

ORDINANCE NO. 35-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING LAND APPROXIMATELY 0.57 ACRES IN SIZE PRESENTLY ZONED OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD) TO CENTRAL BUSINESS (CBD) DISTRICT, WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT, FOR THE PROPERTIES LOCATED AT 37 WEST ATLANTIC AVENUE AND AN ABUTTING UNADDRESSED PARCEL TO THE EAST, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," BY AMENDING SUBSECTION (B), "REGULATING PLANS," TO ESTABLISH COMPATIBLE TRANSITIONS TO HISTORIC DISTRICTS; BY AMENDING FIGURE 4.4.13-B-2, "WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT REGULATING PLAN," TO INCLUDE THE PROPERTIES IN THE WEST ATLANTIC NEIGHBORHOOD LIMITED HEIGHT AREA; BY AMENDING SUBSECTION (D), "CONFIGURATION OF BUILDINGS," AND TABLE 4.4.13(B), "BUILDING HEIGHT," TO DEFINE THE MAXIMUM BUILDING HEIGHT FOR PROPERTIES IN THE WEST ATLANTIC NEIGHBORHOOD LIMITED HEIGHT AREA; BY AMENDING SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)," SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES," SUBSECTION (C), "ACCESSORY USES AND STRUCTURES PERMITTED," AND SUBSECTION (F), "DEVELOPMENT STANDARDS," TO REMOVE THE PROPERTIES FROM THE OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT ZONING DISTRICT REGULATIONS; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the properties hereinafter described are shown on the City of Delray Beach Zoning Map, dated June 29, 2017, as being zoned Old School Square Historic Arts District (OSSHAD) and located within the Old School Square Historic District; and

WHEREAS, MDG Banyan Delray Partners LLC, is 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, MDG Banyan Delray Partners LLC, designated Steven Michael, as the authorized representative for the request to re-zone the parcels from OSSHAD to Central Business District (CBD); and

WHEREAS, the rezoning amends the Land Development Regulations (LDR) to place the subject properties within the Limited Height Area of the West Atlantic Neighborhood Sub-district; and

WHEREAS, a land use designation of Commercial Core was simultaneously requested for said parcels, and approved by the City of Delray Beach on \_\_\_\_\_, 2021; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on August 18, 2020, and voted 5 to 1 to recommend the property hereinafter described be rezoned to City of Delray Beach CBD, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the LDR; and

WHEREAS, the City Commission of the City of Delray Beach finds this Ordinance is consistent with the Comprehensive Plan; and

WHEREAS, it is appropriate the Zoning District Map of the City of Delray Beach, Florida, be amended to reflect the revised zoning classification; and

WHEREAS, due to the rezoning, Sections 4.4.13, “Central Business (CBD) District,” and 4.4.24, “Old School Square Historic Arts District (OSSHAD),” of the LDR of the Code of Ordinances of the City of Delray Beach, Florida, be amended to be consistent with the revised zoning classification.

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

Section 1. The recitations set forth above are incorporated herein.

Section 2. The Zoning District Map of the City of Delray Beach, Florida, be, and the same is, hereby amended to reflect a zoning classification of Central Business (CBD) District for the described properties in Exhibit “A”, Legal Descriptions, and identified in Exhibit “B”, Proposed Zoning Map, attached hereto and incorporated herein.

Section 3. Section 4.4.13, “Central Business (CBD) District,” Subsection (B), “Regulating plans,” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

(B) **Regulating plans.** The Delray Beach Central Business District Regulations Plans depict additional information necessary to apply the standards contained in this section and are hereby officially

adopted as an integral part of these regulations. A Regulating Plan for each CBD Sub-district is provided in this section and versions at larger scales are available in the Planning and Zoning Department. The Regulations Plans depict the following information:

(1)-(3) (These subsections shall remain in full force and effect as previously adopted.)

(4) **Limited Height Areas.** Building height is limited in specific areas to protect and enhance existing development patterns. See Section 4.4.13(D).

- a. Building height is limited on a portion of East Atlantic Avenue to help maintain the unique character of the City's historic main street.
- b. Building height is limited in certain areas in the West Atlantic Neighborhood Sub-district to encourage compatible transitions to the surrounding single-family neighborhoods and historic districts.

(5)-(6) (These subsections shall remain in full force and effect as previously adopted.)

Section 4. Figure 4.4.13-B-2, “West Atlantic Neighborhood Sub-district Regulating Plan,” in Section 4.4.13, “Central Business (CBD) District,” of the Land Development Regulations shall, upon the effective date of this Ordinance, be removed and replaced as shown in Exhibit “C”, to conform with the provisions of Section 2 hereof.

Section 5. Section 4.4.13, “Central Business (CBD) District,” Subsection (D), “Configuration of Buildings,” Subsection (D)(1), “Standards for CBD,” and Table 4.4.13(B), “Building Height,” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

(1) **Standards for CBD.** The following building configuration standards apply to all CBD Sub-districts:

(a) **Building height.** Unless otherwise specified herein, the height of buildings shall be measured in and regulated by the number of stories and the maximum overall building height (See Table 4.4.13(C)). Stories are measured from the finished floor to finished ceiling. (See Figure 4.4.13-D-2).

1. Within the Atlantic Avenue Limited Height Area, maximum overall building height is 38 feet and maximum building height in number of stories is three. The Atlantic Avenue Height Limit Area is defined as those properties, or portions of properties, located within 125 feet north or south of the East Atlantic Avenue right-of-way line, between Swinton Avenue and the Intracoastal Waterway. (See Figure 4.4.13-B-1).

2. Within the West Atlantic Neighborhood Limited Height Area, the maximum overall building height in feet and number of stories is as follows: ~~35 feet and the maximum number of stories is three. The West Atlantic Neighborhood Limited Height Area is required for those properties rezoned from Single-family Residential (R-1-A) to Central Business District.~~
- i. For properties rezoned from Single-family Residential (R-1-A) to Central Business District: 35 feet and three stories.
  - ii. For properties within a historic district and rezoned to Central Business District: 38 feet and three stories.

3.-12. (These subsections shall remain in full force and effect as previously adopted.)

(Figures 4.4.13-D-1 and 4.4.13-D-2 shall remain in full force and effect as previously adopted.)

Table 4.4.13(B) Building Height		
A	Maximum Building Height in the Atlantic Avenue Limited Height Area	3 stories and 38 ft.
	Maximum Building Height in the West Atlantic Neighborhood Limited Height Area <ul style="list-style-type: none"> <li>• <u>Rezoned from R-1-A to Central Business District</u></li> <li>• <u>Within or adjacent to a Historic District and rezoned to Central Business District</u></li> </ul>	3 stories and 35 ft. 3 stories and 38 ft.
	Maximum Building Height outside of the Atlantic Avenue Limited Height Areas	4 stories and 54 ft.
	Maximum Building Height in the Railroad Corridor Sub-district south of SE 2 <sup>nd</sup> Street	5 stories and 54 ft.
B	Ground Floor Finish Level	
	Residential Units in the Beach, Central Core, and Railroad Corridor Sub-districts	18" min.
	Residential Units in the West Atlantic Neighborhood Sub-district	12" min.
C	Ground Story Height	
	Commercial and Mixed-Use Buildings, with ground floor commercial uses.	12 ft. min.
	Residential Buildings	10 ft. min.
D	Upper Story Height	9 ft. min.

Table 4.4.13(B) Building Height		
E	Additional Setback Above 3 <sup>rd</sup> Story	varies

(b) – (e) (These subsections shall remain in full force and effect as previously adopted.)

Section 6. Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection (B), “Principal uses and structures,” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

(B) **Principle uses and structures.** The following types of uses are allowed within the OSSHAD as a permitted use:

(1)-(11) (These subsections shall remain in full force and effect as previously adopted.)

(12) Within the following described areas, the uses allowed as permitted uses in Section 4.4.13(B) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:

- (a) Lots ~~13~~—16, Block 60;
- (b) Lots 1—4, Block 61;
- (c) Lots 1—7, Lots 16—18 and 19-24, Block 69
- (d) Lots 23-25, Block 70;
- (e) Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and
- (f) Lots 1—6, Block 76.

(13)-(15) (These subsections shall remain in full force and effect as previously adopted.)

Section 7. Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection (C), “Accessory uses and structures permitted,” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

(C) **Accessory uses and structures permitted.** The following uses are allowed when a part of, or accessory to, the principle use:

(1)-(5) (These subsections shall remain in full force and effect as previously adopted.)

(6) Within the following described areas, the uses allowed as accessory uses in Section 4.4.13(C) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:

- (a) Lots ~~13~~—16, Block 60;
- (b) Lots 1—4, Block 61;
- (c) Lots 1—7, Lots 16—18 and 19-24, Block 69;
- (d) Lots 23—25, Block 70;
- (e) Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and
- (f) Lots 1—6, Block 76.

(7) (This subsection shall remain in full force and effect as previously adopted.)

Section 8. Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection (F), “Development standards,” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended as follows:

(F) **Development standards.** The development standards as set forth, for the OSSHAD ~~District~~, in Section 4.3.4 apply, except as modified below:

- (1) (This subsection shall remain in full force and effect as previously adopted.)
- (2) The following locations shall be subject to the development standards of the West Atlantic Neighborhood (WAN) area of the CBD Zone District:
  - (a) Lots ~~13~~—16, Block 60.
  - (b) Lots 1—4, Block 61.

(3)-(7) (These subsections shall remain in full force and effect as previously adopted.)

Section 9. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 10. 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 11. Specific authority is hereby given to codify this Ordinance.

Section 12. This Ordinance shall become effective only after the effective date of Ordinance No. 34-20, and upon approval at second reading. No development orders, or land uses dependent on this amendment may be issued or commenced before it has become effective.

PASSED AND ADOPTED in regular session on second and final reading on this \_\_\_\_ day of \_\_\_\_\_, 2021.

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.

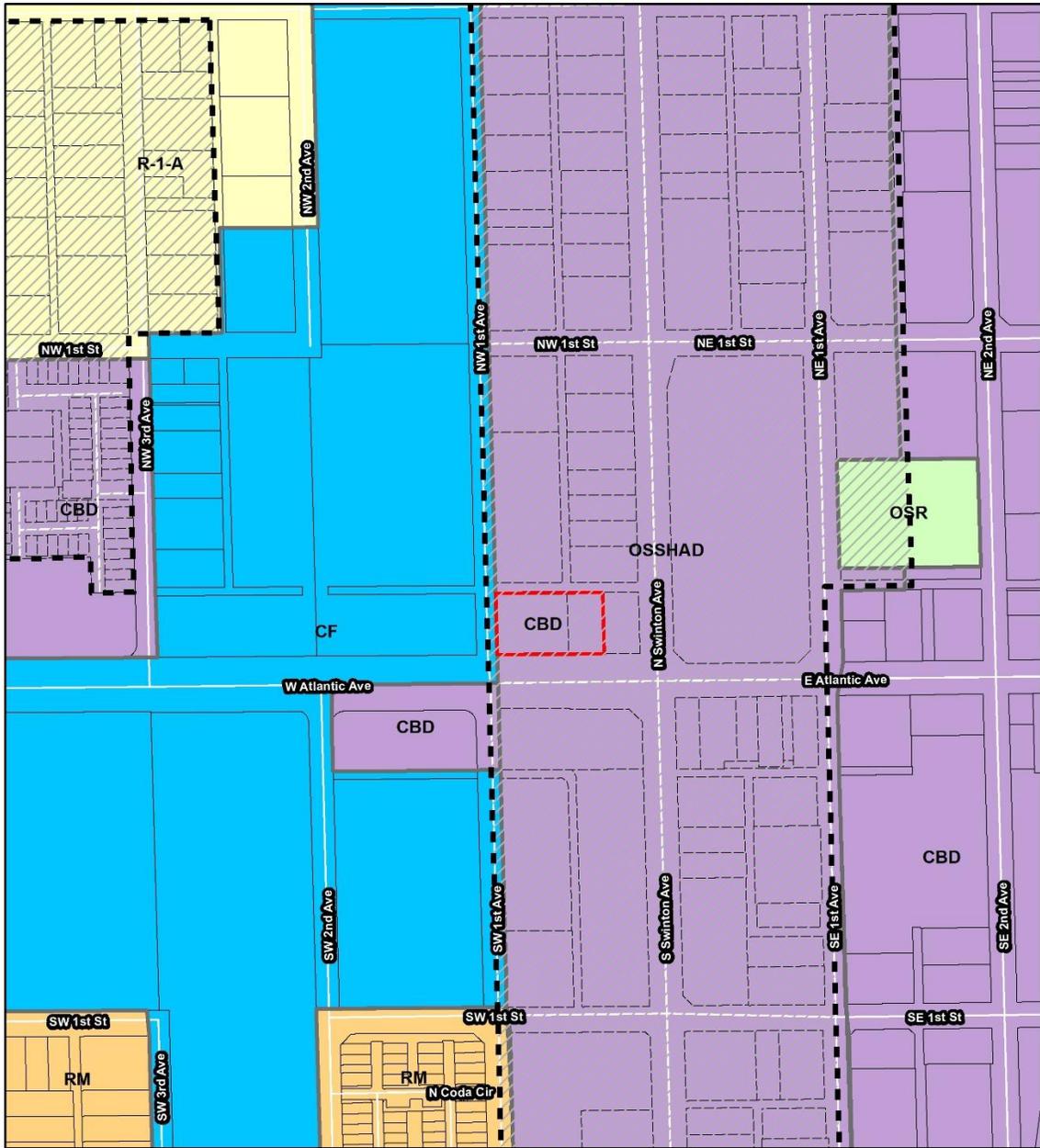
TOGETHER WITH

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

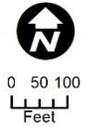
Lot 15 (less the South 20 feet thereof), Block 60, Delray Beach (formerly Linton), according to the plat thereof, as recorded in Plat Book 1, Page 3, of the Public Records of Palm Beach County, Florida.

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

# Exhibit B Proposed Zoning Map



- Historic Districts
- Multiple Family Residential
- Mixed Use
- Subject Site
- Institutional
- Open Space / Recreation
- Single Family Residential



### EXHIBIT C

Figure 4.4.13-B-2 West Atlantic Neighborhood Sub-district Regulating Plan



- CBD ZONING
- REQUIRED RETAIL FRONTAGE
- OSSHAD ZONING WITH CBD OVERLAY
- WEST ATLANTIC NEIGHBORHOOD LIMITED HEIGHT AREA
- WEST ATLANTIC NEIGHBORHOOD COMMERCIAL AREA
- WEST ATLANTIC NEIGHBORHOOD
- PRIMARY STREETS
- PUBLIC PARKING GARAGE