

ORDINANCE NO. 30-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING LAND APPROXIMATELY 0.957± ACRES IN SIZE FROM MEDIUM DENSITY (MD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6<sup>TH</sup> AVENUE, 40 SOUTHWEST 6<sup>TH</sup> AVENUE, 46 SOUTHWEST 6<sup>TH</sup> AVENUE, 48 SOUTHWEST 6<sup>TH</sup> AVENUE, 41 SOUTHWEST 7<sup>TH</sup> AVENUE, AND 37 SOUTHWEST 7<sup>TH</sup> AVENUE, 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, the Delray Beach CRA, is the fee simple owner of 36 Southwest 6<sup>th</sup> Avenue, 46 Southwest 6<sup>th</sup> Avenue, 48 Southwest 6<sup>th</sup> Avenue, and 37 Southwest 7<sup>th</sup> Avenue, which measures approximately 0.6276 acres± and is located south of West Atlantic Avenue and between SW 6<sup>th</sup> Avenue and SW 7<sup>th</sup> Avenue; and

WHEREAS, BH3 Management, LLC, on behalf of the Delray Beach Community Redevelopment Agency, requested re-designating the Future Land Use Map from Medium Density (MD) to Commercial Core (CC) for these parcels; and

WHEREAS, the property owners of a 0.1726 acre± parcel at 41 Southwest 7<sup>th</sup> Avenue and a 0.1569 acre± parcel at 40 Southwest 6<sup>th</sup> Avenue have also requested re-designating the Future Land Use Map Medium Density (MD) to Commercial Core (CC) for these parcels, which measure; and

WHEREAS, the subject property hereinafter described has an existing Future Land Use Map (FLUM) designation of Medium Density (MD); 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 August 19, 2019, and voted 5 to 0 to recommend that the Future 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, it is appropriate that the Commercial Core (CC) 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. The recitations set forth above are incorporated herein.

Section 2. The Future Land Use Map designation of the subject properties is hereby officially affixed as Commercial Core (CC).

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 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 (FLUM) designation of Commercial Core (CC) for the properties described in Exhibit A.

Section 5. 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. 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.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_ day  
of \_\_\_\_\_, 2019.

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

ATTEST:

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

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

Approved as to form and legal sufficiency:

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

## EXHIBIT A

### 36 SOUTHWEST 6<sup>TH</sup> AVENUE (PCN 12-43-46-16-01-013-0170)

A parcel of land in Block 13, Map of the Town of Linton (now Delray), according to the map or plat thereof, as recorded in Plat Book 1, Page 3 of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Commencing 150 North from the Southeast corner of Block 13 for a Point of Beginning; thence West 135 feet, thence North 50 feet, thence East 135 feet; thence South 50 feet to the point of beginning.

And

### 40 SOUTHWEST 6<sup>TH</sup> AVENUE (PCN 12-43-46-16-01-013-0180)

North 50 feet of South 150 feet of East 135 feet of Block 13, TOWN OF DELRAY, according to the Plat thereof, as recorded in Plat Book 1, Page 3 of the Public Records in Palm Beach County, Florida.

And

### 46 SOUTHWEST 6<sup>TH</sup> AVENUE (PCN 12-43-46-16-01-013-0190)

The North 50 feet of the South 100 feet of the East 135 feet, Block 13, Town of Linton (Now known as Delray Beach), according to the map of the plat thereof, as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.

And

### 48 SOUTHWEST 6<sup>TH</sup> AVENUE (PCN 12-43-46-16-01-013-0200)

Commencing at the Southeast corner of Block 13 for a point of beginning; Thence North 50 feet; thence West 135 feet; thence South 50 feet; thence East 135 feet to the point of beginning in Delray Beach, Florida, according to the Plat thereof, recorded in Plat Book 1, Page 3 of the Public Records of Palm Beach County, Florida.

And

### 41 SOUTHWEST 7<sup>TH</sup> AVENUE (PCN 12-43-46-16-01-013-0070)

Town of Delray South 55 feet of North 540 feet of West 135 feet of Block 13.

And

### 37 SOUTHWEST 7<sup>TH</sup> AVENUE (PCN 12-43-46-16-01-013-0060)

Commencing four hundred thirty five (435) feet South from the Northwest corner of Block thirteen (13) being in Delray Beach, formerly Town of Linton, according to the Plat now on file in the office of the Clerk of the Circuit Court recorded in Plat Book 1, Page 3, in and for Palm Beach County, Florida. For a point beginning, thence East one hundred thirty-five (135) feet, thence South fifty (50) feet, thence West one hundred thirty-five (135) feet, thence North fifty (50) feet to the point of beginning.

Said land situated in the City of Delray Beach, Palm Beach County, Florida and contains 0.957± acres, more or less.