



## Legislation Text

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**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** May 21, 2019

ORDINANCE NO. 05-19: ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING A PARCEL OF LAND APPROXIMATELY 0.433± ACRE IN SIZE FROM COMMUNITY FACILITIES (CF) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF EAST ATLANTIC AVENUE AND SE 3<sup>RD</sup> AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING/PUBLIC HEARING)

### **Recommended Action:**

Consider Ordinance No. 05-19, a small-scale Future Land Use Map amendment from Community Facilities (CF) to Commercial Core (CC) for the property which measures approximately 0.433 acres, and is located at the southwest corner of East Atlantic Avenue and SE 3<sup>rd</sup> Avenue.

### **Background:**

On February 12, 2019, a motion to approve Ordinance No. 05-19 failed 1-4, with Deputy Vice Mayor Johnson, Mayor Petrolia, Vice Mayor Frankel, and Commissioner Bathurst dissenting. On March 12, 2019, Vice Mayor Frankel moved to reconsider this item. The motion carried with a vote of 4-1, Mayor Petrolia dissenting.

The site measures approximately 0.433 area and currently contains a parking lot. The proposed land use change is being processed in conjunction with a rezoning request from Community Facilities (CF) District to Central Business District (CBD). Prior to 1990, the subject property was zoned CBD and was rezoned to CF with the citywide rezoning in October 1990. City records shows that the parcel was previously designated Community Facilities-Recreation (CF-R) on the Future Land Use Map. In 2004, the "Recreation" suffix was removed and the parcel remained CF. In November 2010, the City commission approved a conditional use to allow the establishment of a commercial "for pay" parking lot to be operated jointly for utilization by SunTrust Bank customers and paying patrons.

The proposed FLUM amendment is being processed as a small scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3187.

Pursuant to LDR Section 3.1.1, Required Findings., *prior to approval of Land Use applications,*

*certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. 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 proposed land use change is being processed in conjunction with a rezoning request from CF to CBD. The Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies the zoning districts that are consistent with the Future Land Use Map designations. Pursuant to Table L-6, the proposed CC FLUM designation and the proposed CBD zoning district are consistent. The CBD zoning designation allows mixed-use (office/retail) developments.

*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 site is located within the center of the downtown area and is surrounded by properties designated Commercial Core (CC) land use. In 2002, Delray Beach Downtown Master Plan was adopted. The Master Plan references the possibility of passenger rail services along the FEC Railway and that having a built station along the rail line will have the advantage of securing a rail stop. The subject parcel was identified as a portion of a larger site at East Atlantic Avenue and SE 3<sup>rd</sup> Avenue that could accommodate a future multi-modal transit station with a train station, a bus station, a local transit terminal, as well as additional parking for the downtown area. On October 16, 2018, the City Commission approved the Delray Beach Tri-Rail Coastal Link Transit-Oriented Development Master Plan, which identified the location of the Delray Beach Tri-Rail Coastal Link station on the north side of East Atlantic Avenue adjacent to the FEC tracks. Thus, the subject property is no longer under consideration for a multi-modal transit station. The subject property's central location in the downtown makes the proposed FLUM change more appropriate to be consistent with the surrounding CC parcels.

Further, as stated in the purpose and intent, the CF designation is designed to accommodate public (governmental) and quasi-public and community uses and is not intended for commercial uses and activities. The site is located along the premier commercial street within the downtown. However, the current CF FLUM designation will not afford the development of a commercial use; commercial uses are consistent with the vision for Atlantic Avenue in the adopted master plan.

A finding of Consistency requires that the requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan. The following applicable Objectives and Policies within the City of Delray Beach Comprehensive Plan demonstrate consistency:

*Future Land Use Element:*

*Objective A-1*

*Property shall be developed or redeveloped, in a manner so that the future 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 A-2*

*To reduce, and eventually eliminate, uses which are inconsistent with predominant adjacent land uses, and to insure compatibility of future development, the following policies shall be applied.*

*Policy A-2.3*

*Development of remaining vacant properties shall occur in a manner which is consistent with and complementary to adjacent development regardless of zoning designations. This policy shall be implemented through the review process associated with platting and site plans."*

The proposed amendment will provide the opportunity for the property to be developed in a manner that is consistent and complementary to the adjacent land uses and zoning districts.

*Objective C-3*

*The Central Business District (CBD) and surrounding neighborhoods, including A-1-A, Seacrest and Swinton Avenue represent 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 following policies and activities shall be pursued in the achievement of this objective.*

*Policy C-3.1* *The Central Business District (CBD) Zoning District regulations shall facilitate and encourage rehabilitation and revitalization and shall, at a minimum, address the following:*

- ☐ *deletion of inappropriate uses*
- ☐ *incentives for locating retail on the ground floor with office and residential use on upper floors*
- ☐ *accommodating parking needs through innovative actions*
- ☐ *incentives for dinner theaters, playhouses, and other family oriented activities*
- ☐ *allowing and facilitating outdoor cafes*
- ☐ *incentives for mixed use development and rehabilitations*

- ☐ *elimination of side yard setback requirements*
- ☐ *allow structural overhang encroachments into required yard areas*

The location of the subject property is the center of the downtown area and its utilization as a stand-alone parking lot does not add to the charm of the main street of the downtown. Development of the site with retail on the ground floor and office uses in upper stories furthers revitalization of the downtown and expands the retail fabric along the ground floor of the main street. The proposed development also meets the criteria above by accommodating parking within a garage that eliminates the large surface parking lot from the Atlantic Avenue streetscape.

Policy C-3.2 The “Downtown Delray Beach Master Plan” was adopted by the City Commission on March 19, 2002. The Plan addresses a wide range of issues, including infill development, neighborhood parks, shared parking, public art, the roadway and alleyway systems, marketing/economic development, and the need to modify the Land Development Regulations to include design guidelines to retain the character of Delray Beach.

The Downtown Master Plan states *“Land is not cheap, and commercial land prices in Delray Beach keep rising. In cities like Delray, a large surface parking lot does not make economic sense (both for the private and public sector) the land is much more valuable as building area. While sufficient parking is necessary, it is important that unnecessarily large parking lots are avoided. Large parking lots are not pedestrian oriented. Pedestrians are constantly “sharing” the car’s environment. They are unsafe. Pedestrians generally find themselves avoiding cars that are pulling into or backing out of spaces. Another important fact, if a pedestrian walks by his car when walking from point A to point B within the city, chances are high that he’ll drive rather than walk, generating unnecessary short trips.”* The Downtown Master Plan further states that the properties located on both sides of the railroad are underutilized.

In 2018, the City of Delray Beach Downtown Development Authority, commissioned a Shopability Analysis, prepared by the Gibbs Planning Group. With respect to this action, the analysis sites that large setbacks (from the street) and parking lots are a detriment to the walkability of the downtown area and represent advantageous locations for infill development.

The Shopability Analysis created a merchandising plan that identified six thematic zones, each with prevailing retail categories. The subject property is located within “Lifestyle Retail” and “Entertainment” categories. The Lifestyle Retail zone includes uses such as apparel (women, men and child), accessories, cosmetics, department store merchandise, gifts, high fashion, home furnishings, jewelry, restaurants, shoes and toys. The Entertainment category includes arcades, art gallery bar, brewery, bowling, cinema, comedy club, DIY studio, coffeehouse, family fun, and music venue restaurants.

The study further states “A common goal throughout several Delray Beach planning efforts has been to eliminate artificial boundaries between districts, overlapping retail themes is an important aspect in achieving more seamless transitions between the West Atlantic, Downtown Core and Beach Districts.”

Within the Downtown Core, the existing CF FLUM designation and CF zoning reinforces an artificial boundary that interrupts the flow of commercial uses and pedestrian activities along the

block. The proposed change to CC will allow for the expansion of additional retail uses on the ground floor as well provide for Class "A" office space above, further revitalizing the downtown.

For Concurrency purposes, development at the highest intensity possible under the requested designation were reviewed with respect to traffic, water and sewer, drainage, parks and recreation, solid waste, and school capacity determination and are evaluated below.

Sufficient capacity exists to meet water and sewer service demands for the subject property. However, the extension of an eight inch water main is required along SE 3<sup>rd</sup> Avenue.

For streets and traffic, the property will be accessed via a new driveway on SE 3<sup>rd</sup> Avenue. The traffic study indicates 541 net new external trips, with 41 net new AM peak hour trips and 43 net new PM peak hour trips. The subject property is located within the TCEA (Traffic Concurrency Area of Exception); and while exempt from traffic concurrency requirements, the Palm Beach County Traffic Division has issued a traffic performance standards approval letter for the proposed 16,726 sq. ft. of general office and 5,239 sq. ft. of commercial retail.

No anticipated problems are identified with drainage. Concurrency with respect to parks and recreation and school capacity determination is not required. The generation of solid waste is based on specific land use and building area and such determination will be made once a specific development proposal has been submitted.

Based on the above, positive findings are made with regard to *Concurrency* for all services and facilities.

*Compatibility: A finding that the requested designation will be compatible with existing and future land uses of the surrounding area is required.*

The site is surrounded to the north, east, and west by parcels that are designated CC on the Future Land Use Map. The parcel located immediately to the south is designated CF on the Future Land Use Map. The redevelopment of the subject property will foster desired economic benefits and provide for a more optimum utilization of the property.

Regarding *Compliance* any proposed development of the subject property will be required to meet the criteria set forth by the Land Development Regulations.

The attached Planning and Zoning Board Staff Report of December 17, 2018, includes the applicant's justification and the staff analysis for the requested action.

### **Review by Others:**

#### **Planning and Zoning Board:**

On December 17, 2018, on a vote of 5 to 0, the Planning and Zoning Board recommended approval to the City Commission for the small scale FLUM Amendment from Community Facilities (CF) to Commercial Core (CC) for a 0.433± acre parcel of land located at the southwest corner of East Atlantic Avenue and SE 3<sup>rd</sup> Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(A) and

3.1.1 of the Land Development Regulations. The Board required that the maps showing the proposed Future Land Use Map designation is revised to show that the parcel to the south will maintain the CF designation.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A