

ORDINANCE NO. 35-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, 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 THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," SUBSECTION (B), "REGULATING PLANS," AND FIGURE 4.4.13-6, "WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT REGULATING PLAN;" BY AMENDING SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)," SUBSECTIONS 4.4.24(B), "PRINCIPAL USES AND STRUCTURES," 4.4.24(C), "ACCESSORY USES AND STRUCTURES PERMITTED," 4.4.24(E), "REVIEW AND APPROVAL PROCESS," AND 4.4.24(F), "DEVELOPMENT STANDARDS," TO REFLECT THE REZONING AND RE-DESIGNATION, AND IDENTIFY THE FLOOR AREA RATIO LIMITATION; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the properties hereinafter described are 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 \_\_\_\_\_, 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 August 18, 2020, and voted X to X to recommend the property hereinafter described be rezoned to City of Delray Beach Central Business District (CBD), finding 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 this Ordinance is consistent with the Comprehensive Plan; and

WHEREAS, it is appropriate the Zoning District Map of the City of Delray Beach, Florida, be amended to reflect the revised zoning classification; and

WHEREAS, due to the rezoning and re-designation, Sections 4.4.13, “Central Business (CBD) District,” and 4.4.24, “Old School Square Historic Arts District (OSSHAD),” of the Land Development Regulations of the Code of Ordinances of the City of Delray Beach, Florida, be 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 Section 4.4.13, “Central Business District (CBD),”, Subsection 4.4.13(B), “Regulating Plans,” 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)-(5) (These subsections shall remain in full force and effect as previously adopted.)

(6) **Old School Square Historic Arts District (OSSHAD) Zoning with CBD Overlay.** Section 4.4.24(E) identifies OSSHAD properties with CBD Overlay and which CBD Sub-district standards apply.

- a. Properties with OSSHAD Zoning with CBD Overlay may follow the applicable CBD Sub-district development standards for principal and accessory uses only and may not apply for conditional uses or participate in the Incentive Program in Section 4.4.13(H).
- b. CBD Overlay properties are also subject to the OSSHAD Special District Regulations of Section 4.4.24(H).

- c. CBD Overlay properties must adhere to the required standards set forth in Section 4.4.13(F)(1), and 4.4.13(K)(3).
- d. Properties with OSSHAD Zoning with CBD Overlay must individually maintain consistency with the requirements of the applicable land use designation.

(7) **Limited Floor Area Ratio.** To achieve compatible intensity and scale in the Old School Square Historic District, the following properties are subject to a limited Floor Area Ratio (FAR):

- a. Lots 13 – 15, Block 60, are limited to a FAR of 2.6.
- b. Lots 13 – 16, Block 60, are limited to a combined FAR of 2.0 when redeveloped together and includes the preservation of the Doc’s All-American structure on Lot 16, Block 60 (10 North Swinton Avenue).

Section 4. That Figure 4.4.13-6, “West Atlantic Neighborhood Sub-district Regulating Plan,” in Section 4.4.13, “Central Business (CBD) District,” of the Land Development Regulations shall, upon the effective date of this Ordinance, be removed and replaced as shown in Exhibit “C”, to conform with the provisions of Section 2 hereof.

Section 5. That Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection 4.4.24(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:

(B) **Principle uses and structures.** The following types of uses are allowed within the OSSHAD as a permitted use:

- (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.

(13)-(15) (These subsections 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 4.4.24(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:

(C) **Accessory uses and structures permitted.** The following uses are allowed when a part of, or accessory to, the principle use:

(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.

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

Section 7. That Section 4.4.24, “Old School Square Historic Arts District (OSSHAD),” Subsection 4.4.24(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:

(F) **Development standards.** The development standards as set forth, for the OSSHAD District, in Section 4.3.4 apply, except as modified below:

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

(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.

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

Section 8. That all ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 9. 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 10. Specific authority is hereby given to codify this Ordinance.

Section 11. This ordinance shall become effective only after the effective date of Ordinance No. 34-20, 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

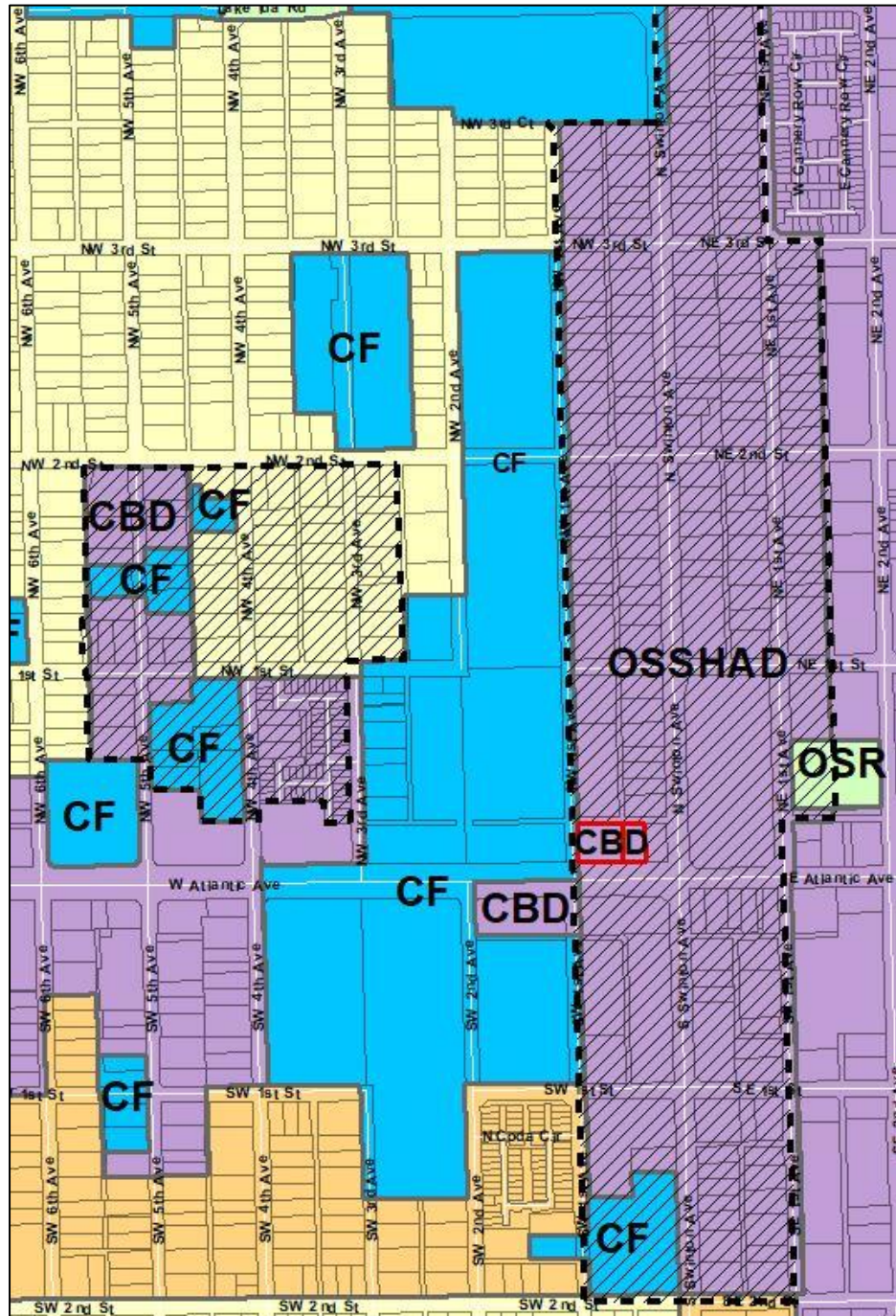




EXHIBIT C  
Figure 4.4.13-6 West Atlantic Neighborhood Sub-district Regulating Plan

