along the SE 2<sup>nd</sup> Street frontage and along South Federal Highway; (ii) the commercial/industrial land uses along the Railroad corridor (SE 2<sup>nd</sup> Avenue); and, (iii) the residential land uses south of the commercial frontage on SE 2<sup>nd</sup> Street.

The LD FLUM designation for the residential cluster area south of SE 2<sup>nd</sup> Street was one of the goals identified in the Plan. The Redevelopment Plan states, *"the two block area between SE 2nd and SE 3rd Streets is currently zoned for multiple family development. The remaining parcels in this area, with the exception of Currie Commons Park and the community facilities parcels near SE 10<sup>th</sup> Street, are zoned for single-family development. Although it includes some duplex and multi-family scattered throughout the area, this part of Osceola Park is exclusively single family homes. Therefore, the primary focus for this is to protect and enhance the single family character of the neighborhood. To accomplish this goal, it is recommended that most of the multi-family zoned parcels, between SE 2nd and SE 3rd Streets, be rezoned to single family. The parcels, which front directly on SE 2nd Street and one additional parcel to the rear, will retain multi-family zoning as a buffer from this busy commercial street and the Central Business District zoning to the north."*

To accomplish the visions of the plan, a FLUM designation of LD was recommended to encompass an area of approximately 19.75 acres that extended just south of the commercial frontage along SE 2<sup>nd</sup> Street to SE 5<sup>th</sup> Street, and between the commercial frontages along SE 5<sup>th</sup> Avenue and SE 2<sup>nd</sup> Avenue. Zoning changes from RM (Medium Density Residential) to R-1-A were also recommended for 5.9 acres located south of the commercial properties fronting on SE 2<sup>nd</sup> Street to SE 3<sup>rd</sup> Street.

As demonstrated with the adoption of the FLUM and zoning changes, the focus was to maintain and protect the residential uses and character of the area. Compatible commercial development and redevelopment was recommended to occur in select areas which include the parcels fronting along SE 2<sup>nd</sup> Street, SE 2<sup>nd</sup> Avenue, and the commercial/industrial area south SE 4<sup>th</sup> Street west of the FEC Railroad. These areas identified for commercial development do not include the subject property. Regarding commercial development within the redevelopment plan area, the Redevelopment Plan states, *"Opportunities for new commercial development are very limited in the neighborhood with only 1.16 acres of vacant land currently zoned for commercial uses. However, there are opportunities for new business development through the redevelopment of existing properties within the neighborhoods commercial districts."*

Primary access to the site is via SE 3<sup>rd</sup> Avenue, predominantly a residential street. This raises concerns with respect to through and non-residential vehicular traffic on the local residential street. Based on a maximum development potential, the potential traffic that could be generated under the proposed CC FLUM and CBD zoning would have a significant traffic impact on the surrounding residential uses that are located to the south and east of the subject property.

The Osceola Park Redevelopment Plan identifies traffic as a concern and states, *“traffic problems within the neighborhood include speeding on some local residential streets, and commercial truck traffic through the neighborhood. Consideration must be given to eliminating excessive through-traffic on residential streets in the neighborhood which are headed for the railroad commercial corridor. The integration of nonresidential development within the neighborhood presents a problem when dealing with the commercial truck traffic it generates. This traffic should be directed away from residential roadways.”*

The site directly abuts single family residences to the south. The intrusion of the commercial land use within the single family residential district with no separation between the parcels raises compatibility concerns with the existing land uses. With the exception of the commercial parcel at the northwest corner of SE 3<sup>rd</sup> Avenue and SE 2nd Street, the land use pattern along the remaining frontage of SE 3<sup>rd</sup> Avenue is residential. While the LDR imposes additional buffering requirements whenever a commercial site directly abuts residential, the small width of the property (45 feet) provides limited opportunities to increase the buffering requirements beyond the minimum required by the LDRs.

The redevelopment of the surrounding commercial properties have brought a necessary and desired economic resurgence to the area, reduced blight, increased safety and improved the aesthetics of the area. However, those developments have occurred in specifically designated commercial areas. To ensure that the residential land uses are protected currently and in the future, commercial redevelopment was directed to specific geographic areas and should continue to be directed. Additionally, to maintain the low density residential uses, the 2006 rezoning to R-1-A was undertaken to remove the mix of duplexes and higher density residential uses intermingled with the single family uses. The introduction of a more intense use on the subject parcel is contrary to the vision of maintaining a stable residential neighborhood.

Pursuant to LDR Section 3.1.1, Required 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. These findings are fully addressed in the Planning and Zoning Board Staff Report of May 21, 2018 which includes the applicant’s justification and the staff analysis for the requested action. The conclusion is that positive findings are not made for the requested FLUM amendment.

At the City Commission meeting on July 17, 2018, the City Commission voted 5-0 to approve the proposed Future Land Use Map amendment at first reading. If the amendment is approved, the amended map will be forwarded to the Department of Economic Opportunity. The amendment will not be effective until the statutory 30-day appeal period ends and there are no challenges.

### **Review by Others:**

#### **Planning and Zoning Board (PZB):**

On May 21, 2018, on a vote of 4 to 3, the Planning and Zoning Board recommended denial of Ordinance 08-18, for the small-scale Future Land Use Map amendment from LD to CC for the property located at 206 SE 3<sup>rd</sup> Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not

meet the criteria set forth in LDR Section 3.1.1, Required Findings.

**PZB Comments:**

Board discussions included (i) concerns with respect to future continued encroachment within the single family neighborhood; (ii) that the application did not provided sufficient indication as to the future development proposal and the impacts resulting from potential alleyway dedications; and, (iii) the burden of proof has not met and the request is premature.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A

**Attachments:**

Location Map

Ordinance No. 08-18

Planning and Zoning Board Staff Report of May 21, 2018