

ORDINANCE NO. 22-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT FOR ONE (1) PARCEL OF LAND, AND RE-DESIGNATING SAID LAND FROM PALM BEACH COUNTY COMMERCIAL HIGH (CH-5) TO CITY OF DELRAY BEACH GENERAL COMMERCIAL (GC), PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187. SAID LAND IS LOCATED IMMEDIATELY WEST OF SOUTH MILITARY TRAIL, AND IMMEDIATELY SOUTH OF VIA DELRAY BOULEVARD, AND WHICH MEASURES APPROXIMATELY 3.54± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach 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, via Ordinance No. 82-89, the City Commission adopted the document entitled "Comprehensive Plan - Delray Beach, Florida"; and,

WHEREAS, 7-Eleven, Inc. is the fee simple owner of a one (1) parcel of land which measures approximately 3.54 acres ± and is located on the west side of South Military Trail, immediately south of Via Delray Boulevard; and,

WHEREAS, the subject property hereinafter described has an existing Future Land Use Map (FLUM) designation from Palm Beach County of Commercial High (CH-5); and,

WHEREAS, the owner of the property has requested re-designating the Future Land Use Map of said land from Palm Beach County Commercial High (CH-5); to City of Delray Beach General Commercial (GC); and,

WHEREAS, at its meeting of July 15, 2019, the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this item at a public hearing and voted # to # to

recommend that the Future Land Use Map designation be changed for the property hereinafter described, based upon positive findings; and,

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the changes are consistent with and further the objectives and policies of the Comprehensive Plan; and,

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; and,

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

WHEREAS, it is appropriate that General Commercial (GC) is hereby deemed the Future Land Use Map designation on the Future 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. That the recitations set forth above are incorporated herein.

Section 2. That the Future Land Use Map designation of the subject property is hereby officially affixed as General Commercial (GC).

Section 3. That the City Commission of the City of Delray Beach, Florida, hereby declares its intent to exercise the authority granted pursuant to the provisions of Florida Statutes Sections 163.3161 through 163.3248, inclusive, known as the "Community Planning Act."

Section 4. That the Future Land Use Map of the City of Delray Beach, Florida, be and the same, is hereby amended to reflect a Future Land Use Map designation of General Commercial (GC) for the following described property:

### **LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN SECTION 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 11, THENCE WITH A BEARING OF SOUTH 89°20'58" WEST, ALONG THE EAST-WEST QUARTER LINE OF SECTION 11, A DISTANCE OF 60.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL (S.R. 809) THENCE WITH A BEARING OF SOUTH 01°19'42" EAST,

ALONG THE WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL RIGHT-OF-WAY A DISTANCE OF 286.15 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF VIA DELRAY, AS RECORDED IN O.R. BOOK 2226, PAGE 1210 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE AFOREMENTIONED WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL A DISTANCE OF 384.84 FEET; THENCE WITH A BEARING OF SOUTH 89°17'12" WEST, A DISTANCE OF 384.73 FEET; THENCE WITH A BEARING OF NORTH 0°39'02" WEST, A DISTANCE OF 410.40 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF VIA DELRAY; THENCE WITH A BEARING OF NORTH 89°20'58" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF VIA DELRAY, A DISTANCE OF 361.89 FEET TO A POINT; THENCE WITH A BEARING OF SOUTH 45°29'22" EAST, A DISTANCE OF 35.46 FEET MORE OR LESS TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THE LAND CONVEYED TO PALM BEACH COUNTY DESCRIBED IN THAT CERTAIN STIPULATED ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 5893, PAGE 1036 AND IN THAT CERTAIN STIPULATED FINAL JUDGMENT RECORDED IN OFFICIAL RECORDS BOOK 6633, PAGE 172, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Said land situate in the City of Delray Beach, Palm Beach County, Florida and contain 3.54 acres, more or less.

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

Section 7. Severability. 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. Effective Date. That 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 \_\_\_\_\_, 2019.

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

ATTEST:

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

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

Approved as to form and legal sufficiency:

\_\_\_\_\_  
City Attorney