

ORDINANCE NO. 34-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL SCALE LAND USE MAP AMENDMENT RE-DESIGNATING LAND APPROXIMATELY 0.57± ACRES IN SIZE FROM HISTORIC MIXED USE (HMU) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 37 WEST ATLANTIC AVENUE AND AN ABUTTING UNADDRESSED PARCEL TO THE EAST, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach exercised the authority granted pursuant to the provisions of Florida Statutes Sections 163.3161 through 163.3248, inclusive, known as the "Community Planning Act"; and

WHEREAS, via Ordinance No. 82-89, the City Commission adopted the document entitled "Comprehensive Plan - Delray Beach, Florida"; and

WHEREAS, Cecelia J. Egan, Diane Marshall, Vito W. Vultaggio, and Philip Vultaggio, Jr., are the fee simple owner of 37 West Atlantic Avenue and an abutting unaddressed parcel, which measure approximately 0.57 acres± and are located on the north side of West Atlantic Avenue between North Swinton Avenue and NW 1st Avenue; and

WHEREAS, Cecelia J. Egan, Diane Marshall, Vito W. Vultaggio, Philip Vultaggio, Jr., designated John W. Szerdi, Architect for Banyan Fund, LLC, as the agent for the Land Use Map amendment to re-designate the parcels from Historic Mixed Use (HMU) to Commercial Core (CC); and

WHEREAS, the subject properties hereinafter described have an existing FLUM designation of Historic Mixed Use (HMU); and

WHEREAS, pursuant to Florida Statutes 163.3174(4), the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this item at a public hearing on August 18, 2020, and voted 6 to 1 to recommend that the Future Land Use Map designation be changed for the properties hereinafter described, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, it is appropriate that the designation of Commercial Core (CC) on the Future Land Use Map of the City of Delray Beach, Florida is applied to the property described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That the Land Use Map of the City of Delray Beach, Florida, be and the same, is hereby amended to reflect a future land use designation of Commercial Core (CC) for the described properties in Exhibit "A", Legal Descriptions, attached hereto and incorporated herein.

Section 3. That the City Commission of the City of Delray Beach, Florida, hereby declares its intent to exercise the authority granted pursuant to the provisions of Sections 163.3161 through 163.3248, Florida Statutes, inclusive, known as the "Community Planning Act."

Section 4. The Land Use Map of the City of Delray Beach, Florida, shall, upon the effective date of this ordinance, be amended to conform to the provisions of Section 2 hereof, as depicted in Exhibit "B", Proposed Land Use Map, attached hereto and incorporated herein.

Section 5. The Land Use Map of the City of Delray Beach, Florida, shall, upon the effective date of this ordinance, be amended to conform to the provisions of Section 4 hereof.

Section 6. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 7. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

Section 8. This ordinance shall become effective thirty-one (31) days after adoption, unless the Comprehensive Plan amendment is timely challenged. If timely challenged, the effective date of this Ordinance shall be the date a final order is issued by the State Land Planning or the Administration Commission, finding the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED AND ADOPTED in regular session on second and final reading on this _____ day of _____, 2020.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading: _____

Second Reading: _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

“EXHIBIT A”
LEGAL DESCRIPTIONS

37 WEST ATLANTIC AVENUE (PCN 12-43-46-16-01-060-0130)

Lots 13 and 14, Block 60, Delray Beach (formerly Linton), according to the plat thereof, as recorded in Plat Book 1, Page 3, of the Public Records of Palm Beach County, Florida. Less that portion conveyed to the State of Florida, in Official Records Book 1253, Page 461, of the Public Records of Palm Beach County, Florida.

TOGETHER WITH

UNADDRESSED PARCEL (PCN 12-43-46-16-01-060-0150)

Lot 15 (less the South 20 feet thereof), Block 60, Delray Beach (formerly Linton), according to the plat thereof, as recorded in Plat Book 1, Page 3, of the Public Records of Palm Beach County, Florida.

Said land situated in the City of Delray Beach, Palm Beach County, Florida and contains 0.57 acres, more or less.

“EXHIBIT B” PROPOSED LAND USE MAP

