

ORDINANCE NO. 34-20

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 37 WEST ATLANTIC AVENUE AND AN UNADDRESSED PARCEL ABUTTING TO THE EAST, WHICH MEASURE APPROXIMATELY 0.57 ACRES AS MORE PARTICULARLY DESCRIBED HEREIN, RE-DESIGNATING SAID LAND FROM HISTORIC MIXED USE TO COMMERCIAL CORE, 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 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, on November 28, 1989, via Ordinance No. 82-89, the City Commission adopted a comprehensive plan entitled "Comprehensive Plan - Delray Beach, Florida"; and

WHEREAS, on February 4, 2020, via Ordinance No. 19-19, the City Commission repealed the adopted "Comprehensive Plan - Delray Beach, Florida" and adopted an update Comprehensive Plan entitled "Always Delray"; and

WHEREAS, MDG Banyan Delray Partners LLC, ("Owner") is the fee simple owner of 37 West Atlantic Avenue and an unaddressed parcel abutting to the east ("Property"), 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, Owner designated Steven Michael, ("Applicant") to act on its behalf to seek the rezoning of the Property; and

WHEREAS, the Property is shown on the City of Delray Beach Zoning Map, dated July 6, 2021, as zoned Old School Square Historic Arts District ("OSSHAD");

WHEREAS, the Applicant requested a zoning of the Property from OSSHAD to Central Business District ("CBD") within the West Atlantic Neighborhood Sub-District; and

WHEREAS, the City determined CBD zoning is more appropriate for the Property; and

WHEREAS, the Property, as more particularly described in Exhibit “A”, Legal Description, and Exhibit “B”, Proposed Land Use, has a Land Use Map designation of Historic Mixed Use (“HMU”); and

WHEREAS, CBD zoning is not a preferred or compatible implementing zoning district in the HMU land use designation and the City has determined that Commercial Core (CC) is the most appropriate land use designation; 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 August 18, 2020, and voted 6 to 1 to recommend that the Future 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 this Ordinance 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 Land Use Map of the City of Delray Beach, Florida, be and the same, is hereby amended to reflect a future land use designation of Commercial Core (CC) for the described properties in Exhibit “A”, attached hereto and incorporated herein.

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 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 2 hereof, as depicted in Exhibit “B”, attached hereto and incorporated herein.

Section 5. 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 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 ____ day of _____, 2021.

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

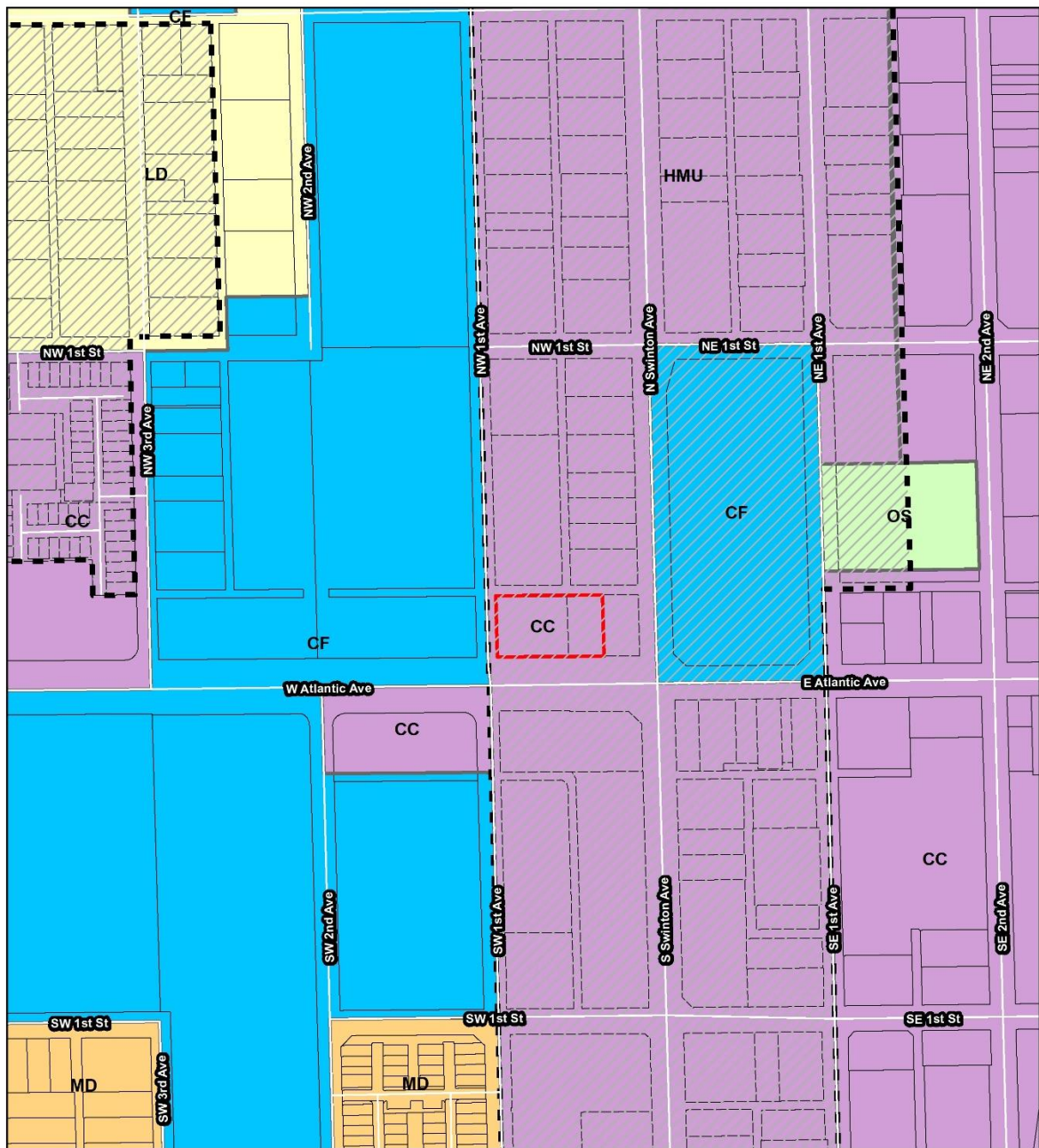
UNADDRESSED PARCEL (PCN 12-43-46-16-01-060-0150)

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 Land Use Map



- Historic Districts
- Subject Parcels
- Single Family Residential
- Multiple Family Residential
- Mixed Use
- Institutional
- Open Space / Recreation

