



**REQUEST:** Site Plan Level IV Review: Rezone from Residential Single-Family Duplex/Medium Density (RD-15) District to Community Business (CB) District with 0.62 Acres of Commercial Flex Allocation and Conditional Use for a Residential Mixed-Use Development

Case Number	PLN-SITE-20100002	
Applicant	1123 NE 4 <sup>th</sup> Avenue FL LLC	
Authorized Agent	Marc Isaac, Flynn Engineering Services, P.A.	
Project Name	South Middle River Lofts	
General Location	1123 NE 4 <sup>th</sup> Avenue	
Property Size	±1.15 acres (portion of property to be rezoned: ±0.62 acre)	
Current Zoning	Residential Single Family Duplex/Medium Density (RD-15) District and Community Business (CB) District	
Proposed Zoning	Community Business (CB)	
Existing Use	Parking Lot	
Proposed Use	Residential Mixed Use	
Future Land Use Designation	Commercial and Medium Density Residential	
Applicable ULDR Sections	47-24.3, Conditional Use Criteria 47-24.4, Rezoning Criteria 47-25.2, Adequacy Requirements 47-25.3, Neighborhood Compatibility Requirements 47-28, Flexibility Rules	
Notification Requirements	Sec. 47-24.1 Public Participation Sec. 47-27.6 Sign Notice 15 days prior to meeting Sec. 47-27.6 Mail Notice (300-foot radius) 10 days before meeting	
Action Required	Recommend Approval, Approval with Conditions, or Deny	
Project Planner	Lorraine Tappen, Principal Urban Planner	<i>LST EL</i>

**PROJECT DESCRIPTION:**

The applicant is requesting to rezone a portion of the parcel of land located at 1123 NE 4<sup>th</sup> Avenue from Residential Single-Family Duplex/Medium Density District (RD-15) to Community Business (CB) District, with the allocation of 0.227 acres of commercial flex acreage, to allow for the construction of a residential mixed-use development. The eastern portion of the property is zoned CB and the western portion is zoned RD-15. The site is currently a surface parking lot.

A location map and sketch and legal description of the property proposed to be rezoned are attached as **Exhibit 1**. The application and applicant's narrative responses to Conditional Use, Adequacy and Neighborhood Compatibility Requirements, and Rezoning Criteria are attached **Exhibit 2**. The site plan is attached as **Exhibit 3**.

**PRIOR REVIEWS:**

The Development Review Committee reviewed the rezoning with associated site plan application on November 10, 2020. All comments have been addressed and are available on file with the Department of Sustainable Development.

**REVIEW CRITERIA:**

The following criteria apply to the proposed request:

ULDR Section 47-24.3, Conditional Use Criteria  
ULDR Section 47-24.4, Rezoning Criteria  
ULDR Section 47-25.2, Adequacy Requirements

**CONDITIONAL USE PERMIT:**

Pursuant to ULDR Section 47-37B.5, Table of Dimensional Requirements for the CB Zoning District, mixed-use development must be reviewed as a conditional use. The applicant is proposing a residential mixed-use project at this location based on the following criteria:

1. Impact on abutting properties as evaluated under the Neighborhood Compatibility Requirements, Section 47-25.3;

Refer to Adequacy and Neighborhood Compatibility section contained herein.

2. Access, traffic generation and road capacities; Consideration will be given to the design capacity of the adjacent roadways, the particular traffic generation characteristics of the proposed conditional use, including the type of vehicular traffic associated with such uses, and traffic generation characteristics of other uses permitted in particular zoning districts.

The development will have access from NE 3<sup>rd</sup> Avenue. The traffic impact statement dated October 1, 2020, prepared by D.C. Engineers, Inc. indicates the proposed development will have minimal impact on the adjacent roadway network. In addition, a wide bus pad will be constructed on NE 4th Avenue at the location of an existing bus stop per the request of Broward County Transit.

3. The applicant must show, and it must be found by the reviewing body that the following have been met:

*a. The location of the use or structure is not in conflict with the City's Comprehensive Plan;*

The location of the use conforms to the City's Comprehensive Plan. Future Land Use Objective FLU 2.3, Mixed Use Development/Multimodal Environment, states that the City shall encourage mixed-use developments to enhance the livability of the City. The proposed project also supports Economic Development Element Policy ED 2.7.5 which states that the City shall determine the appropriate mix and form of residential and commercial uses along transit corridors based on the unique character of the community considering the types and mix of uses that will complement adjacent neighborhoods. Refer to Comprehensive Plan Consistency section herein for additional information.

*b. Off-site or on-site conditions exist which reduce any impact of permitting the use or structure;*

The subject property is currently a parking lot. The proposed site plan associated with the rezoning maintains a surface parking lot in the rear of the site along NE 3<sup>rd</sup> Avenue. In addition, the site plan incorporates neighborhood compatibility requirements, including a 12-foot landscaping buffer and a new 6-foot-high masonry wall along the property line with single-family uses to reduce impact on adjacent properties.

*c. On-site improvements have been incorporated into the site plan which minimize any adverse impacts as a result of permitting the use or structure;*

The proposed development will enhance the pedestrian experience adding a sidewalk along NE 11<sup>th</sup> Street in addition to installation of landscaping including canopy trees and palm trees along the perimeter of the property.

*d. The location of the use in proximity to a similar use does not impact the character of the zoning district in which the use is located;*

The size and scale of development and allowable uses within the CB district are transitional in nature; intended to limit impact on surrounding residential neighborhoods. The proposed mixed-use development is designed with surface parking and ground floor amenity area between the project and existing residential development.

- e. *There are no adverse impacts of the use which affect the health, safety and welfare of adjacent properties.*

The proposed development does not adversely impact the health, safety and welfare of adjacent properties.

### **REZONING CRITERIA:**

Per the City's Unified Land Development Regulations (ULDR) Section 47-24.4.D, Rezoning Criteria, an application for a rezoning shall be reviewed in accordance with the following criteria:

1. *The zoning district proposed is consistent with the City's Comprehensive Plan.*

The proposed CB zoning designation will provide an appropriate transition between the more intense commercial uses along NE 4<sup>th</sup> Avenue and existing residential uses. The CB zoning designation allows for mixed-use provided the request is approved under the conditional use permit application. Reference section herein, titled Comprehensive Plan Consistency, for additional information.

2. *The changes anticipated by the proposed rezoning will not adversely impact the character of development in or near the area under consideration.*

The proposed rezoning will not adversely impact the character of development in or near the area under consideration. The eastern portion of this property is zoned CB. Commercial and residential uses are already existing in the vicinity of the property.

3. *The character of the area proposed is suitable for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses.*

The proposed CB zoning district is compatible with surrounding uses and zoning districts. The eastern portion of the property is zoned CB and the property is adjacent to a bus transit route. Properties to the north and south are zoned CB and consists of vacant lots along NE 4<sup>th</sup> Avenue. The property's proximity to bus transit makes CB an appropriate zoning designation that will allow residential mixed use as well as less intense commercial uses. There are single family, townhouse, and multifamily development to the north, west, and south that are zoned RD-15.

Please refer to Table 1 below for a general comparison of permitted uses in the RD-15 zoning and CB zoning districts and Table 2 for a comparison of dimensional requirements. For a detailed list of permitted uses within the CB zoning district, refer to ULDR Section 47-6.10. - List of permitted and Conditional Uses, Community Business (CB) District.

**Table 1: General Comparison of Permitted Uses**

<i>Existing Zoning District</i>	<i>Proposed Zoning District</i>
<b>RD-15</b>	<b>CB</b>
Single Family Dwelling	Automotive
Single Family Attached/Cluster	Boats, Watercraft, and Marina

Table 2:

Single Family Attached: Duplex/Two (2) Family Dwelling	Commercial Recreation
Single Family Zero-lot-line	Food and Beverage Service
Community Residence, 3 residents maximum	Lodging
Family Community Residence, 4 to 10 residents, 1,000' distance separation	Public Purpose Facilities
Active and Passive Park	Retail Sales
Social Service Residential Facility, Level I	Service/Office Facilities
Family Day Care Home	Lodging
<b>Conditional Uses</b>	Public Purpose Facilities
Family Community Residence, 4 to 10 residents, 1,000' distance separation	Accessory Uses, Buildings, Structures
Transitional Community Residence, more than 4 residents/Family Community Residence, more than 10 residents/Community Residence, no license or certification available.	Urban Agriculture
	<b>Conditional Uses</b>
	Marina
	Mixed Use Development
	Social Service Residential Facility
	Hospital
	Adult Gaming Center
	Nursing Home

*Comparison of Dimensional Requirements*

Requirements	Existing Zoning District	Proposed Zoning District
	RD-15	CB
Maximum building height (ft.)	35 Feet	150 Feet
Minimum front yard (ft.):	25 Feet	5 Feet
Minimum side yard (ft.):	5 Feet- up to 22 feet in height.  Where a building exceeds 22 feet in height, that portion of the building above 22 feet shall be set back an additional 1 foot per foot of additional height.	0 Feet
When Abutting Residential	NA	10 Feet
Minimum rear yard (ft.):	15 Feet	0 Feet
When Abutting Residential	15 Feet	15 Feet
Corner yard(ft.)	10-25 Feet	5 Feet

**Adequacy and Neighborhood Compatibility**

The adequacy criteria of ULDR Section 47-25.2 are used to evaluate the demand created on public services and facilities by a proposed development. Water and wastewater are serviced by the City

of Fort Lauderdale and a capacity letter was issued on March 5, 2021, by the City's Public Works Department which identified the plant facilities, pump station and associated infrastructure servicing this project and the project's impact on capacity. The letter indicates that there is sufficient capacity for both water and wastewater to service the project. The City's capacity letter is attached as **Exhibit 4**. A traffic impact statement dated October 1, 2020 prepared by D.C. Engineers, Inc. indicates the proposed development will have minimal impact on the adjacent roadway network. The traffic impact statement is attached as **Exhibit 5**.

The neighborhood compatibility criteria of ULDR Section 47-25.3 include performance standards requiring all developments to be "compatible with, and preserve the character and integrity of adjacent neighborhoods... the development shall include improvements or modifications either on-site or within the public rights-of-way to mitigate adverse impacts, such as traffic, noise, odors, shadow, scale, visual nuisances, or other similar adverse effects to adjacent neighborhoods. These improvements or modifications may include, but shall not be limited to, the placement or orientation of buildings and entryways, parking areas, bufferyards, alteration of building mass, and the addition of landscaping, walls, or both, to ameliorate such impacts."

The site is located at the northeast corner of NE 3<sup>rd</sup> Avenue and NE 11<sup>th</sup> Street. The proposed CB zoning district is compatible with surrounding uses and zoning districts. The properties to the north west and south along NE 3<sup>rd</sup> Avenue are zoned RD-15 and consist of multifamily, townhouse and single-family development. The proposed CB zoning designation will provide the appropriate buffer between the more intense commercial uses along NE 4<sup>th</sup> Avenue and the residential uses in the RD-15 district.

#### **COMPREHENSIVE PLAN CONSISTENCY:**

The proposed rezoning aligns with the City's Goals, Objectives and Policies, specifically Future Land Use Element, Goal 2, Objective 2.1: Neighborhood Compatibility, which states, "protect existing and future residential neighborhoods from impacts created by more intense adjacent uses." The site plan is consistent with Future Land Use Element Policy FLU 2.3.1 which states, "Mixed use development shall promote an urban form, which creates well integrated land use combinations, balances intensity and density, and promotes the safe interconnectivity of vehicular, pedestrian, and other non-motorized movement."

The portion of the development that is designated Residential Medium-High and is proposed to be rezoned is approximately .62 acres. Therefore, .62 acres of commercial flex is proposed for allocation. Table 3 below provides a summary of commercial flex allocation to date. If the application is approved, there will be 516.69 acres of commercial flex acreage available.

**Table 3- Flex Acreage**

	<b>Flex Acreage</b>
<b>Total Permitted</b>	519.60
<b>Assigned to Date</b>	1.67
<b>Pending</b>	1.24
<b>Remaining</b>	516.69

#### **FLEXIBILITY RULES**

Pursuant to the ULDR Section 47-28.1.G, for the allocation of commercial uses on residential land use designated parcels this application is subject to the following conditions:

1. The city may permit commercial uses on a parcel with a residential land use designation subject to the following conditions:
  - a. *Rezoning of the development site to community business (CB) only, CB zoning, or to exclusive use (X-Use).*

This application includes a request to rezone the parcel from RD-15 to CB.

- b. *No more than five percent (5%) of the total area within a flexibility zone which is designated residential on the city's plan, may be rezoned to CB.*

The total residential to commercial flex acreage permitted is 519.60, with 1.67 acres assigned to date and another 1.24 acres pending assignment with 516.69 acres unassigned.

- c. *The parcel proposed for CB use shall not be greater than ten (10) contiguous acres.*

The parcel proposed to be rezoned to CB is approximately .62 acres.

- d. Pursuant to the ULDR Section 47-28.1.G, for the allocation commercial uses on residential land use designated parcels, this application is evaluated using the following criteria:
  - i. *Demonstration that the use of commercial flex acreage supports and implements the specific goals, objectives and policies of the City's Land Use Plan.*

The proposed use is consistent with the City's Comprehensive Plan Goals, Objectives and Policies, including the Future Land Use Element Policy 1.2.3 which states that the City may rearrange nonresidential intensities through the use of Flexibility Rules in accordance with the County and City's adopted Land Use Plans and the "Administrative Rules Document" of the County's Land Use Plan. The allocation of flex acreage also supports Economic Development Element Policy ED 2.7.5 which states that the City shall determine the appropriate mix and form of residential and commercial uses along transit corridors based on the unique character of the community considering the types and mix of uses that will complement adjacent neighborhoods.

The City's Future Land Use Map indicates that the subject property has split land use consisting of Commercial and Residential Medium designations. The City's Land Use Plan allows properties with residential land use designations to be converted for commercial uses through the allocation of commercial flex without having to amend the land use.

- ii. *Rezoning application in accordance with Sec. 47-24.2, Development Permits and Procedures.*

This application includes a request to rezone the parcel from RD-15 to CB.

- iii. *Site plan approval level III in accordance with Sec. 47-24.2, Development Permits and Procedures.*

This application is a Site Plan Level IV that includes an associated request for rezoning with flex allocation, and a conditional use request for the mixed-use development.

#### **PUBLIC PARTICIPATION**

The rezoning request is subject to the public participation requirements established under ULDR Section 47-24.1. F.14. According to the applicant, a public participation meeting was held on March 18, 2021, to offer the South Middle River Civic Association, Middle River Terrace Association, and surrounding properties, the opportunity to learn about the proposed rezone and site plan application.

In addition, this request was subject to sign notification requirements established in ULDR, Section 47-27.4. The applicant posted three (3) signs along the right-ways of the property and has met the requirements of this Section. The required public participation summary, mail notification affidavit and sign affidavit are attached as **Exhibit 6**.

#### **PLANNING & ZONING BOARD REVIEW OPTIONS:**

CASE #PLN-SITE-20100002

Page 6

The Planning and Zoning Board shall consider the application and make a determination based on the following criteria:

- ULDR Section 47.24.3, Conditional Use Permit
- ULDR Section 47-24.4, Rezoning
- ULDR Section 47-25.2, Adequacy Requirements
- ULDR Section 47-25.3, Neighborhood Compatibility Requirements
- ULDR Section 47-28, Flexibility Rules

If the Planning and Zoning Board determines that the application meets the criteria as provided in this section, the Planning and Zoning Board shall recommend that the rezoning be approved or recommend a rezoning to a more restrictive zoning district than that requested in the application if necessary to ensure compliance with the criteria for the rezoning and if consented to by the applicant.

If the Planning and Zoning Board determines that the application does not meet the criteria provided for rezoning or if the applicant does not consent to a more restrictive zoning district, the Planning and Zoning Board shall deny the application and an appeal to the City Commission may be filed by the applicant in accordance with Section 47-26.B, Appeals.

If approved, the following conditions apply:

1. Applicant will be required to pay a park impact fee for the proposed residential units prior to issuance of building permit in accordance with ULDR Section 47-38A, Park Impact Fees.
2. Applicant will be required to obtain a final School Capacity Availability Determination (SCAD) letter prior to the submittal of building permit and provide the City with a copy at time of building permit submittal.
3. Prior to final DRC sign off, the applicant shall provide correspondence from FPL confirming the removal/relocation of the existing utility poles located within limits of the proposed sidewalk along NE 11th Street. The correspondence shall also include an exhibit depicting the final location of the poles to ensure they relocated outside sidewalk clear path and does not conflict with ADA guidelines. Should FPL deny relocating or removing the existing utility poles, the applicant shall revise the site plan to reflect modifications of the sidewalk location and provide a sidewalk easement as needed.
4. Prior to final DRC sign off, the applicant shall revise the water and sewer plan to depict the location of the proposed 4-inch water meter vault and connection to existing water main along NE 11th Street.
5. Prior to final DRC sign off, the applicant shall include additional details for the right-of-way stormwater improvements, including material, inlet type, and rim/inlet elevations.
6. Prior to issuance of building permit, applicant shall obtain a general/surface water management license from the Broward County Planning and Development Management Division.
7. Prior to issuance of final certificate of occupancy, the applicant shall provide a 25-foot corner chord right-of-way dedication or permanent right-of-way easement on northwest corner of NE 4th Avenue and NE 11th Street intersection (coordinated with FDOT).
8. Prior to issuance of final certificate of occupancy, the applicant shall provide a permanent sidewalk easement as appropriate along west side of NE 4th Avenue to accommodate portion of pedestrian clear path (coordinate required width with FDOT and TAM) that may be located beyond public right-of-way.

9. Prior to issuance of final certificate of occupancy, applicant shall record a permanent sidewalk easement as appropriate along the north side of NE 11<sup>th</sup> Street, the east side of NE 3<sup>rd</sup> Avenue and at the northeast corner of NE 11<sup>th</sup> Street and NE 3<sup>rd</sup> Avenue intersection to accommodate portion of pedestrian clear path located beyond the public right-of-way and/or right-of-way easement dedication.
10. Prior to issuance of final certificate of occupancy, the applicant shall provide a 10' x 15' (minimum) permanent utility easement for any 4-inch or larger water meter located within the proposed development (for City maintenance access).

**EXHIBITS:**

1. Location Map and Sketch and Legal Description
2. Application and Applicant's Narrative Responses
3. Site Plan
4. Water and Sewer Capacity Letter dated March 5, 2021
5. Traffic Impact Statement dated October 1, 2020
6. Public Participation Affidavit, Mail Notification Affidavit, and Sign Affidavit