

ORDINANCE NO. 09-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE LAND USE MAP AMENDMENT FOR PARCELS OF LAND LOCATED AT 215 SE 1st AVENUE, 219 SE 1st AVENUE, 223 SE 1st AVENUE, 227 SE 1st AVENUE, 231 SE 1st AVENUE, 237 SE 1st AVENUE, 243 SE 1st AVENUE, 251 SE 1st AVENUE, AND 253 SE 1st AVENUE, WHICH MEASURE APPROXIMATELY 1.41± ACRES AS MORE PARTICULARLY DESCRIBED HEREIN, RE-DESIGNATING SAID LAND FROM MEDIUM DENSITY (MD) TO COMMERCIAL CORE (CC), 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, in passing Ordinance No. 82-89, the City Commission adopted the "Comprehensive Plan - Delray Beach, Florida"; and

WHEREAS, HMI I, LLC, is the fee simple owner of 215 SE 1st Avenue, which measures approximately 0.298 acres ± and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and has designated Delray Swan, LLC to act as its agent; and

WHEREAS, Aglantine Lafond and Alies Lafond are the fee simple owners of 219 SE 1st Avenue, which measures approximately 0.15 acres ± and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and have designated Delray Swan, LLC to act as their agent; and

WHEREAS, Marie C. Desrosiers and Onance Seme are the fee simple owners of 223 SE 1st Avenue, which measures approximately 0.150 acres ± and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and have designated Delray Swan, LLC to act as their agent; and

WHEREAS, Avilus Pierre is the fee simple owner of 227 SE 1st Avenue, which measures approximately 0.150 acres ± and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and has designated Delray Swan, LLC to act as his agent; and

WHEREAS, Jean B. Seme and Marie K. Seme are the fee simple owners of 231 SE 1st Avenue, which measures approximately 0.150 acres ± and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and have designated Delray Swan, LLC to act as their agent; and

WHEREAS, Cinelia Joseph is the fee simple owner of 237 SE 1st Avenue, which measures approximately 0.150 acres ± and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and has designated the Delray Swan, LLC to act as her agent; and

WHEREAS, TAH 2017 2 BORROWER, LLC, is the fee simple owner of 243 SE 1st Avenue, which measures approximately 0.150 acres $\pm$ and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and has designated the Delray Swan, LLC to act as its agent; and

WHEREAS, Richard Reading is the fee simple owner of 251 SE 1st Avenue, which measures approximately 0.150 acres $\pm$ and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and has designated the Delray Swan, LLC to act as his agent; and

WHEREAS, Rodney Karstetter is the fee simple owner of 253 SE 1st Avenue, which measures approximately 0.12 acres $\pm$ and is located east of SE 1st Avenue between SE 2nd Street and SE 3rd Street, and has designated the Delray Swan, LLC to act as his agent; and

WHEREAS, the nine (9) parcels described above (collectively referred to as the “Properties”) measuring approximately 1.41 $\pm$ acres combined, as more particularly described in Exhibit “A”, Legal Descriptions, Parcel by Parcel, and Exhibit “B”, Proposed Land Use, have a Land Use Map designation of Medium Density (MD); and

WHEREAS, Delray Swan, LLC, acting as agent for the collective owners referenced above, requested a rezoning of the Properties from Medium Density Residential (RM) to Central Business District (CBD); and

WHEREAS, the City determined Central Business District (CBD) zoning is more appropriate for the Properties; and

WHEREAS, Central Business District (CBD) zoning is not a preferred or compatible implementing zoning district in the Medium Density (MD) land use designation, the City has determined that Commercial Core (CC) is the most appropriate land use; and

WHEREAS, the City held all duly required public hearings; both prior to submission of the proposed amendment of the plan to the State Land Planning Agency of the Florida Department of Economic Opportunity (DEO), 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 February 22, 2021, and voted 3 to 2 to recommend that the Land Use Map designation be changed for the Properties 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 Ordinance No. 09-21 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 Land Use Map designation 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 Florida Statutes 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 Properties described in Exhibit "A", Legal Descriptions, Parcel by Parcel, and shown on the map in Exhibit "B", Proposed Land Use.

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 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 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 _____, 2021.

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, PARCEL BY PARCEL

215 SE 1st Avenue - PCN 12-43-46-16-01-079-0060 - (ORB 28865, PAGE 1774):

Lots 6 and 7, Block 79, Subdivision of Block 79, Town of Linton (now Delray), Florida, according to the plat thereof as recorded in Plat Book 10, Page 1, Public Records of Palm Beach County, Florida.

AND

219 SE 1st Avenue - PCN 12-43-46-16-01-079-0080 - (ORB 11706, PAGE 762):

Lot 8, Block 79, Subdivision of Block 79, Town of Linton (now Delray), Florida, according to the plat thereof as recorded in Plat Book 10, Page 1, Public Records of Palm Beach County, Florida.

AND

223 SE 1st Avenue - PCN 12-43-46-16-01-079-0090 - (ORB 10145, PAGE 1208):

Lot 9, Block 79, Subdivision of Block 79, Town of Linton (now Delray), Florida, according to the plat thereof as recorded in Plat Book 10, Page 1, Public Records of Palm Beach County, Florida.

AND

227 SE 1st Avenue - PCN 12-43-46-16-01-079-0100 - (ORB 9777, PAGE 1533):

Lot 10, Block 79, Subdivision of Block 79, in Town of Linton (now Delray), Florida, according to the Plat recorded in Plat Book 10, Page 1, as recorded in the Public Records of Palm Beach County, Florida; said land situate, lying and being in Palm Beach County, Florida.

AND

231 SE 1st Avenue - PCN 12-43-46-16-01-079-0110 - (ORB 10482, PAGE 1999):

Lot 11, Block 79, Subdivision of Town of Linton (now Delray), Florida, according to the Plat recorded in Plat Book 10, Page 1, Public Records of Palm Beach County, Florida.

AND

237 SE 1st Avenue - PCN 12-43-46-16-01-079-0120 - (ORB 13888, PAGE 0203):

Lot 12, Block 79, of the City of Delray Beach, (f/k/a/ Linton) according to the plat thereof recorded in Plat Book 10, Page 1, Public Records of Palm Beach County, Florida.

AND

243 SE 1st Avenue - PCN 12-43-46-16-01-079-0130 - (ORB 29546, PAGE 898):

Lot 13, Block 79, Town of Linton (now Delray), Florida, according to the map or plat thereof, as recorded in Plat Book 10, Page(s) 1, of the Public Records of Palm Beach County, Florida.

AND

251 SE 1ST Avenue - PCN 12-43-46-16-01-079-0141 - (ORB 20754, PAGE 0720):

Lot 14, Block 79 Less the South 41 feet thereof, Town of Delray, Florida, resurvey of Block 79 according to the plat thereof, recorded in Plat Book 10, Page 1, of the Public Records of Palm Beach County, Florida.

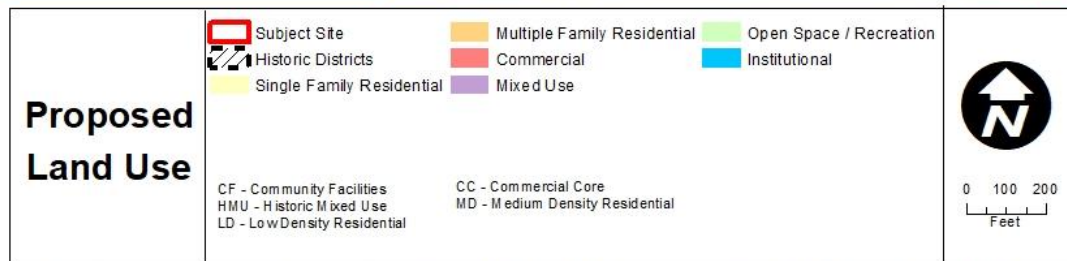
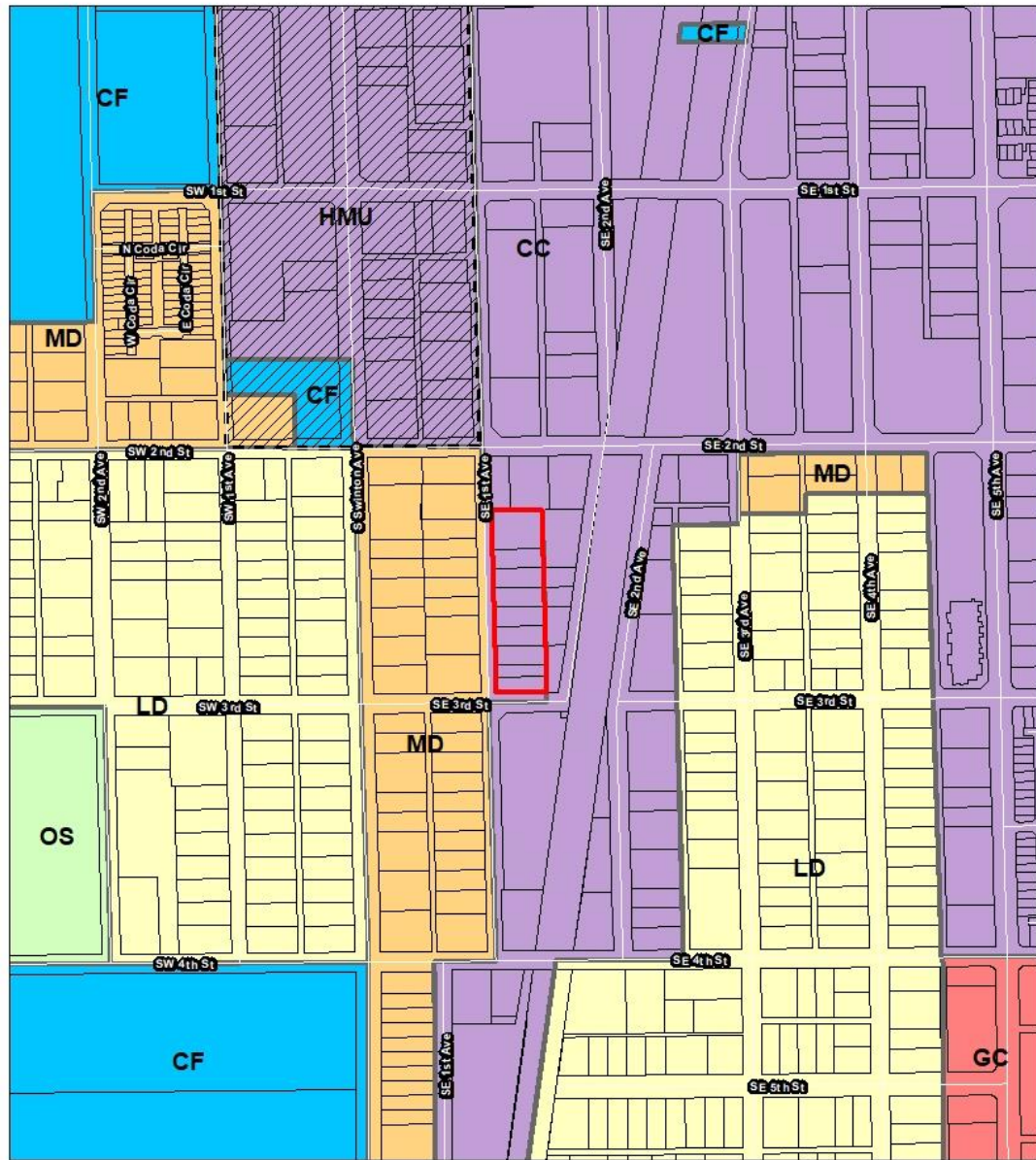
AND

253 SE 1ST Avenue - PCN 12-43-46-16-01-079-0142 - (ORB 20754, PAGE 0781):

The South 41 feet of Lot 14, Block 79, Town of Delray, Florida, resurvey of Block 79, according to the plat thereof, recorded in Plat Book 10, Page 1, of the Public Records of Palm Beach County, Florida.

Said land situated in the City of Delray Beach, Palm Beach County, Florida and contains 1.41 acres, more or less.

EXHIBIT "B" PROPOSED LAND USE



Date: 2/9/2021

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