



Cover Memorandum/Staff Report

File #: 23-1611

Agenda Date: 12/5/2023

Item #: 8.B.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: December 5, 2023

ORDINANCE NO. 37-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE LAND USE MAP AMENDMENT REDESIGNATING A PARCEL OF LAND MEASURING APPROXIMATELY 4.87 ACRES LOCATED AT 5185 ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PALM BEACH COUNTY RESIDENTIAL HIGH TO CITY OF DELRAY BEACH MEDIUM DENSITY RESIDENTIAL PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING/PUBLIC HEARING)

Recommended Action:

Review and consider Ordinance No. 37-23, a privately initiated request for a small-scale Land Use Map Amendment for a parcel of land located at 5185 Atlantic Avenue, subject to Florida Statutes Section 163 and the City of Delray Beach Land Development Regulations Section 2.4.5(A).

Background:

The applicant has requested a Land Use Map Amendment for a vacant 4.87-acre parcel from Palm Beach County Residential High to City of Delray Beach Medium Density Residential. The Land Use Map Amendment request is being reviewed concurrently with a petition for a voluntary annexation, a rezoning from Palm Beach County Agriculture Residential to City of Delray Beach Multiple Family Residential, and a privately-initiated amendment to the Land Development Regulations to adopt The Flo Delray Overlay District for the purpose of establishing a revitalization incentive density bonus of up to 24 dwelling units per acre at the subject property. The annexation request shall be considered prior to the land use designation and rezoning requests.

LDR Section 2.4.5(A), Land Use Actions: Amendments to the Comprehensive Plan, "amendments to the Comprehensive Plan shall be processed pursuant to the Florida Community Planning Act in F.S. 163.3184 through 163.3253, as may be amended from time to time."

Pursuant to **Policy NDC 3.3.2 of the Always Delray Comprehensive Plan**, the City shall apply a land use designation immediately following any annexation and amend the Land Use Map of the Comprehensive Plan. The City's Land Use Map includes Future Annexation Areas and indicates the advisory land use. The advisory land use designation for this parcel is MD, which is the land use requested. MD land use accommodates the proposed RM zoning, which facilitates a variety of residential development at medium density, as well as nursing home, assisted living facility, churches, and public educational uses. The development to the west and to the north across the Lake Worth

Drainage District (LWDD) canal is multi-family, and the properties are developed at a lower density (calculated to be approximately 9.7 dwelling units per acre). The Marketplace of Delray property to the east and south could, however, be redeveloped at a density of 30 dwelling units per acre with a maximum Floor Area Ratio (FAR) of 3.0.

A Land Use Map amendment is necessary for any parcel annexing into the City of Delray Beach. The requested land use designation is compatible with the surrounding GC land use to the south and east of the subject property, and while the County's HR-8 land use to the north and west allows for multi-family as well, it is noted that the land use maximum allows for a greater density (24 dwelling units per acre with density bonuses) than the existing County land use designation with density bonuses (16 dwelling units per acre).

Pursuant to **LDR Section 3.1.1, Required Findings**, *prior to the approval of development applications, certain findings must be made. These findings relate to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations.* A detailed review of these, and all other required findings and relevant information for review is provided in the attached Planning and Zoning Board staff report.

The Planning and Zoning Board reviewed Ordinance No. 37-23 at the September 26, 2023 meeting and recommended approval by a vote of 6 to 0 (Joy Howell absent). The concerns raised were generally related to the income and affordability mix proposed in the concurrent amendment to the Land Development Regulations to establish The Flo Delray Overlay District. The Board requested that the applicant amend the overlay requirements to require the low income affordability category (in addition to moderate income affordability), and to include a requirement that one three-bedroom unit be designated as affordable.

The City Commission voted 5 to 0 to approve Ordinance No. 37-23 on first reading at the November 14, 2023 meeting.

City Attorney Review:

Ordinance No. 37-23 was approved to form and legal sufficiency.

Funding Source/Financial Impact:

Not applicable.

Timing of Request:

Ordinance No. 36-23 must be approved prior to approval of Ordinance No. 37-23, Ordinance No. 38-23, and Ordinance No. 39-23. Ordinance No. 37-23 will be effective 31 days from the date of adoption.