

ORDINANCE NO. 35-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH BY REZONING AND RE-DESIGNATING LAND APPROXIMATELY 0.57± ACRES IN SIZE PRESENTLY ZONED OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD) TO CENTRAL BUSINESS DISTRICT (CBD), WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT, FOR THE PROPERTIES LOCATED AT 37 WEST ATLANTIC AVENUE AND AN ABUTTING UNADDRESSED PARCEL TO THE EAST, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017" AND FURTHER AMENDING FIGURE 4.4.13-6, "WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT REGULATING PLAN", IN SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," AND AMENDING CHAPTER 4, "ZONING REGULATIONS", ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.24, OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)", SUBSECTIONS (B), PRINCIPAL USES AND STRUCTURES, (C), ACCESSORY USES AND STRUCTURES PERMITTED", (E), "REVIEW AND APPROVAL PROCESS", AND (F), DEVELOPMENT STANDARDS"; OF THE LAND DEVELOPMENT REGULATIONS ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the properties hereinafter described is shown on the City of Delray Beach Zoning Map, dated June 29, 2017, as being zoned Old School Square Historic Arts District (OSSHAD) and located within the Old School Square Historic District; and

WHEREAS, Cecelia J. Egan, Diane Marshall, Vito W. Vultaggio, and Philip Vultaggio, Jr., are the fee simple owner of 37 West Atlantic Avenue and an abutting unaddressed parcel, which measure approximately 0.57 acres± and are located on the north side of West Atlantic Avenue between North Swinton Avenue and NW 1st Avenue; and

WHEREAS, Cecelia J. Egan, Diane Marshall, Vito W. Vultaggio, Philip Vultaggio, Jr., designated John W. Szerdi, Architect for Banyan Fund, LLC, as the agent for the request to re-zone the parcels from Old School Square Historic Arts District (OSSHAD) to Central Business District (CBD); and

WHEREAS, a land use designation of Commercial Core was simultaneously requested for said parcels, and approved by the City of Delray Beach on Month, Day, 2020; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on July 20, 2020, and voted X to X to recommend that the property hereinafter described be rezoned to City of Delray Beach Central Business District (CBD), 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 Zoning District Map of the City of Delray Beach, Florida, is amended to reflect the revised zoning classification; and

WHEREAS, it is appropriate that the West Atlantic Neighborhood Sub-district Regulating Plan map in Section 4.4.13 of the Land Development Regulations are amended to be consistent with the revised zoning classification.

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 Zoning District Map of the City of Delray Beach, Florida, be, and the same is, hereby amended to reflect a zoning classification of Central Business (CBD) District for the described properties in Exhibit “A”, Legal Descriptions, and identified in Exhibit “B”, Proposed Zoning Map, attached hereto and incorporated herein.

Section 3. That the West Atlantic Neighborhood Sub-district Regulating Plan, as shown in Figure 4.4.13-6, in Section 4.4.13 Central Business (CBD) District of the Land Development Regulations shall, upon the effective date of this ordinance, be amended, as shown in “Exhibit C”, to conform with the provisions of Section 2 hereof.

Section 4. That Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection (B) “Principal uses and structures”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Subsections (1)-(11) These subsections shall remain in full force and effect as previously adopted.

(12) Within the following described areas, the uses allowed as permitted uses in Section 4.4.13(B) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:

- (a) Lots ~~13~~—16, Block 60;
- (b) Lots 1—4, Block 61;
- (c) Lots 1—7, Lots 16—18 and 19-24, Block 69
- (d) Lots 23-25, Block 70;
- (e) Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and
- (f) Lots 1—6, Block 76.

Subsections (13) – (15) These subsections shall remain in full force and effect as previously adopted.

Section 5. That Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection (C) “Accessory uses and structures permitted”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

Subsections (1)-(5) These subsections shall remain in full force and effect as previously adopted.

- (6) Within the following described areas, the uses allowed as accessory uses in Section 4.4.13(C) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:
  - (a) Lots ~~13~~—16, Block 60;
  - (b) Lots 1—4, Block 61;
  - (c) Lots 1—7, Lots 16—18 and 19-24, Block 69;
  - (d) Lots 23—25, Block 70;
  - (e) Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and
  - (f) Lots 1—6, Block 76.

Subsection (7) This subsection shall remain in full force and effect as previously adopted.

Section 6. That Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection (F) “Development standards”, of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be and the same is hereby amended as follows:

- (1) The following locations shall be subject to the development standards of the Commercial Core (CC) area of the CBD Zone District, excluding exceptions to height limitations provided in Section 4.3.4(J)(4):
  - (a) Lots 1—7, Lots 16—18 and 19—24, Block 69;
  - (b) Lots 23—25, Block 70;
  - (c) Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and
  - (d) Lots 1—6, Block 76.
- (2) The following locations shall be subject to the development standards of the West Atlantic Neighborhood (WAN) area of the CBD Zone District:
  - (a) Lots ~~13~~—16, Block 60.
  - (b) Lots 1—4, Block 61.

Subsections (3)-(7) These subsections shall remain in full force and effect as previously adopted.

Section 5. That 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 only after the effective date of Ordinance No. XX-20, and upon approval at second reading. No development orders, or land uses dependent on this amendment may be issued or commence before it has become effective.

PASSED AND ADOPTED in regular session on second and final reading on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

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

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

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

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

Approved as to form and legal sufficiency:

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

EXHIBIT A  
LEGAL DESCRIPTIONS

37 WEST ATLANTIC AVENUE (PCN 12-43-46-16-01-060-0130)

Lots 13 and 14, Block 60, Delray Beach (formerly Linton), according to the plat thereof, as recorded in Plat Book 1, Page 3, of the Public Records of Palm Beach County, Florida. Less that portion conveyed to the State of Florida, in Official Records Book 1253, Page 461, of the Public Records of Palm Beach County, Florida.

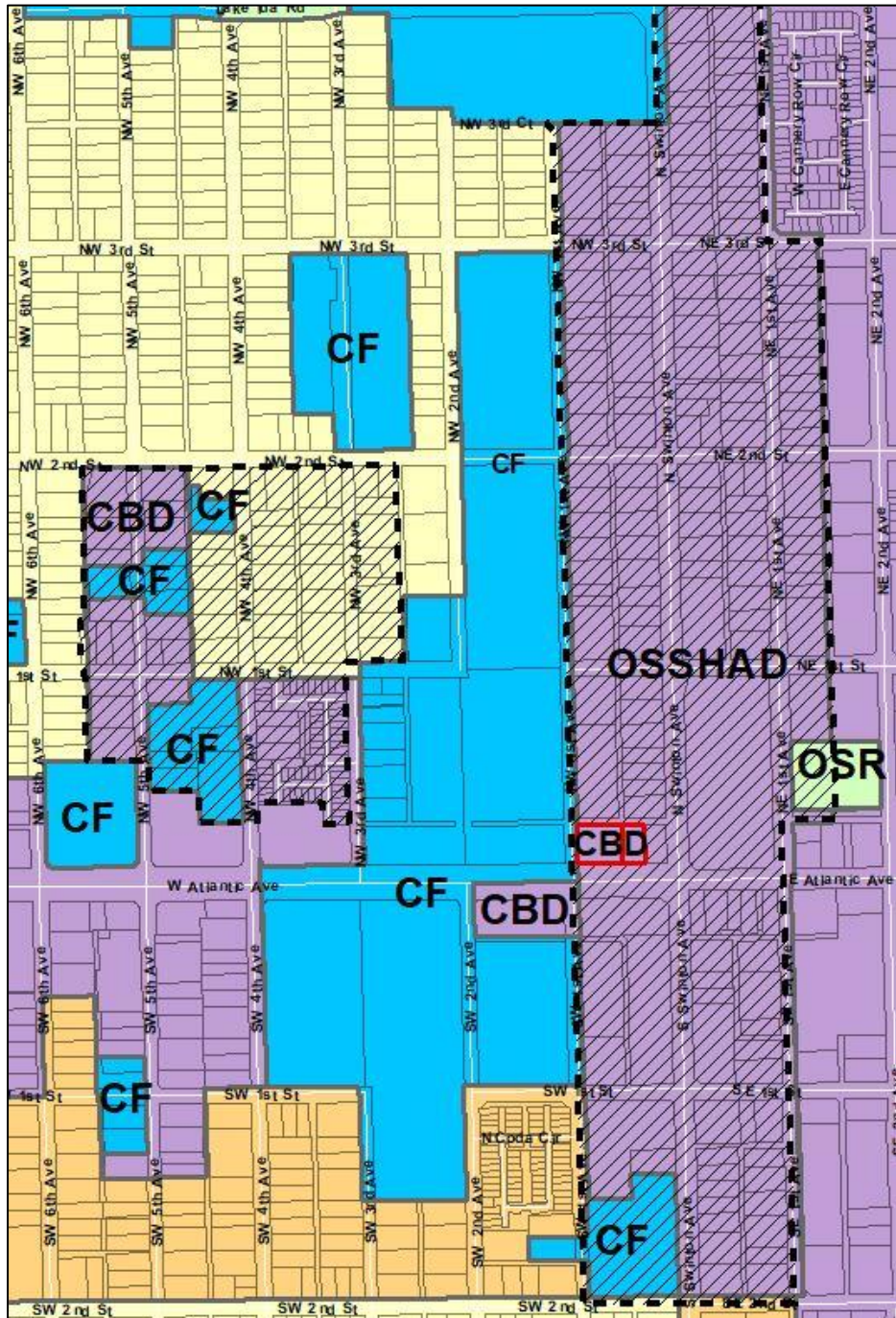
TOGETHER WITH

UNADDRESSED PARCEL (PCN 12-43-46-16-01-060-0150)

Lot 15 (less the South 20 feet thereof), Block 60, Delray Beach (formerly Linton), according to the plat thereof, 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 0.57 acres, more or less.

EXHIBIT B  
PROPOSED ZONING MAP



# EXHIBIT C

Figure 4.4.13-6 West Atlantic Neighborhood Sub-district Regulating Plan



## Legend

-  CBD ZONING
-  REQUIRED RETAIL FRONTAGE
-  OSSHAD ZONING WITH CBD OVERLAY
-  PRIMARY STREETS
-  WEST ATLANTIC NEIGHBORHOOD COMMERCIAL AREA
-  WEST ATLANTIC NEIGHBORHOOD
-  PUBLIC PARKING GARAGE
-  WEST ATLANTIC NEIGHBORHOOD LIMITED HEIGHT AREA