



## Legislation Text

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

ORDINANCE NO. 24-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING A PARCEL OF LAND APPROXIMATELY 0.33± ACRES IN SIZE FROM LOW DENSITY (LD) TO MEDIUM DENSITY (MD), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTY LOCATED AT 1060 DEL HARBOUR DRIVE, AT THE SOUTHWEST CORNER OF DEL HARBOUR DRIVE AND SOUTH OCEAN BOULEVARD, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)

**Recommended Action:**

Review and consider Ordinance 24-19 on Second Reading, a small-scale Future Land Use Map amendment to re-designate the property at 1060 Del Harbour Drive from Low Density (LD) to Medium Density (MD).

**Background:**

The request is to amend the Future Land Use Map for 1060 Del Harbour Drive from Low Density Residential (LD) to Medium Density (MD). If approved, the Medium Density land use designation for the subject property will resolve a conflict between the current LD land use designation and the property's current zoning designation of Multiple Family Residential, Medium Density (RM). Table L-6, Land Use Designation / Zoning Matrix, within the current Future Land Use Element of the Comprehensive Plan, indicates those zoning designations that are consistent with each land use designation; Low Density Residential land use is not consistent with Medium Density Residential (RM) zoning.

The conflict between the land use designation and zoning district was discovered upon review of a submitted site plan for the construction of a multi-family residential development at both 1060 Del Harbour Drive (Lot 1) and the unaddressed lot immediately to the west, also along Del Harbour Drive (Lot 2). The development is currently proposed for both Lots 1 and 2, Del Harbour. Lot 2 also has a future land use designation of Low Density and is zoned Low Density Residential (RL), which permits single-family, duplex, and multiple family structures. The zoning and land use designations for Lot 2 are consistent and, therefore, not part of the subject request. It is important to note that if the subject request is approved, the two lots will have differing land use designations and, therefore, would be required to develop independently to ensure compliance with the maximum density allowed on each parcel.

The current Comprehensive Plan has two categories of residential land use: Low Density and Medium Density. Low Density “is applied to land which is developed, or is to be developed, at a density of five units per acre or less. Such land is usually developed for single family purposes although mixed residential uses may occur under a planned residential zoning district...” Medium Density “is applied to land which is developed, or is to be developed, at a density between five and twelve units per acre...” The change of future land use designation from Low Density to Medium Density will increase the density potential from a maximum of five units per acre to a range of five to twelve units per acre.

Approval of the proposed Medium Density land use designation would result in the ability to construct one additional unit on the property. The current Low Density designation allows a maximum of two units on the property; the proposed Medium Density designation allows a maximum of three units on the property.

Given the request to amend the property’s designation on the Future Land Use Map, research was conducted to understand the history of the property’s zoning and future land use designations. The following chart provides the available information regarding the land use and zoning designations for 1060 Del Harbour Drive/Lot 1.

<u>Year(s)</u>	<u>Zoning Designation</u>	<u>Future Land Use Designation</u>
1970-1971	RM-1 (up to 10 units)	Not Available
1972-1976	RM-15	Not Available
1979	RM-15	MF-15
1989	RM-15	LD, 0-5 du/acre
1990-Present	RM	LD, 0-5 du/acre

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. The applicant provides analysis for compliance with these findings in the submitted justification statement (attached).

- ☐ **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 conflicting land use and zoning designations must be resolved to develop the property under the current zoning designation.

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

The following Goals, Objectives, and Policies are applicable to the request:

Future Land Use Element, Goal Area "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 land use designation is the same as the surrounding land uses to the north, south, and east and result in residential development.

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.

The proposed land use designation will allow for residential development that is consistent in density and intensity with the adjacent land uses, which are multi-family residential to the north, south, and east of the property. The adjacent property to the west also allows for residential development, including single-family and duplex.

Future Land Use Element, 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 land use designation change will provide for development of the vacant property in a manner consistent with the surrounding development pattern using the current zoning designation.

Future Land Use Element, Objective A-3: The development or utilization of remaining vacant land shall provide for the creation and retention of open space and the retention of natural resources. This objective shall be met through the following policies:

Future Land Use Element, Policy A-3.1: Prior to recommending approval of any land use application which involves vacant land, the appropriate approving board must make a finding that the requested land use action is consistent with this objective and its supporting policies.

Future Land Use Element, Policy A-3.2: Proposed development should not adversely affect any land identified as an environmentally sensitive area pursuant to Objective B-1 of the

## Conservation Element.

Future Land Use Element, Policy A-3.3: Proposed development shall accommodate required open space as provided for under Objective B-1 of the Open Space and Recreation Element.

Both the existing and proposed land use designations allow for residential development of the vacant property. The development will not impact any land identified as an environmentally sensitive area. The open space and recreation amenities, which are identified in Objective B-1 of the Open Space and Recreation Element, will be required through the site plan review process, as applicable.

Future Land Use Element, Policy A-7.3: Residential Density may not be increased on any property located within the Coastal High Hazard Area through density bonuses in the Workforce Housing Program.

The change in the land use designation will not result in the availability of density bonuses in the Workforce Housing Program.

Housing Element, Objective B-2: Redevelopment and the development of new land shall result in the provision of a variety of housing types and other amenities (i.e. bike trails, parks, sidewalks) to accommodate the diverse economic makeup of the City's demographic profile, and meet the housing needs of all residents.

The proposed land use designation allows for one additional housing unit and a range of housing types, such as duplex and townhome; the area is predominantly multi-family and single-family.

Coastal Management Element, Objective C-3: Development, redevelopment or conservation on the barrier island and in the Marina Historic District shall occur in a manner which does not change the character, intensity of use, or demand upon existing infrastructure in the Coastal Planning Area, as dictated in the following policies:

Coastal Management Element, Policy C-3.1: Remaining, isolated infill lots shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.

Coastal Management Element, Policy C-3.2: There shall be no change in the intensity of land use designation within the barrier island and all infill development which does occur shall connect to the City's storm water management system and sanitary sewer system.

The existing zoning is the same as the properties located to the north, south, and east and is not proposed to change. Based on the RM zoning designation that has been applied to the property since 1990, the proposal will not increase the allowed intensity. Ultimately, the determination must be made of whether the incorrect land use was inadvertently applied to the property in 1989. If the determination is that MD land use designation was intended to be applied to the property, consistent with the other Del Harbour lots along the South Ocean Boulevard corridor, then a positive finding could be made that correcting the land use designation will not increase the intensity of use permitted

within the barrier island.

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

The development potential for the 14,430 square foot parcel between the designations is a difference of a single unit:

- o Low Density, up to 5 units per acre:  $14,430 \text{ square feet} = 0.3313 \text{ acres} \times 5 \text{ units per acre} = 1.65$ , which results in (1) unit as the Land Development Regulations require that all density calculations be rounded down; however, a duplex may be built on the parcel provided that a minimum of 4,000 square feet is provided for each lot. Note: Duplexes are not subject to density calculations.
- o Medium Density, 5 to 12 units per acre:  $14,430 \text{ square feet} = 0.3313 \text{ acres} \times 12 \text{ units per acre} = 3.98$  (3) units.

Given the difference of a single unit, it is anticipated that the development would not create a significant impact, and, therefore, concurrency standards will be met with respect to traffic, water, sewer, solid waste, and schools. The complete review of impact of the redevelopment will be provided during the site plan review.

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

The adjacent parcels along South Ocean Boulevard, both on the east and west sides, have a Medium Density land use designation. Therefore, the requested designation is compatible with the future land uses of the surrounding area.

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

Development of the subject property will be required to comply with the applicable provisions and requirements of the Land Development Regulations subsequent to approval of the subject request.

#### **City Attorney Review:**

Approved as to form and legal sufficiency.

#### **Funding Source/Financial Impact:**

N/A

#### **Timing of Request:**

The Second Reading of Ordinance No. 24-19 is anticipated to be scheduled for the City Commission meeting of September 5, 2019.