Legislation Details (With Text)

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File created:	9/14/2021			**In control:**	City Commission
On agenda:	10/5/2021			**Final action:**	
Title:	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. (SECOND READING/PUBLIC HEARING)				
Sponsors:	Development Services Department				
Indexes:					
Code sections:					
Attachments:	1. Agenda Cover Report, 2. Ord. No. 34-20: Land Use Designation, 3. Ord. No. 34-20: PZB Staff Report, 4. Ord. No. 34-20: Location Map, 5. Ord. No. 34-20: Land Use justification, 6. Ord. No. 34-20: Traffic Study, 7. Ord. No. 34-20: DDA Review, 8. Ord. No. 34-20: Legal Review				

Date	Ver.	Action By	Action	Result

TO: **Mayor and Commissioners**
FROM: **Anthea Gianniotes, Development Services Director**
THROUGH: **Terrence R. Moore, ICMA-CM**
DATE: **October 5, 2021**

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. (SECOND READING/PUBLIC HEARING)

Recommended Action:

Review and consider Ordinance No. 34-20 on Second Reading, a privately initiated Land Use Map amendment redesignating the property located at 37 West Atlantic Avenue and an abutting unaddressed parcel to the east from Historic Mixed Use (HMU) to Commercial Core (CC).

Background:

The subject request is to change the land use designation for two properties from Historic Mixed Use

(HMU) to Commercial Core (CC). The two properties consist of an unaddressed parking lot located west of 10 North Swinton Avenue (Doc's All American) and 37 West Atlantic Avenue (Dunkin Donuts). The properties are located within the Old School Square Historic District; the structure at 37 West Atlantic Avenue is classified as non-contributing as it was constructed in 1980 (Church's Fried Chicken). Comprehensive Plan Amendment 91-1, approved in 1991, changed the Land Use Designation to Other Mixed Use (OMU) for properties zoned Old School Square Historic Arts District (OSSHAD); with the adoption of the Always Delray Comprehensive Plan on February 4, 2020, the land use district name changed to Historic Mixed Use (HMU). The properties will remain in the historic district; the land use change does not change the historic status of the property.

The First Reading of Ordinance No. 34-20 occurred at the City Commission meeting of October 6, 2020; a motion to approve the item was passed on a vote of 3 to 2 (Mayor Petrolia and Commissioner Casale dissenting). The Second Reading of Ordinance No. 34-20 occurred at the City Commission meeting of December 8, 2020; a motion to deny the item passed on a vote of 5 to 0. At the City Commission meeting of January 5, 2021, a motion to reconsider the item at a future meeting with no time certain passed on a vote of 4 to 1 (Mayor Petrolia dissenting).

Pursuant to **LDR Section 2.4.5(A),** Comprehensive Plan amendments must follow the procedures outlined in the Florida Statutes. The Land Use Map is adopted as part of the Comprehensive Plan. Therefore, the Future Land Use Map (FLUM), amendment is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

Pursuant to **LDR Section 3.1.1, Required Findings**, "findings shall be made by the body which has the authority to approve or deny the development application." These findings relate to the FLUM, Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

The attached Planning and Zoning Board Report provides a full analysis of the request, including the Historic Preservation Element (HPE) and the Neighborhoods, Districts, and Corridors Element (NDC). NDC Policies describe the intent and provide direction regarding the implementation of the existing and proposed land use designations, including the following:

Policy NDC 1.3.22: *Use the Historic Mixed Use land use designation for properties within the Old School Square Historic District to encourage the preservation and adaptive reuse of historic structures and to maintain and enhance the historic, pedestrian scale and character, while providing for a mix of residential, commercial, and arts uses*.

Policy NDC 1.3.5: *Use the Commercial Core land use designation to stimulate the vitality and economic growth of the city while simultaneously enhancing and preserving the cultural and historic downtown area.*

The CC land use designation strives to stimulate economic vitality and growth and to preserve the downtown's historic moderate scale; the HMU land use designation is specific for properties within the Old School Square Historic District. Both land use designations support the historic downtown area; the primary difference is the increased density from a maximum of 10 du/ac to a range of 12-30 du/ac and the increased intensity from a maximum FAR of 1.0 to 3.0. Historic commercial/mixed use properties located along East Atlantic Avenue, the City's historic main street, have an FAR that ranges from 0.3 (8 E Atlantic Avenue - Tin Roof) to 1.52 (44 E Atlantic Ave - Masonic Lodge). Some historic commercial buildings exceed 1.0 FAR allowed under the HMU land use district, but do not

approach the 3.0 that would be allowed under a change to CC land use.

Given that the subject properties are classified as non-contributing in the Old School Square Historic District, are located along Atlantic Avenue, and have a high land value compared to improvement value, it is likely that they will be redeveloped. The request must be weighed with the direction provided by Policy NDC 1.3.22. If the subject requests are approved, careful consideration of the proposed development will also be required to ensure compliance with Policy NDC 3.4.2, which states, "*Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation."*

The required findings for land use designation amendments are found in Policy NDC 3.4.1, which states, "*amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances, and the following findings can be determined:*

- *That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan; and,*
- *That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,*
- *That the requested land use designation is compatible with the land use designations of the surrounding area; and,*
- *That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.*

It is also important to note, proposed development is required to be consistent with Section 4.5.1, which contains the Visual Compatibility Standards for properties, both historic and non-historic including new construction, under the purview of the Historic Preservation Board. If the request is approved, additional focus on the compatibility of the scale and mass of proposed development will be necessary, especially given the increased FAR from 1.0 for HMU to 3.0 for the CC land use designation. Consideration of the applicable provisions from the Delray Beach Historic Preservation Design Guidelines and the Secretary of the Interior's Standards for rehabilitation will also be part of the consideration regarding compatibility and appropriateness of the new development as part of the Old School Square Historic District. Although the subject properties are classified as non-contributing to the district's two designations, the impact of any new development on those designations will be part of a resource resurvey of the historic district.

The **Historic Preservation Board** reviewed the request at its July 1, 2020 meeting; a recommendation of denial on a vote of 7 to 0 was provided. The Board's concerns focused on Doc's, a non-contributing structure located at 10 North Swinton Avenue; the Board supported the concept of saving and designating or reclassifying the building to "contributing" as part of a larger development effort. Note: The property located at 10 North Swinton Avenue is not part of the subject LUMA and rezoning requests.

The **Downtown Development Authority (DDA)** reviewed the request at its July 13, 2020 meeting; a recommendation of approval on a vote of 4 to 3 was provided with comments. The DDA's decision

letter is included as an attachment.

The **Planning and Zoning Board** reviewed the request at its August 17, 2020 meeting; a recommendation of approval on a vote of 6 to 1 was provided.

City Attorney Review:
Approved as to legal form and sufficiency.

Funding Source/Financial Impact:
N/A

Timing of Request:
This request must be approved prior to approval of Ordinance No. 35-20.