

ORDINANCE NO. 38-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING A PARCEL OF LAND MEASURING APPROXIMATELY 4.87 ACRES LOCATED AT 5185 ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PALM BEACH COUNTY AGRICULTURE RESIDENTIAL TO CITY OF DELRAY BEACH MEDIUM DENSITY RESIDENTIAL; AMENDING THE “CITY OF DELRAY BEACH, ZONING MAP, JULY 6, 2021”; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Alice Clayton, LLC (“Owner”) is the fee simple owner of a parcel of land measuring 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. 2023-169-REZ) from the Applicant to rezone the Property; and

WHEREAS, the Property has a Zoning Designation of Palm Beach Agriculture Residential; and

WHEREAS, the Property is shown on the City of Delray Beach Zoning Map, dated July 6, 2021, as located in the Future Annexation Area; and

WHEREAS, the Applicant requested the Property be given a zoning designation of City of Delray Beach Medium Density Residential (RM) as shown 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 zoning 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 Commission considered the rezoning request 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 the designation of Medium Density Residential is appropriate for the Property and in the best interest of the City.

Section 3. The Zoning District Map of the City of Delray Beach, Florida, be, and the same is, hereby amended to reflect a zoning classification of Medium Density Residential for the property described in Exhibit “A”, as shown on the map in Exhibit “B”, attached hereto and incorporated herein.

Section 4. The City of Delray Beach Zoning Map, shall, upon the effective date of this Ordinance, be amended to conform to the provisions of Section 3 hereof.

Section 5. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 6. 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 7. This Ordinance shall become effective concurrent with the effective date of Ordinance No. 37-23, amending the Land Use Map, and upon approval at second reading. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

Section 8. 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 ZONING

