

ORDINANCE NO. 02-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL SCALE LAND USE MAP AMENDMENT FOR AN UNADDRESSED PARCEL OF LAND LOCATED ON THE WEST SIDE OF SOUTHEAST 3RD AVENUE BETWEEN EAST ATLANTIC AVENUE AND SOUTHEAST 1ST STREET WITH A PARCEL CONTROL NUMBER OF 12-43-46-16-01-085-0050, THAT MEASURES APPROXIMATELY 0.1109 ACRES AS MORE PARTICULARLY DESCRIBED HEREIN; RE-DESIGNATING SAID LAND FROM COMMUNITY FACILITIES TO COMMERCIAL CORE 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, on February 4, 2020, via Ordinance No. 19-19, the City Commission adopted the Always Delray Comprehensive Plan, including the City Land Use Map; and

WHEREAS, Pierre Delray Two, LLC, ("Owner") is the owner of an unaddressed parcel located on the west side of Southeast 3rd Avenue between East Atlantic Avenue and Southeast 1st Street with a Parcel Control Number of 12-43-46-16-01-085-0050 ("Property"), and

WHEREAS, the Property, measuring approximately 0.1109± acres, as more particularly described in Exhibit "A", Legal Descriptions, and has a land use designation of Community Facilities; and

WHEREAS, Owner designated Bonnie Miskel, Esq. of Dunay, Miskel & Backman, LLP ("Applicant") to act as its agent; and

WHEREAS, Applicant requested a Land Use Map Amendment (LUMA) of the Property to change the land use designation from Community Facilities to Commercial Core, as depicted in Exhibit "B", Proposed Land Use; and

WHEREAS, the City held all duly required public hearings prior to submission of the proposed amendment to the State Land Planning Agency of the Florida Department of Economic Opportunity, in accordance with Chapter 163.3184, *Florida Statutes*, for a small scale comprehensive plan amendment; 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 January 24, 2022, and voted 5 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 Commission of the City of Delray Beach finds that this Ordinance is consistent with the Comprehensive Plan, meets the criteria set forth in the Land Development Regulations, and is in the best interests of the City; and

WHEREAS, it is appropriate that Commercial Core (CC) is hereby deemed the designation for the Property on the Land Use Map of the City of Delray Beach, Florida.

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, 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 3. 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 Commercial Core (CC) for the Property described in Exhibit “A”, Legal Description, as shown in Exhibit “B”, Proposed Land Use, attached hereto and incorporated herein.

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 3 hereof.

Section 5. All ordinances or parts thereof in conflict 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 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 \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

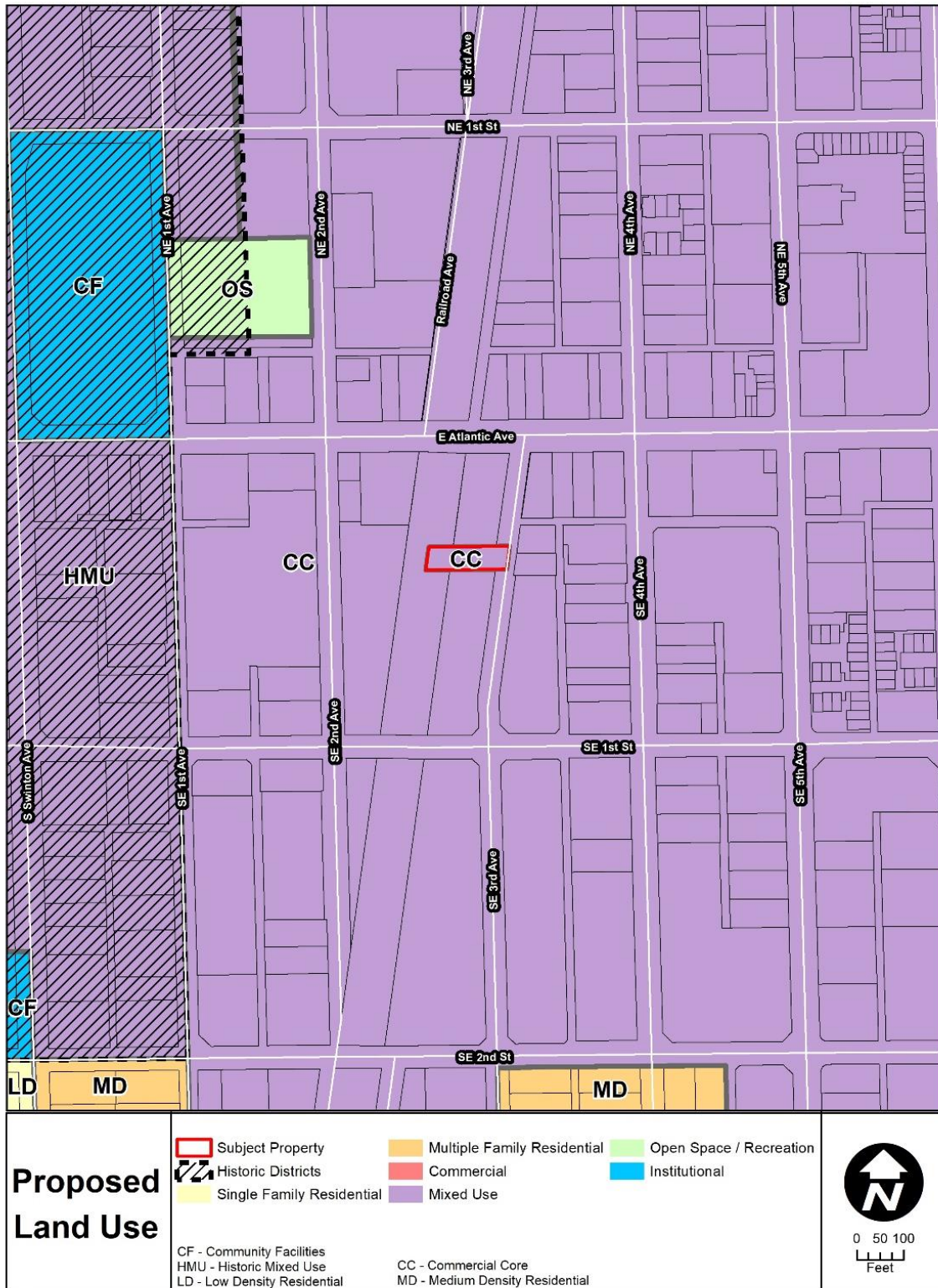
**EXHIBIT A**  
**LEGAL DESCRIPTION**

**SE 3RD Avenue - PCN 12-43-46-16-01-085-0050**

The South 51 feet of the North 250 feet of Block 85 lying East of the Florida East Coast Railroad Right-of-Way in the City of Delray Beach, Florida according to the Plat of the Map of Town of Linton (now Delray Beach), 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 0.1109 acres, more or less.

## EXHIBIT “B” PROPOSED LAND USE



Date: 12/1/2021

Document Path: S:\Planning & Zoning\BMS\GIS\GIS Projects\2021\03\_Map\_Requests\2021\_1201\_SE\_3rd\_Ave\01\_Mxd\SE\_3rd\_Current\_Land\_Use.mxd