



Legislation Text

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TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: July 6, 2021

ORDINANCE NO. 18-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A LAND USE MAP AMENDMENT RE-DESIGNATING THE FUTURE LAND USE FOR 39.42 ACRES OF LAND FROM GENERAL COMMERCIAL (GC) IN PART, AND TRANSITIONAL (TRN) IN PART, TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR PROPERTIES GENERALLY LOCATED WITHIN THE AREA BOUNDED ON THE NORTH BY SE 4TH STREET, ON THE SOUTH BY SE 10TH STREET, ON THE EAST BY SE 7TH AVENUE, AND ON THE WEST BY THE ALLEY BETWEEN SE 4TH AVENUE AND SE 5TH AVENUE, ALL OF WHICH ARE ADJACENT TO EITHER SE 5TH AVENUE OR SE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING/PUBLIC HEARING)

Recommended Action:

Review and consider Ordinance No. 18-21 on First Reading, a Future Land Use Map amendment to redesignate approximately 39.42 acres of land from General Commercial in part and Transitional in part, to Commercial Core, generally located within the area bounded on the north by SE 4th Street, on the south by SE 10th Street, on the east by SE 7th Street, and on the west by the alley between SE 4th Avenue and SE 5th Avenue, all of which are adjacent to either SE 5th Avenue or SE 6th Avenue.

Background:

This effort to expand the Central Business District (CBD) along SE 5th and 6th Avenues to SE 10th Street was directed by the City Commission to help guide future redevelopment using the Land Development Regulations (LDRs) to provide a higher level of design criteria and encourage investment in the area, while ensuring compatible transitions between the commercial corridor and the adjoining residential neighborhoods. The proposed land use designation of Commercial Core (CC), which has a maximum Floor Area Ratio (FAR) 3.0, is similar in intensity as the designation of General Commercial (GC), which has a maximum FAR of 3.0. Additionally, the GC designation has a lesser focus than the CC land use designation on regulating the mixing of uses. The proposed CC designation is more intense, however, for the two parcels that currently have a Transitional (TRN) land use designation, which have a maximum FAR of 1.0.

On September 9, 2018, the City Commission approved Resolution No. 110-18, to enter into an Interlocal Agreement with the Treasure Coast Regional Planning Council (Consultants) for the provision of planning services to facilitate the expansion of the CBD zoning designation boundary along SE 5th Avenue and SE 6th Avenue, from SE 4th Street to SE 10th Street. On November 8, 2018,

the concept of extending the CBD in this area was introduced to local stakeholders in a public workshop. On January 10, 2019, a public workshop was held to gain public input on the proposed expansion of the CBD in the area. On March 14, 2019, a public workshop was held focusing on the Osceola Park neighborhood, which included discussion on appropriate transitions between the neighborhood and commercial corridor. On August 29, 2019, another public workshop was held; however, participation was limited by the approach of Hurricane Dorian. The consultants and City Staff met with individuals and small groups who could not attend the August workshop to gain further input.

At the Planning and Zoning Board meeting of October 21, 2019, a Public Hearing was held where the Board considered the proposed Land Use Map amendment as Ordinance No. 36-19. A recommendation of approval was provided on a vote of 7-0. It is important to note that the Staff Report provides an analysis based on the prior Comprehensive Plan with an overview of the applicable objectives and policies that were anticipated to be adopted. An updated analysis utilizing the Always Delray Comprehensive Plan, which was adopted on February 4, 2021, is provided below.

On February 11, 2020, the City Commission considered the subject request at a public hearing (as Ordinance No. 04-20) and voted 5 to 0 to approve on First Reading; however, further review and consideration was delayed due to restrictions resulting from the Covid-19 State of Emergency.

Pursuant to **LDR Section 2.4.5(A)**, *amendments to the Comprehensive Plan shall be processed pursuant to FS 163.3184 through F.S. 163.3253*. The Land Use Map is adopted as part of the Comprehensive Plan. Since the area proposed to change land use designation is greater than 10 acres, the subject amendment is being processed for expedited review pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

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 Land Use Map, Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

(A) 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 Land Use Map.*

Neighborhoods, Districts, and Corridors Element

Table NDC-1, Land Use Designation: Density, Intensity, and Implementing Zoning District, identifies the preferred and compatible implementing zoning districts for each land use designation. The current land use designations of General Commercial (GC) and Transitional (TRN) are not consistent with CBD zoning. Therefore, both a land use designation change and a rezoning are necessary to meet the consistency requirement. The table below provides a comparison of density and intensity limitations for both the current and proposed land use designations.

<u>Current Land Use Designation</u>	<u>Acres</u>	<u>FAR</u>	<u>Density- Standard/Incentive</u>
General Commercial	38.1	3.0	12 du/ac/ 12 - 30 du/ac
Transitional	1.32	1.0	5-12 du/ac/ 12 to 24 du/ac

<u>Proposed Land Use Designation</u>	<u>Acres</u>	<u>FAR</u>	<u>Density- Standard/Incentive</u>
Commercial Core	39.42	3.0	12 -30 du/ac / 30-100 du/ac

The NDC Policies listed below describe the intent and provide direction regarding the implementation of the existing and proposed land use designations.

Objective NDC 1.1, Land Use Designation Establish compatible land use arrangements using land use categories appropriate for the diverse and difference neighborhoods, districts, and corridors throughout Delray Beach.

Policy NDC 1.1.2 *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:*

- Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.*
- Uses that meet the daily needs of residents.*
- Public open spaces that are safe and attractive.*

Policy NDC 1.1.3 *Provide transitions between land use designations at the rear of properties or at major corridors so that the prescribed uses and potential development patterns are arranged to achieve compatible and appropriate changes in intensity, height, and scale.*

Policy NDC 1.1.14 *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the 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 NDC 1.3, Mixed-Use Land Use Designations *Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city. Table NDC-1 of the Neighborhoods, Districts, and Corridors (NDC) Element of the Comprehensive Plan identifies those zoning districts that are either preferred or compatible with the land use designations. The proposed CC designation and the requested zoning designation of CBD are consistent with each other.*

Policy NDC 1.3.5 *Use the Commercial Core land use designation to stimulate the vitality and economic growth of the city while simultaneously enhancing and preserving the cultural and historic downtown area.*

Policy NDC 1.3.6 *Allow a maximum floor area ratio of 3.0 and a maximum density of 12 dwelling units per acre east of the Intracoastal Waterway, and a standard density of 12-30 dwelling units per acre with a revitalization/incentive density of 30-100 dwelling units per acre for the Commercial Core land use designation; specific standards in the Land Development Regulations adjust density and intensity based on compatibility, scale, character, adopted Redevelopment or Neighborhood Master Plans, or workforce housing incentives.*

Policy NDC 1.3.7 Implement the Commercial Core land use designation using form-based code to provide for adaptive-reuse, development, and redevelopment that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area continue to evolve into a traditional, self-sufficient downtown. This designation is applied to the Community's downtown area. It includes a substantial portion of the Transportation Concurrency Exception Area described in the Future Land Use Element and graphically shown in Map 9. The Commercial Core designation accommodates a variety of uses including commercial and office development; residential land use upper story apartments; older homes renovated to accommodate office use; and uses such as "bed and breakfast" establishment; and industrial/commerce type uses.

Objective NDC 3.4, Land Use Map Amendments

Policy NDC 3.4.1 Amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances, and the following findings can be determined:

- That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan; and,*
- That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,*
- That the requested land use designation is compatible with the land use designations of the surrounding area; and,*
- That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.*

The proposed FLUM designation does not significantly increase or decrease redevelopment as the intensity level is similar while allowing for a mix of commercial and residential uses. In addition, the implementing zoning designation for the CC land use is CBD, which uses form-based techniques to create a vibrant, high quality environment and provides for compatible transitions among uses and varying scales. Further, development under the proposed CC FLUM designation allows for residential uses to be more easily included in redevelopment projects, which allows for the inclusion of more compatible uses with the surrounding neighborhood area.

The proposed land use and zoning designations will continue the revitalization efforts that have been successful in the downtown core area down the commercial corridor. Utilizing the same designations in this area will also help ensure that the redevelopment compliments the recommendations and guidelines found in the redevelopment plan(s) of adjacent neighborhoods, to ensure an overall compatible and appropriate development with respect to site design, intensity, and density.

Policy NDC 3.4.2 Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation (See Table NDC-1).

As is the current process, all development proposals (depending on the type of request) within this section of the CBD will require review and approval by the City Commission for requests such as conditional use, or the Site Plan Review and Appearance Board for site plan requests.

(B) Concurrency: *Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

Because the designations of GC and CC both allow a 3.0 FAR, redevelopment under the CC land use designation will at most be the same intensity as the current designation for approximately 38 of the 39.42 acres of land affected by the change; established concurrency impacts will either not change or be reduced. The parcels currently designated as TRN (505 and 525 SE 6th Avenue), which total approximately 1.32 acres, will increase from a 1.0 FAR to a 3.0. Although there is an increase in FAR for these two parcels, the difference in the impacts is anticipated to be minimal due to development constraints.

The standard density for the change in land use designation from TRN to CC will increase 12 du/ac to 12 - 30 du/ac; however, these two parcels are not eligible to increase density above 12 du/ac as they are located within the Coastal High Hazard Area. Two other parcels (701 and 959 SE 6th Avenue) that currently have a land use designation of GC are also located within the Coastal High Hazard Area. This limitation on density is per the Florida Statutes and is also specified in the Always Delray Comprehensive Plan. The proposed LDR amendments carry forward the current density allowed per zoning (12 du/ac) and are not eligible for any density incentives.

Traffic. Since 97% of the parcels maintain the same maximum FAR of 3.0 and similar residential density, the amendment is not anticipated to result in a significant increase in traffic than currently planned for in the City's Comprehensive Plan. The subject properties are located outside of the adopted Transportation Concurrency Exception Area (TCEA), and therefore, with each development proposal a traffic impact study will be required for review by both the City and the County. If approved, certain improvements may be required as part of the site plan review to implement specific policies of the Mobility Element to reduce vehicle dependence and accommodate pedestrians and bicycles. The facilitation of mixed-use development and higher streetscape standards will help create a more walkable environment that is linked to the downtown core of the city.

Schools. The Palm Beach County School District must approve new developments for compliance with the adopted Level of Service for School Concurrency. Verification from the Palm Beach County School District in a written finding will be required prior to approval of any site plans in the area.

Water and Sewer. Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out. The proposed amendment only slightly increases the ultimate demand on City resources.

Solid Waste. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2053. The following generation rates will be used to calculate impact on future developments:

- Multi-Family Residential Greater Than 5 Units: 0.52 tons / unit
- Office: 5.4 pounds per square foot per year
- Restaurant: 24.9 pounds per square foot per year
- Retail: 10.2 pounds per square foot per year

Drainage. Within this area of the city, the Federal Highway corridor has been recently improved and the City is in the process of providing local improvements to the Osceola Park neighborhood. At site plan submittal, new development will be required to provide a signed and sealed drainage report indicating the proposed development's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3(D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into City's sewer system.

Parks and Open Space: The Open Space and Recreation Element of the City's Comprehensive Plan indicates in its conclusion that "the City will have sufficient recreation facilities at build-out to meet the adopted standards." Pursuant to LDR Section 5.3.2, a park impact fee of \$500.00 per dwelling unit will be collected prior to issuance of a building permit for each residential unit and hotel room at the time any project is presented for approval at the Building Department. The proposed CBD zoning designation requires open space be in the form of a plaza or park.

(C) Consistency: *A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*

LDR Section 3.2.1, Basis for determining consistency, specifies that *the performance standards set forth in this Article either reflect a policy from the adopted Comprehensive Plan or a principle of good planning practice. The performance standards set forth in the following sections as well as compliance with items specifically listed as required findings in appropriate portions of Section 2.4.5 shall be the basis upon which a finding of overall consistency [Section 3.1.1(C)] is to be made. However, exclusion from this Article shall not be a basis for not allowing consideration of other objectives and policies found in the adopted Comprehensive Plan in the making of a finding of overall consistency.*

A review of the Always Delray Comprehensive Plan identified numerous Objectives and Policies that support the subject request, such as incentives for workforce housing and the utilization of a form-based code.

(D) Compliance with the LDR. *Whenever an item is identified elsewhere in the LDR, it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.*

All new development will be subject to all applicable provisions and requirements of the LDRs. In this area, a new sub-district is proposed to provide for customized regulations that respond to the surrounding area, including density limitations and incentives.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

This effort is a directive of the City Commission; 2nd Reading is anticipated in October 2021 following completion of the Expedited Review Process with the Florida Department of Economic Opportunity.