

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.

WHEREAS, the City of Delray Beach (“City”) 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, in passing Ordinance No. 19-19, the City Commission adopted the Always Delray Comprehensive Plan, including the City Land Use Map; and

WHEREAS, Alice Clayton, LLC, (“Owner”) is the fee simple owner of a parcel of land that measures approximately 4.87 acres located at 5185 Atlantic Avenue (“Property”), as more particularly described in Exhibit “A”; and

WHEREAS, Owner designated Sandra J. Megrue of Urban Design Studio (“Applicant”) to act as its agent; and

WHEREAS, the City of Delray Beach, Florida (“City”) received an application (File No. 2023-171-LUM) from the Applicant to redesignate the Property on the City Land Use Map; and

WHEREAS, the Property has a Land Use Map Designation of Palm Beach County Residential High; and

WHEREAS, Applicant requested a small-scale Land Use Map amendment redesignating the Property to City of Delray Beach Medium Density Residential, as depicted in Exhibit “B”; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this item at a public hearing on September 18, 2023, and voted 6 to 0 to recommend that the Land Use Map designation be changed for the Property 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, the City held all duly required public hearings prior to submission of the proposed amendment of the plan to the State Land Planning Agency of the Florida Department of Economic Opportunity (DEO), in accordance with Chapter 163.3184, Florida Statutes, for a small scale comprehensive plan amendment; and

WHEREAS, the City Commission considered the Land Use Map amendment and has considered the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

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 City Commission of the City of Delray Beach finds this Ordinance is consistent with the Comprehensive Plan, meets the criteria set forth in the Land Development Regulations, and is in the best interest of the City.

Section 3. 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, be, and the same is hereby, amended to reflect a Land Use Map designation of Medium Density (MD) Residential for the Property described in Exhibit “A”, as shown in Exhibit “B”, 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.

Section 9. The City Clerk, or designee, is directed to send a certified copy of this Ordinance to Sandra J. Megrue, Urban Design Studio at 610 Clematis Street, #CU-02, West Palm Beach, FL 33401.

PASSED AND ADOPTED in regular session on second and final reading on this ____ day of _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____

EXHIBIT "A"
LEGAL DESCRIPTION

THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA;

LESS THE NORTH 57.00 FEET AS CONVEYED TO LAKE WORTH DRAINAGE DISTRICT BY DEED RECORDED IN DEED BOOK 113, PAGE 429, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS ALSO BEING DESCRIBED AS FOLLOWS:

THE WEST ONE-HALF (W 1/2) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4), SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST. PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF FOUNTAINS AT DELRAY BEACH, AS RECORDED IN PLAT BOOK 83, PAGES 37 AND 38 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S.88°06'33"W. ALONG THE SOUTH LINE THEREOF, SAID SOUTH LINE BEING THE NORTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-33 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 3292, PAGE 941 OF SAID PUBLIC RECORDS, AND THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, A DISTANCE OF 908.70 FEET ; THENCE S.00°21'11"E. ALONG THE WEST LINE OF THOSE CERTAIN LANDS DESCRIBED IN SAID OFFICIAL RECORD BOOK 3292, PAGE 941 AND OFFICIAL RECORD BOOK 18197, PAGE 16 OF SAID PUBLIC RECORDS, SAID LINE BEING THE EAST LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14, A DISTANCE OF 57.02 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-33 CANAL, AS RECORDED IN DEED BOOK 113, PAGE 429 OF SAID PUBLIC RECORDS, AND THE POINT OF BEGINNING; THENCE CONTINUE S.00°21'11"E. ALONG SAID LINE, A DISTANCE OF 635.42 FEET; THENCE S.88°23'03"W. ALONG THE WEST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN SAID OFFICIAL RECORD BOOK 18197, PAGE 16, SAID LINE BEING THE SOUTH LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14, A DISTANCE OF 334.32 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14; THENCE N.00°20'22"W. ALONG THE EAST LINE OF HIGH POINT OF DELRAY WEST - PLAT NO. 2, AS RECORDED IN PLAT BOOK 40, PAGES 114 AND 115 OF SAID PUBLIC RECORDS, AND WEST LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14, A DISTANCE OF 633.82 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID L-33 CANAL; THENCE N.88°06'33"E. ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 334.21 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 212,066 SQUARE FEET/4.8684 ACRES MORE OR LESS.

EXHIBIT “B” PROPOSED LAND USE

