



## 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:** September 25, 2018

ORDINANCE NO. 09-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING LAND PRESENTLY ZONED SINGLE FAMILY RESIDENTIAL (R-1-A) DISTRICT TO CENTRAL BUSINESS (CBD) DISTRICT, LOCATED WITHIN THE RAILROAD CORRIDOR SUB-DISTRICT; SAID LAND IS 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), AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (SECOND READING)

### **Recommended Action:**

Move to deny on First Reading, Ordinance No. 09-18, a privately-initiated rezoning from Single Family Residential (R-1-A) District to Central Business (CBD) District, within the Railroad Corridor Sub-District, 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), 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 Sections 2.4.5(D)(5), Findings, and 3.2.2(D), Standards for Rezoning Actions.

### **Background:**

The item before the City of Delray Beach ("City") City Commission is consideration of a privately-initiated rezoning from R-1-A District to CBD District for a vacant parcel of land located at 206 SE 3<sup>rd</sup> Avenue. The site is dimensioned 45' by 132.5' and measures 0.137 acres. The rezoning request is in conjunction with a future land use map amendment request from Low Density Residential 0-5 du/ac (LD) to Commercial Core (CC).

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 southbound) 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 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 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.

The rezoning analysis examined the required findings as they relate to the Future Land Use Map, Concurrency, Comprehensive Plan Consistency (Standards for Rezoning), and Compliance with the Land Development Regulations.

Additionally, the Osceola Park Redevelopment Plan and the Delray Beach Downtown Master Plan, were also examined with respect to the requested action.

The Osceola Park Redevelopment Plan recommended the rezoning of the properties that were zoned RM located between SE 2<sup>nd</sup> street to SE 3<sup>rd</sup> Street comprising of 5.9 acres to R-1-A. to fulfil the vision for the area.

The Redevelopment Plan states, "The essence of what the neighborhood is striving to become is represented in the following vision statements.

- The Osceola Park Neighborhood has a strong identity within the City as a clean, safe, attractive environment in which to live and raise children.
- The Osceola Park Neighborhood consists primarily of well-maintained owner-occupied single family homes on attractively landscaped lots.
- The Osceola Park Neighborhood roadway system provides for excellent access and traffic flow while maintaining traffic volume and vehicle speeds at low levels on residential streets.
- The Osceola Park Neighborhood provides for excellent pedestrian access in and around the neighborhood.
- The Osceola Park Neighborhood contains a significant number of preserved historic structures which contribute to the charm and character of the whole neighborhood.
- The Osceola Park Neighborhood provides space for children to play outdoors in a safe, controlled environment.
- The Osceola Park Neighborhood provides the opportunity for compatible business development and redevelopment in select areas."

While the property is a Lot of Record which does not meet the current lot width and area

requirements for R-1-A, a single family residence which meets the workforce housing design requirements of LDR Section 4.7.12 can be constructed on the subject property and continue the residential development pattern along SE 3<sup>rd</sup> Avenue.

The requested zoning is not more appropriate for the property based upon circumstances particular to the site and/or neighborhood. The location of the site makes it inappropriate for consideration of the zoning change. The site is separated from the commercial site to the north by an alleyway which will not provide continuity of the commercial uses and directly abuts single family residential uses which results in the intrusion of more intense zoning into an established residential neighborhood. Additionally, the infiltration of the commercial land uses into the residential neighborhood raises concerns with respect to the impact of noise and commercial traffic on the residential street as vehicular traffic will be required to access the site from SE 3<sup>rd</sup> Avenue. The resulting impact is contrary to the goals of the Redevelopment Plan which are to reduce negative impacts associated with through and non-residential vehicular on local residential streets and to protect and enhance the single family character of the neighborhood.

The complete analysis of the proposed rezoning is provided in the Planning and Zoning Board Staff Report of May 21, 2018 which includes the applicant's justification and the staff analysis. The conclusion is that positive findings are not made for the requested rezoning.

#### **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 09-18, for the rezoning from R-1-A to CBD 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 Sections 2.4.5(D)(5), Findings, and 3.2.2(D), Standards for Rezoning Actions.

##### **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:**

If passed on first reading, a public hearing will be held on September 25, 2018.

##### **Attachments:**

Ordinance No. 09-18  
Planning and Zoning Board Staff Report of May 21, 2018