



PLANNING & ZONING BOARD STAFF REPORT

DEVELOPMENT SERVICES DEPARTMENT

100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444
PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200



Banyan Cove: Privately-initiated petition for Voluntary Annexation, Future Land Use Map Amendment re-designating from Palm Beach County Medium Density Residential 5 (MR-5) dwelling units per acre (du/ac) to City Medium Density (MD) Residential 5-12 du/ac; and, Rezoning and re-designating the zoning district from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part and establishing a City zoning of Medium Density Residential (RM) for three parcels of land located on the east side of Barwick Road, immediately south of the Lake Worth Drainage District (LWDD) L-30 Canal.

Planning and Zoning Board: October 15, 2018

File No.: 2018-162 & 2018-163

Application Type: Annexation, Future Land Use Map Amendment and Rezoning

Request: Provide a recommendation to the City Commission regarding a privately-initiated petition for voluntary annexation, Future Land Use Map amendment re-designating from Palm Beach County Medium Density Residential 5 units per acre (MR-5) to City Medium Density Residential 5-12 du/ac (MD); and, rezoning and re-designating the zoning district from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part and establishing a City zoning of Medium Density Residential (RM) for three parcels of land located on the east side of Barwick Road, immediately south of the Lake Worth Drainage District (LWDD) L-30 Canal. Pursuant to Land Development Regulations (LDR) Section 2.2.2(E) (6), the Local Planning Agency (Planning & Zoning Board) shall review and make a recommendation to the City Commission with respect to Annexation, Future Land Use Map Amendment and Rezoning petitions.

Recommendation: By Separate Motions:

1. Recommend approval to the City Commission for the Annexation of the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with F.S. 171.044, in that the property is contiguous to the City, reasonably compact and does not create an enclave; consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5 (C) of the Land Development Regulations.
2. Recommend approval to the City Commission for the small scale FLUM Amendment re-designating from Palm Beach County Medium Density Residential 5 du/ac (MR-5) to City Medium Density Residential 5-12 du/ac (MD); for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.5.5(A) and 3.1.1 of the Land Development Regulations.
3. Recommend approval to the City Commission re-designating the zoning district from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part and establishing a City zoning of Medium Density Residential 6 du/ac (RM-6) for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

PAGE | 1

Project Planner:

Jasmin Allen, Senior Planner
allenj@mydelraybeach.com, 561.243.7044

Board Review Dates:

Planning and Zoning Board, October 15, 2018
City Commission: City Commission Schedule is attached as Exhibit B.

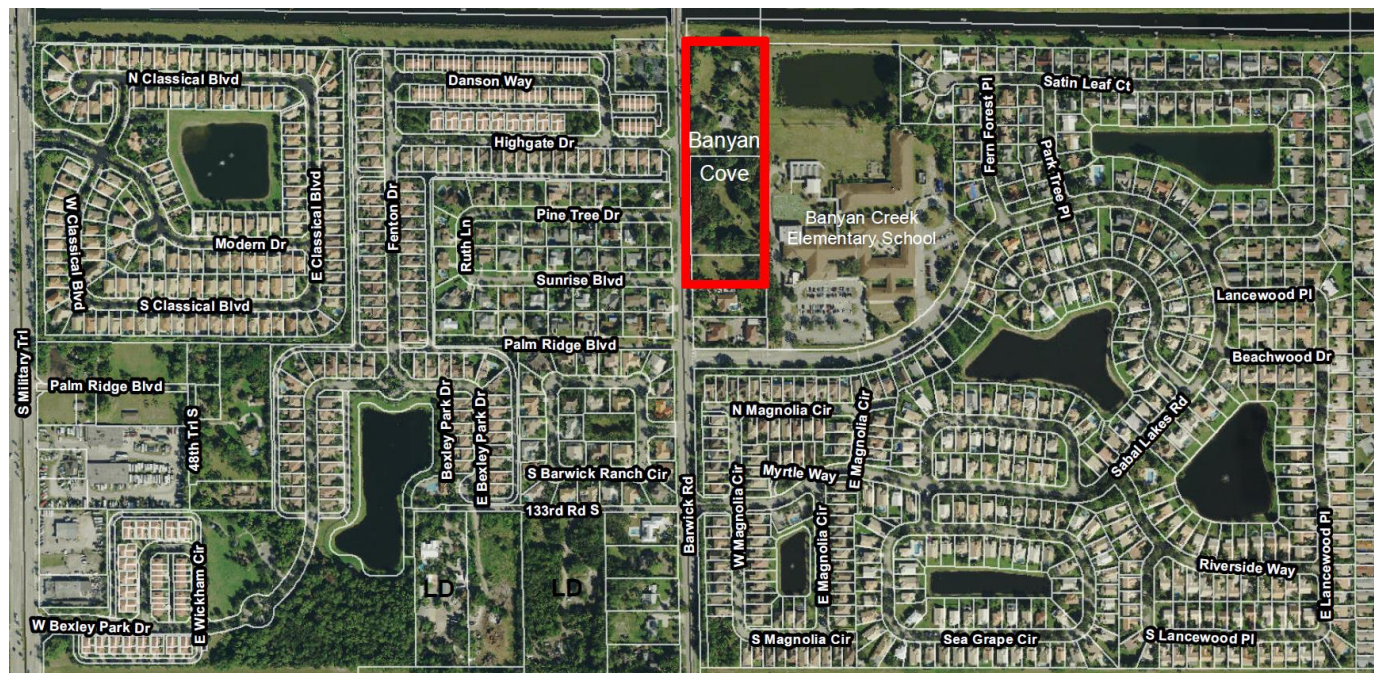
Attachments:

- Listed at the end of the Staff Report



GENERAL DATA

Owner/Applicant	Andrew V. Podray
Agent	Miller Land Planning, Inc.
Location	East site of Barwick Road, immediately south of the Lake Worth Drainage District L-30 Canal
Property Size	6.68± Acres
Future Land Use Map	
- Palm Beach County	Medium Density Residential 5 du/ac (MR-5)
- City of Delray Beach	Proposed - Medium Density Residential 5-12 du/ac (MD)
Zoning	
- Palm Beach County	Agricultural Residential (AR) in part and Residential High (RH) in part
-City of Delray Beach	Proposed Medium Density Residential (RM)
Adjacent Zoning	
North	Unincorporated Palm Beach County, Single Family Residential (RS)
East	Open Space (OS) and Community Facilities (CF)
South	Unincorporated Palm Beach County Agricultural Residential (AR)
West	Unincorporated Palm Beach County Agricultural Residential (AR) and Planned Residential Development (PRD)
Existing Use	Single family residence with accessory structures
Proposed Use	Multiple family residential development or other related use allowed in the RM zoning district
Services	
Water Service	Via extension of an eight inch water main along Barwick Road
Sewer service	Via extension of sewer main along Barwick Road





REVIEW AND ANALYSIS

Background/Project Description: Banyan Cove is bordered to the north by Canal LWDD L-30; to the east by the Banyan Creek Elementary School; to the south by single family residences located in unincorporated Palm Beach County (north side of Sabal Lakes Road); and to the west by Bexley Park, a Planned Residential Development (PRD) located within the City of Delray Beach; as well as a single family subdivision known as Golf Club Estates and a single family residence (located south of the L-30 Canal) all located within unincorporated Palm Beach County. The subject property encompasses three parcels and is identified by property control numbers: 00-42-46-12-00-000-1020, 00-42-46-12-00-000-1050, and 00-42-46-12-00-000-1060. The subject property measures approximately 6.68± acres. A single family residence with accessory structures is located on the northernmost parcel and the remaining two parcels are vacant.

Several requests have been made to the City pertaining to the annexation of the subject property. The following outlines the annexation requests processed by the City.

South 3.54 acre parcels (PCN 00-42-46-12-00-000-1020 & 00-42-46-12-00-000-1050)

March 17, 1997: The Planning and Zoning Board considered requests for Annexation, Future Land Use Map amendment, and zoning of Medium Density Residential (RM) and recommended that the requests be approved with an initial zoning of Medium Density Residential - 8 du/ac (RM-8). The petitions were withdrawn prior to final action by the City Commission.

Subsequently on June 2, 2000, application requests for Annexation, Future Land Use Map amendment, and zoning of Community Facilities (CF), and a conditional use for the expansion of the Pathway to Recovery Facility were submitted.

On August 21, 2000, the Planning and Zoning Board recommended approval of the Annexation and Small-Scale Future Land Use Map amendment re-designating from Palm Beach County MR-5 to City CF, with azoning designation of CF for Pathways to Recovery, Inc.

On October 3, 2000, the City Commission denied the Annexation, Small-Scale Future Land Use Map amendment, and Rezoning requests that were submitted on August 21, 2000. Subsequently, the buildings were demolished and the site has remained vacant.

North 3.13 acre parcel (PCN 00-42-46-12-00-000-1060)

On March 19, 2012, the Planning and Zoning Board considered requests for recommended Annexation, FLUM amendment re-designating from Palm Beach County MR-5 to City MD, and re-designating the zoning district from Palm Beach County AR to City Agricultural (A). The Board recommended approval to the City Commission of the requested petitions.

On March 20, 2012, Palm Beach County Planning Department issued a letter of objection to the annexation contending that the proposed annexation would create an enclave. The application did not move forward to the City Commission.

On June 8, 2012, a Water Service Agreement was approved to provide City water services for the property, for the use of the single family residential structure.

On July 13, 2018, a voluntary annexation petition, Future Land Use Map amendment, and Rezoning requests were submitted for all three parcels. The application states "In 2018, MLP (Miller Land Planning), on behalf of the applicant, has filed applications for a land use amendment and rezoning of the property through Palm Beach County for residential density of 8 units per acre which would allow for 53 units of multi-family residential development. Through that process, discussions continued with the City of Delray Beach about the procedures for future annexation of the property



into the City. Through the involvement of the City Manager, City Attorney and City Planning & Zoning Director, it has been determined that the Florida Statutes allows for the voluntary annexation of this property and reduces the enclave area remaining in Palm Beach County. Based on that determination, this application requests concurrent approval of voluntary annexation from Palm Beach County to the City of Delray Beach, implementation of the land use designation from Medium Residential 5 u/a (MR-5 Palm Beach County) to Medium Density (MD) Residential 5 - 12 u/a (City) and initial zoning from AR and RH (Palm Beach County) to Medium Density Residential (RM - City). No formal site plan application is being submitted at this time but acknowledged that a formal Site Plan application will be required for the proposed development prior to issuance of development permits."...."This application requests the annexation, land use amendment to MD at 8 units per acre, and corresponding zoning of RM. Approval of this application will allow for a future site plan application and development of multiple family residential or related development allowed by RM zoning district."

ANNEXATION ANALYSIS

Florida Statutes Governing Voluntary Annexations:

Pursuant to the Florida Statutes 171.044, *"the owner or owners of real properties in an unincorporated area of the County, which is contiguous to a municipality and reasonably compact, may petition the governing body of said municipality that said property be annexed to the municipality"*.

The voluntary annexation was submitted by Miller Land Planning, agent, on behalf of Andrew V. Podray, the property owner of record. The parcels are contiguous to the City of Delray Beach along the east property line which extends a total of 980.69'. The subject properties are compact as all three parcels abut one another and measure 297.43' x 980.69'. Pursuant to F.S. 171.044 (5) *"land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves"*.

F.S. 171.031, Definitions – (13) "Enclave" means:

(a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or

(b) Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.

Florida Statutes allows for the voluntary annexation that reduces an enclave area. With the annexation of the Bexley Park development, located on the west side of Barwick Road, that portion of the development that abuts Barwick Road was identified as Parcel "K", PCN: 00-42-46-12-00-000-3180 in the adopted ordinance (please refer to the attached location map). Parcel "K" as described within Ordinance No. 31-02 excluded a portion of the Barwick Road right-of-way and is described as: 12-46-42 NE ¼ of NE ¼ of NW ¼ (less E 40 ft. Barwick Rd R/W, N 140 ft. L-30 Cnl /R/W & S 159 ft. of N 299 ft. of W 209 f.t of E 249 ft. Barwick Road is an 80 feet right-of-way. The west one-half (40') of Barwick Road was not included in the annexation action. Therefore, the resulting impact maintains the continued passage of vehicular traffic to the unincorporated areas to the south through the County, thus the proposed action reduces the enclave area remaining in Palm Beach County.

Land Development Regulations Governing Annexations:

Pursuant to the Land Development Regulations 2.4.5 (C)(1), *"the owner of land may seek the annexation of contiguous property, under his ownership"* pursuant to Florida Statutes.

The voluntary annexation petition was submitted by Andrew V. Podray, property owner, in accordance with Chapter 171, Florida Statutes and the subject property is contiguous to the City of Delray Beach as noted above.



Consistency With The City's Comprehensive Plan:

Upon adoption of the 1989 Comprehensive Plan, the City's "reserve annexation area" was replaced by the boundaries of its "Official Planning Area". The Official Planning Area is the area for which most calculations and projections in which the City's Comprehensive Plan are predicated upon. It is also considered the City's ultimate boundaries. The Planning Area is specifically delineated on Map #1, Future Land Use Element.

Designated Annexation Areas

The territory to be annexed is located within designated Annexation Area "E" (North Military Trail/Barwick Road Area) as identified in the Future Land Use Element of the Comprehensive Plan. Annexation of the subject territory is consistent with the Future Land Use Element Policy B-3.5, which calls for annexation of eligible properties through voluntary annexations as the opportunities arise.

Provision of Services

When annexation of property occurs, services are to be provided in a manner which is consistent with services provided to other similar properties already in the City (Future Land Use Element Policy B-3.1). The provision of services with respect to Public Safety and Emergency Services is provided below. Other services with respect to concurrency is addressed under the Future Land Use Analysis portion of this report.

Police: The City of Delray Beach Police Department has 14 cars per shift patrolling the city and there may be an improvement in response time. Initially, annexation may not require additional manpower. However, once full development is realized, manpower allocation will have to be reevaluated.

Fire and Emergency Services: On February 3, 2015, the Palm Beach County Board of County Commissioners approved Board Resolution R2015-0232. The Resolution entitled, Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services, allows for mutual assistance in aid and dispatch service between the City and the County. Currently, the property is served by Palm Beach County Fire Department located at Woolbright Road, just west of Military Trail, and Fire Station No.115, located at the intersection of Barwick Road and Lake Road. The annexation of this property will not require additional manpower.

Financial Impacts:

Effect upon Annexed Property:

The following table depicts the current assessed value and total (Palm Beach County) taxes for the subject property:

Note: The City's taxable amount is an approximate value as the non-ad valorem assessments for Solid Waste and Stormwater are not known.

**North Barwick Road Properties Annexation
Tax Comparison Summary**

ADDRESS	TAXABLE VALUE 2015	PBC ADVAL. TAXES	PBC NON- ADVAL. TAXES	TOTAL PBC TAXES	PBC COUNTY MILLAGE	DELRAY ADVAL. TAXES	DELRAY NON- ADVAL. TAXES	DELRAY MILLAGE	TOTAL DELRAY TAXES	TAX DIFFERENCE
13132 Barwick Road	309,350.00	5328.28	148.50	5,476.78	17.2241	6,232.72	0.00	20.1478	6232.72	755.95
Barwick Road	97,808.00	1684.65	49.50	1,734.15	17.2241	1,970.62	0.00	20.1478	1970.62	236.46
13038 Barwick Road	454,134.00	7822.05	598.00	8,420.05	17.2241	9,149.80	0.00	20.1478	9149.80	729.75
TOTALS	\$ 861,292.00	\$ 14,834.98	\$ 796.00	\$ 15,630.98		\$ 17,353.14	\$ -		\$ 17,353.14	\$ 1,722.16

For the 2018 tax year, the subject property had an assessed value of \$ 861,292. With the change from County to City jurisdiction, the following taxes and rates will be affected:



Banyan Cove					
PCN # 00424612000001020			Assessed Value: \$309,350		
Advalorem Taxes	Unincorporated Total Taxes	County Total Millage	With Annexation	City Total Taxes	City Total Millage
Fire/Rescue MSTU	1,069.76	3.4581		0	0
Palm Beach County Lib.	169.86	0.5491		0	0
Palm Beach Co. Lib. Debt	12.68	0.041		0	0
Florida Inland Navigation	9.9	0.032		9.9	0.032
Health Care District	228.92	0.74		228.92	0.74
Palm Beach County	1,479.16	4.7815		1,479.16	4.7815
Palm Beach County Debt	36.04	0.1165		36.04	0.1165
Children Service Council	198.08	0.6403		198.08	0.6403
Public Schools Loc. Board	772.76	2.498		772.76	2.498
Public Schools State Law	1,260.29	4.074		1,260.29	4.074
SFWMD District	37.4	0.1209		37.4	0.1209
SFWMD Basin	40.52	0.131		40.52	0.131
SFWMD Everglades Const.	12.9	0.0417		12.9	0.0417
City of Delray Beach	0	0		2,091.55	6.7611
City of Delray Beach Debt	0	0		65.21	0.2108
SUB-TOTAL	\$5,328.28	17.2241	2.9237	\$6,232.72	20.1478



PCN # 00424612000001050			Assessed Value: \$97,808		
Advalorem Taxes	Unincorporated Total Taxes	County Total Millage	With Annexation	City Total Taxes	City Total Millage
Fire/Rescue MSTU	338.23	3.4581		0	0
Palm Beach County Lib.	53.71	0.5491		0	0
Palm Beach Co. Lib. Debt	4.01	0.041		0	0
Florida Inland Navigation	3.13	0.032		3.13	0.032
Health Care District	72.38	0.74		72.38	0.74
Palm Beach County	467.67	4.7815		467.67	4.7815
Palm Beach County Debt	11.39	0.1165		11.39	0.1165
Children Service Council	62.63	0.6403		62.63	0.6403
Public Schools Loc. Board	244.32	2.498		244.32	2.498
Public Schools State Law	398.47	4.074		398.47	4.074
SFWMD District	11.82	0.1209		11.82	0.1209
SFWMD Basin	12.81	0.131		12.81	0.131
SFWMD Everglades Const.	4.08	0.0417		4.08	0.0417
City of Delray Beach	0	0		661.29	6.7611
City of Delray Beach Debt	0	0		20.62	0.2108
SUB-TOTAL	1,684.65	17.2241	2.9237	1,970.62	20.1478



PCN # 00424612000001060 Assessed Value: \$454,134					
Advalorem Taxes	Unincorporated Total Taxes	County Total Millage	With Annexation	City Total Taxes	City Total Millage
Fire/Rescue MSTU	1,570.44	3.4581		0	0
Palm Beach County Lib.	249.36	0.5491		0	0
Palm Beach Co. Lib. Debt	18.62	0.041		0	0
Florida Inland Navigation	14.53	0.032		14.53	0.032
Health Care District	336.06	0.74		336.06	0.74
Palm Beach County	2,171.44	4.7815		2,171.44	4.7815
Palm Beach County Debt	52.91	0.1165		52.91	0.1165
Children Service Council	290.78	0.6403		290.78	0.6403
Public Schools Loc. Board	1,134.43	2.498		1,134.43	2.498
Public Schools State Law	1,850.14	4.074		1,850.14	4.074
SFWMD District	54.9	0.1209		54.9	0.1209
SFWMD Basin	59.49	0.131		59.49	0.131
SFWMD Everglades Const.	18.94	0.0417		18.94	0.0417
City of Delray Beach	0	0		3,070.45	6.7611
City of Delray Beach Debt	0	0		95.73	0.2108
SUB-TOTAL	7,822.05	17.2241	2.9237	9,149.80	20.1478
TOTAL	\$14,834.98			\$17,353.14	

The total tax millage for Palm Beach County is 17.2241 mills while the total millage for the City of Delray Beach is 20.1478 mills. Under Palm Beach County jurisdiction, the current yearly ad valorem taxes for all three parcels are \$14,834.98. With annexation, the yearly ad valorem taxes for all three parcels will be \$17,353.14, a tax difference of \$2,518.16.



The following Non Ad Valorem taxes will continue to be applied to the property:

Solid Waste Authority: The Barwick Road area is serviced under a contract by Waste Management (pursuant to a contract awarded in 2015). Pursuant to Florida Statute 171.062(4)(a) "if a party has an exclusive franchise which is in effect for at least six months prior to the initiation of an annexation, the franchise may continue to provide such services to the annexed area for five years or the remainder of the franchise term whichever is shorter". Thus, the waste service provider will not change with annexation.

Lake Worth Drainage District: The Lake Worth Drainage District manages the water resources in southeast Palm Beach County and is supported by an annual non-ad valorem assessment. This fee will remain the same with annexation.

The following **new** non-ad valorem tax will apply upon annexation:

Delray Beach Stormwater Utility: This assessment is based upon the percentage of impervious area of the structures, buildings, parking areas, etc. For the existing single family residence a stormwater assessment will be applied based on an equivalent residential unit (ERU) x 12 months.

If the property is developed as multiple family, the calculation will be based on the total square feet of impervious area / 2502 x 1 ERU x 12months. A 25% discount from the assessment is available since the property is within the Lake Worth Drainage District. An additional 25% may be available if drainage is retained on site. With annexation, stormwater assessments will be made based on the current use of the property, however the assessment will be modified once the property is developed.

Fiscal Impacts to the City: At the 2018/2019 City operating millage of 6.7611 mills and debt rate of 0.2108 mills, the property will generate approximately \$17,353.14 in new ad valorem taxes per year. Additional revenues will be realized through the annual collection of the storm water assessment fee as well as Communication Service Tax (Cable and Telephone of 5.22%); Electric and Gas Tax of 10% and Utility Franchise Fee on Electric of 6%.

Accommodating the annexation of this property is consistent with the City's program for annexation of territory within its planning and service area and is consistent with Policy B 3.5 , Future Land Use Element which supports the accommodation of voluntary annexations as the opportunities arise .

FUTURE LAND USE MAP AMENDMENT ANALYSIS

Current Land Use Designation: The current Palm Beach County Future Land Use Map designation for the property is MR-5. The City's FLUM designations as initially contained on the City's Future Land Use Map adopted in November, 1989, (and as formally amended subsequently) are deemed to be advisory until an official Land Use Amendment is processed. The current City "advisory" designation is MD.

Requested Land Use Designation: The requested Future Land Use Map Designation is City MD.

The proposed FLUM amendment is being processed as a small-scale Comprehensive Plan amendment. Florida Statutes F.S. 163.3187 provides that a small-scale development amendment may be adopted under the following conditions:

- (a) The proposed amendment involves a use of 10 acres or fewer;
- (b) The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year;



- (c) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.
However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section;
- (d) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s.420.0004(3), and is located within an area of critical state concern designated by s.380.0552 or by the Administration Commission pursuant to s. 380.05(1).

This is the second amendment for 2018. The first amendment involved a 0.137 acre parcel. As the subject property consists of 6.68± acres, the maximum of 120 acres has not been exceeded. The proposed FLUM amendment does not involve a text change to the Goals, Policies, or Objectives of the Comprehensive Plan. The requested FLUM amendment is for a site-specific parcel of land. The subject property is not located within an area of critical state concern. Thus, the proposed FLUM amendment can be processed as a small scale amendment because it complies with all of the above conditions.

The proposed land use change is being processed in conjunction with a petition for annexation. The requested zoning district is Medium Density Residential (RM) at a density of eight units per acre to accommodate 53 multi-family residential dwelling units.

Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies which zoning districts are consistent with the Future Land Use Map designations. Pursuant to Table L-6, the proposed MD FLUM designation and the proposed RM zoning district are consistent.

*Pursuant to **LDR Section 3.1.1, Required Findings**, prior to approval of Land Use applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.*

These findings relate to the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

*Pursuant to **LDR Section 3.1.1(A), Future Land Use Map**, the resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.*

Policy A-1.7 Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:

- ☒ **Demonstrated Need** -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, including but not limited to the minimum amount of land required to accommodate the medium population projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; **nor shall it apply to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the**



advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.

Applicant's Comments: As indicated directly within the policy (and highlighted above in bold for emphasis), this requirement does not apply to applications associated with annexations when applying the City's advisory FLUM designation. As shown in the graphic above, the Future Land Use Map shows this site with a MD land use designation which is also being requested with the annexation. Accordingly this requirement is not applicable.

Staff Comments: Assignment of a City FLUM designation of MD (upon annexation) would not require a finding with respect to "demonstrated need"; however, as noted above, the findings described in the remainder of this policy (i.e. Consistency, Concurrency, Compatibility, and Compliance with the Land Development Regulations) need to be addressed.

The City's MD FLUM designation as described in the Future Land Use Element states as follows:

"Residential Land Uses: Medium Density – This designation is applied to land which is developed, or is to be developed, at a density between five and twelve units per acre. Residential density is limited to a maximum of 12 dwelling units per acre, except within the portion of the Southwest Neighborhood Area Overlay District lying between the commercial area along West Atlantic Avenue and SW 2nd Street (SW 3rd Street along SW 12th Avenue), from Swinton Avenue to Interstate 95, where the density may exceed 12 units per acre, up to a maximum of 24 units per acre subject to Conditional Use approval and the recommendations and strategies outlined in the Southwest Area Neighborhood Redevelopment Plan. Areas with this designation, located within a workforce housing overlay district, may also exceed 12 units per acre, up to a maximum of 24 units per acre within the Carver Estates Overlay District and 18 units per acre within other overlay districts by obtaining density bonuses through the provision of workforce housing units. Such land is usually developed in planned communities or exists in older areas where there are duplexes and condominiums. Home ownership is characteristic of this designation. Where this designation exists, uses other than those which are residential in character shall not be considered."

The subject property is **not** located within a workforce housing overlay district and, therefore, the maximum density allowed under the MD FLUM designation is 12 dwelling units per acre. As the request maintains the advisory MD FLUM designation, this is in keeping with requirements of the demonstrated need for the requested change.

- ☒ **Consistency** -- *The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan:* The following highlights the applicable Objectives and Policies within the City of Delray Beach Comprehensive Plan

Applicant's Comments:

"Objective B-3 of the Comprehensive Plan addresses annexation of properties. Policy B-3.1 and B-3.2 confirm that services such as fire protection, code enforcement and water and sewer facilities shall be provided to those properties anticipated for annexation. Policy B-3.3 and B-3.4 state that the FLUM designation as shown on the City's Future Land Use Map "shall be in effect immediately upon annexation of a specific parcel". For the subject site, as shown above, the Future Land Use designates this site with the MD land use designation. Accordingly, this application is consistent with the policy and should be immediately effective upon approval of the annexation."

Staff Comments:

Policy B-3.3 (Future Land Use Element) of the Comprehensive Plan addresses unincorporated parcels which are located within the City's Planning Area and states: "Within the Delray Beach Planning Area, the City's FLUM designation shall be in effect immediately upon annexation of a specific parcel."



Following any annexation, the Future Land Use Map, and appropriate portions of the Comprehensive Plan, shall be amended to reflect the change in the City's boundaries."

Policy B-3.4 (Future Land Use Element) of the Comprehensive Plan states "For purposes of implementing Policy B-3.3, the Future Land Use Map designations as initially contained on the City's Future Land Use Map upon adoption in November, 1989, (and as formally amended subsequently) are hereby deemed to be the Future Land Use Map designations for the territory subject to provisions of the interlocal agreement."

If the annexation is approved by the City Commission a City FLUM designation will be applied to the subject property. Pursuant to F.S. 163.3187 (5)b(2)(c) small scale development amendments may not become effective until 31 days after adoption. In addition to the Goals, Objectives, and Policies identified by the applicant above, the following additional Objectives and Policies also pertain to this analysis:

Future Land Use Element:

Objective A-1: Property shall be developed or redeveloped, in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

Objective A-2: To reduce, and eventually eliminate, uses which are inconsistent with predominant adjacent land uses, and to insure compatibility of future development, the following policies shall be applied.

Policy A-2.3: Development of remaining vacant properties shall occur in a manner which is consistent with and **complementary to adjacent development regardless of zoning designations**. This policy shall be implemented through the review process associated with platting and site plans.

The subject property does not have any unique environmental characteristics that would require mitigation measures as discussed further within the report. Nor does the site possess any specific characteristics that would be negatively impacted with a change to MD. The adjacent FLUM designations are indicated below:

	<i>Land Use Map Designations</i>
North	Unincorporated Palm Beach County Low Density Residential 3 units per acre (LR-3) north of the L-30 Canal
South	Unincorporated Palm Beach County Medium Density Residential 5 units per acre (MR-5)
East	Open Space (OS) and Community Facilities (CF)
West	Low Density Residential 0-5 du/ac (LD) and Unincorporated Palm Beach County MR-5



With any Future Land Use Map amendment, the resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map. Any change to a FLUM designation requires that further analysis with respect to the resulting use of land or structures, and that such use must be allowed in a zoning district that is consistent with FLUM designation. Multi-family residential use is consistent with the MD FLUM designation.

While the request is consistent with the City's advisory MD FLUM specific conditions will be warranted to ensure the increase in density and related intensity is appropriate and complimentary to the surrounding neighborhoods and this will be further addressed in the Zoning Analysis of the report.

Objective B-2: Facilities and services which are provided by, or through, the City of Delray Beach shall be provided to new development concurrent with issuance of a Certificate of Occupancy pursuant to the following policies.

Policy B-2.3: Prior to recommending approval of any land use application which comes before it, the Local Planning Agency, or appropriate approving body, must make a finding of consistency with this objective and its supporting policies. If such a finding cannot be made, either conditions shall be made which provide for concurrency or the land use request shall be denied.

This objective and supporting policies are addressed under the Concurrency portion of this analysis.

Housing Element:

Objective A-3: For those areas identified as "stable residential" on the Residential Neighborhood Categorization Map, the City shall implement the following policies to ensure that they remain "stable residential" and do not decline.

Policy A-3.1: Each area of the City that is identified as "stable residential" shall be included within a neighborhood association which has an official representation. The purpose and implementation of this policy is as provided in Objective A-1 and its related policies.

Policy A-3.2: The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to these neighborhoods and affixed to the zoning map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.

Staff Comments:

The Housing Element classifies neighborhoods as to their overall appearance, and condition of the structures and infrastructure. Neighborhoods were identified in several categories:

Stable--No apparent signs of physical or other decline; no improvement needed.

Needing Stabilization--Appearance of minor code violations and maintenance problems; some improvement desired.

Needing Revitalization--Evidence of decline in condition of structures and yards; increase in crime; property values stagnant or declining.

Needing Rehabilitation--Numerous code violations; deteriorated and non-maintained structures; high level of absentee ownership; significant crime problems; large number of vacant lots.

The subject property is located within an area designated as "stable" on the Residential Neighborhood Categorization Map (map attached). Based on Policy A-3.2, the assignment of a City zoning shall



comply with the most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes.

Conservation Element:

Policy B-2.1: The submission of a biological survey and a habitat analysis shall accompany land use requests for plan amendments, rezonings, and site plan approval. However, the requirement shall not apply to small parcels, developed parcels, or where it is apparent that there are no such resources.

Policy B-2.2: Whenever and wherever significant or sensitive flora and fauna communities are identified, plans shall be required to preserve the habitat to the extent feasible, or provide for mitigation if preservation is infeasible or inappropriate.

A field review was conducted of the subject property to determine whether Policy B-2.1 and/or B-2.2 of the Comprehensive Plan were an issue. The property has a number of mature trees, in excess of four (4) inches DBH (Diameter at Breast Height). Those trees include Sabal Palms (*Sabal palmetto*), Southern Live Oaks (*Quercus virginiana*), Southern Slash Pines (*Pinus elliotti*), Orchid trees (*Bauhinia spp.*), Fishtail Palms (*Caryota spp.*), Rubber trees (*Ficus elastica*), Areca Palms (*Dypsis lutescens*), Bamboo clumps (*Bambusa spp.*), Mango trees (*Mangifera indica*) and Lychee trees (*Litchi chinensis*). Of the number of trees on the property, the Sabal Palms, Southern Live Oak and Southern Slash Pines indicate the property was once a remnant of a "Pine Flatwood". Besides the trees, there would have been an understory of plants including but not limited to Saw Palmetto (*Serenoa repens*), Gallberry (*Ilex glabra*), Fetterbush (*Lyonia lucida*), Wax Myrtle (*Myrica cerifera*), Tarflower (*Befaria racemosa*) and Wiregrass (*Arisida stricta*). Those plant species are entirely absent. In their place is cultivated grass, primarily St. Augustine (*Stenotaphrum secundatum*) but with a mix of Bahia (*Bahia spp.*), Sedges (*Carex spp.*), etc. The understory is now an improved field or even a "lawn". In addition, the inclusion of ornamental trees, such as Orchid trees, Fishtail Palms, rubber trees, Areca Palms and Bamboo clumps, plus fruit trees, such as Mangoes and Lychees, indicate this has been somebody's "backyard". In the case of fauna, in the time that I was on the property, the only animal or bird observed was a flock of Peacocks and Peahens foraging throughout the grounds. (In fact there is a "dog pen" on the property, which contained food for them.) The Peacock is a domesticated bird species, not a native one. In conclusion, even though the property includes a number of mature trees, it does not constitute a total and complete ecosystem. A biological survey and a habitat analysis are not required based upon the existing conditions of the properties. However, conformance with respect to preservation of trees will be addressed during the site plan review process.

- ☒ **Concurrency:** Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards. Concurrency with respect to traffic, water and sewer, drainage, parks and recreation and school capacity determination are evaluated below:

Applicant's Comments:

"The subject property was previously subject to land use and zoning applications through Palm Beach County, therefore, concurrency services for proposed development that exceeded the highest intensity possible was evaluated and found to be sufficient for traffic capacity and school capacity. Correspondence confirming these determinations is provided as an attachment to this application. That application was later modified to allow a lesser development program however was not required to re-evaluate the traffic or school impacts since they were sufficient at a greater amount of intensity.

Water and sewer service is available to the property through the City of Delray Beach, also documented and attached. With the annexation of the property into the City, there is no requirement for a water and sewer service agreement otherwise required if the property remains in the County. The water and sewer



requirements for the specific development will be evaluated and confirmed at time of a Site Plan application. Likewise, fire and police services are available to the property and will also be confirmed at time of Site Plan application. Adequate services are available to serve the subject site as proposed.”

Staff Comments:

Streets and Traffic: The property can be accessed via Barwick Road. Barwick Road extends from West Atlantic Avenue on the south and terminates at Coconut Lane in the City of Boynton Beach to the north. The segment of Barwick Road that is located within the City’s Planning Area is under the jurisdiction of the City of Delray Beach for associated maintenance responsibility and will not change upon annexation. Barwick Road extending from the LWDD L-30 Canal to Lake Ida Road accommodates two-lanes (with turn lanes at intersections). The right-of-way of Barwick Road that abuts the subject property is 80 feet wide.

With respect to traffic study the applicant states “...the current traffic conditions at the peak hour times of the school, both morning and afternoon, create stacking and turning movement issues along Barwick Road and more particularly at the intersection with Sabal Lakes Road which is the only road to access the school. Although, the County has reviewed and approved a traffic study for the proposed applications for the subject site, the traffic concerns of the surrounding residents during the peak times of school traffic are real and need to be addressed by the School District, County and City.”

A comparative traffic analysis was submitted by the Applicant, which addressed the most intense development potential of the site at both the existing and proposed zoning classifications. The study was prepared in accordance with Palm Beach County Unified Land Development Code, Traffic Performance Ordinance. The comparative traffic study reveals that under the maximum development potential of 12 units per acre (80 units) the daily traffic generation would be 532 tpd (trips per day) with 43 AM Peak and 50 PM peak hour trips would be anticipated.

With the requested density of eight units per acre, the trips generated by the proposed 53 units would be 352 tpd, with 30 AM peak hour trips and 33 peak hour trips.

The traffic study concludes that the estimated 352 trips per day and 30 AM peak hour trips and 33 PM peak hour trips at project build-out in 2022 and in conjunction with the required link analysis meets the requirements of Palm Beach County Traffic Performance Standards. A traffic concurrency determination has not yet been provided from Palm Beach County Traffic Division for the current proposal. However, a traffic approval letter was provided with the application for the 2017 Palm Beach County Land Use application request, which sought approval of 102 residential units. As the proposed density and corresponding units (53) is much less, staff does not anticipate a negative letter from Palm Beach County Traffic Division.

The City’s consultant’s reviewed the submitted traffic study and indicates that the proposed development will have a “significant” impact on Barwick Road between the site and Lake Ida Road, with “significant” defined as adding more than one percent of the adopted level of service volume to the roadway. It should be noted that the project will add 17 peak hour trips to the road (i.e. one trip approximately every four minutes). The impact will not reduce the level of service, as Barwick has excess capacity allowing for additional growth of over 200 peak hour trips in the morning peak hour and over 300 peak hour trips in the evening peak hour. The project will not significantly impact any other roads in the area. Furthermore, consistent with County requirements, the intersection of Lake Ida Road and Barwick Road was analyzed and was determined to operate at an acceptable level of service with the project.

Traffic congestion created during school drop off and pick up times is regularly mentioned by residents of the area as a concern.

**Public Utility Services:**

The Comprehensive Plan Future Land Use Element, Policy B-3.2, indicates water and sewer facilities may be provided to unincorporated areas by the City, upon demand, in a manner consistent with policies of the City. The provision of water facilities shall be accompanied by an agreement to voluntarily annex upon eligibility unless the property is already eligible in which case, annexation shall precede the provision of services.

Water: The subject property is located within the City of Delray Beach Utility Service Area for the provision of water and sewer services. The service area coincides with the City's Planning Area plus service provided through contract to Highland Beach and the Town of Gulf Stream.

A water service agreement was approved for the northernmost parcel for the purpose of serving the existing single family residence.

Municipal water service is available via connection to an eight inch water main located along Barwick Road. However, development of the property will require the property owner to extend the City's eight inch water main, north along the project frontage from its current terminus at Highgate Drive approximately 400 feet to the project's northern boundary line. The connection to the City's water system shall be at the north end of the annexed property. The Public Utilities Department has determined that sufficient water capacity is available to serve this site.

Sewer: Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out. The extension of the City's sewer system will be required to provide sewer service to the subject property. The property owner must perform an engineering study to determine if a gravity connection to the system is feasible at the City's manhole at the Sabal Lakes Road and Barwick Road intersection. If a gravity connection is not feasible, a lift station and force main will be required. The applicant may construct a public or private lift station on their property with a public force main extended to the City's force main in the Sabal Lakes Road and Barwick Road intersection. If the applicant desires to have a public lift station, it will have to be designed and built to City Standards in a lift station easement. The force main shall be constructed in an easement when not in public right of way.

In addition to these specific items, any proposed project must comply with all pertinent City requirements similar to any other proposed project.

Drainage: Drainage is usually accommodated on-site via exfiltration trench systems or swale retention areas. While no problems are anticipated with obtaining South Florida Water Management District permits, technical comments and issues pertaining to the drainage will be addressed during future development process.

Parks and Recreation: The City has approximately 629.59 acres of parks and open space. Approximately 309.56 acres are activity-based recreation facilities such as tennis, baseball, basketball, soft ball and other similar sports and recreational activities. An additional 320.03 acres are considered resource-based, including the municipal beach, conservation parcels, and the golf courses. Two parks, Lake Ida Park and Delray Oaks Preserve, are both owned and operated by Palm Beach County and specialty facilities, such as nature centers, cultural facilities, and schools whose recreation facilities are available to the community under joint use agreements are also included in the total inventory.

Within recreation areas, amenities and facilities are provided to meet the demand for recreational and leisure opportunities for all segments of the community. The City of Delray Beach provides a ratio of 9.8 acres of parkland and recreational facilities per 1,000 people and can accommodate the increase in the number of residents anticipated from this subject property. Within the North Barwick Road Area, two City-owned parks are located approximately one-half mile from the subject property. In terms of personnel and capital improvements of the Parks and Recreation Department, there will not be an impact after annexation of the subject property.



Education (School Capacity Determination): The proposed change from MR-5 to MD will result in an increase in density. A school capacity availability determination was issued by Palm Beach County School. The School District found that the development proposal would generate four new students at the Banyan Creek Elementary School, two students at Carver Middle School and three students at Atlantic High School. As Atlantic High School is over capacity, there will be an impact on the public school system that requires mitigation. Therefore, if the requests are approved, the School District staff recommends the following condition to mitigate the impacts:

“In order to address the school capacity deficiency created by this proposed project at the District high school level, the property owner is required to contribute \$40,596 to the School District of Palm Beach County prior to issuance of the first building permit. The school capacity contribution is intended to supplement the required school impact fee (impact fee credit has already been applied).”

Solid Waste: The subject property contains a single family residence and accessory structures. The development of the subject property will increase solid waste generation. The residential generation rates issued by the Solid Waste Authority indicates a rate of 0.52 tons per year for each unit for multi-family buildings with five or greater units. The 53 units requested by the applicant will generate 27.56 tons per year and therefore would have an impact on this level of service standard. Based on population projections, waste generation rate projections, waste reduction, and recycling, the Solid Waste Authority forecasts that capacity will be available at the existing landfill through approximately 2047. The service provider will not change with annexation.

Based on the above, positive findings are made with regard to concurrency for all services and facilities.

☐ Compliance -- *Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.*

Applicant's Comments:

“Response: Following approval of the annexation and implementation of the future land use and zoning, a Site Plan application will be required to be processed through the City for the specific proposed development. The proposed development will be required to comply with all applicable provisions and requirements of the Land Development Regulations and the Site Plan application process will confirm compliance.”

Staff Comments: Any proposed development of the subject property will be required to meet the criteria set forth by the Land Development Regulations

ZONING ANALYSIS

Pursuant to **LDR Section 2.4.5(D)(1), Change of Zoning District Designation: Rule**, the City Commission, by ordinance, after review and recommendation for approval by the Planning and Zoning Board may amend the Official Zoning Map. The subject review is for the purpose of providing a recommendation to the City Commission.

Pursuant to **LDR Section 2.4.5(D)(2), Change of Zoning Designation: Required Information**, standard application items pursuant to 2.4.3(A) shall be provided. Traffic information prepared in accordance with Section 2.4.3(E) and which addresses the development of property under reasonable intensity pursuant to the existing and proposed zoning shall be provided. In addition, a statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning are:



- ☐ That the zoning had previously been changed, or was originally established, in error;
- ☐ That there has been a change in circumstance which makes the current zoning inappropriate;
- ☐ That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

Applicant's Comments:

Section 2.4.5. (C)(3) and Section 4.2.3 of the City's Code indicate that an application for voluntary annexation must be considered with an application for an initial zoning designation. This application proposes a voluntary annexation, consistent with the Comprehensive Plan, implementation of the MD land use designation as shown on the City's Future Land Use Map and proposes the initial zoning designation of RM - Multiple Family Residential (Medium Density) which corresponds with the MD land use designation.

A change of zoning district designation must comply with Section 2.4.5(D) of the City's Code and requires a statement of the reasons for the change. The section lists three "valid reasons" for approving the change and that the City Commission must find that the rezoning fulfills at least one of the "valid reasons". This application fulfills the last two reasons (B & C) in that there is a change of circumstance that makes the current zoning inappropriate and that the requested zoning is similar in intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and or neighborhood. The change in circumstance is based on the annexation of the property from Palm Beach County to the City of Delray Beach. The County zoning for this property is part Agricultural Residential (AR) and the balance Residential High (RH). with the annexation, an initial zoning designation needs to be applied to the property consistent with the Future Land Use Map designation of MD which allows residential density from 5 to 12 units per acre. The proposed 8 units per acre is consistent with the MD land use and RM zoning. The initial zoning proposed by this application is RM, Multiple Family Residential (Medium Density) which allows residential density from 6 to 12 units per acre. The RM district is consistent with the MD land use and the requirement for annexation as indicated in Section 2.4.5.(D). The proposed 8 units per acre is consistent with the MD land use did RM zoning. The proposed 8 units per acre is consistent with the MD land use and RM zoning."

Staff Comments: The change of zoning is being sought with the annexation of the subject property. With annexation, it is required that a City zoning district is assigned. The proposed FLUM amendment to MD is consistent with the City's advisory FLUM designation for the property. The RM is consistent with the MD FLUM however, with respect to density and intensity of the proposed use, compatibility with the existing land use designations and the adjacent development pattern and zoning designations must be evaluated. Based upon the above, positive findings are made with respect to LDR Section 2.4.5(D)(5).

LDR Section 4.4.6(A) Medium Density Residential states "Purpose and Intent:

"The Medium Density Residential (RM) District provides a residential zoning district with flexible densities having a base of six units per acre and a maximum of 12 units per acre, except within the Southwest Neighborhood Overlay District and the Carver Estates Overlay District where the maximum density is 24 units per acre, and within the Infill Workforce Housing Area, where the maximum density is 18 units per acre. The actual density of a particular RM development is based upon its ability to achieve certain performance standards which are intended to mitigate the impacts of the increased density and ensure that the project is compatible with surrounding land uses. Within the Southwest Neighborhood Overlay District, the Southwest 10th Street Overlay District, and the Carver Estates Overlay District, and the Infill Workforce Housing Area,



the actual density is also based upon the development's ability to comply with Article 4.7 (Family/Workforce Housing). Further, the Medium Density Residential District provides for implementation of those objectives and policies contained within the Housing Element of the Comprehensive Plan which call for accommodating a variety of housing types”

As stated previously the site is not located within a workforce overlay area and is subject to a maximum density of 12 units per acre.

Pursuant to **LDR Section 2.4.5(D)(5), Change of Zoning Designation: Findings**, in addition to provisions of Chapter Three, the City Commission must make a finding that the rezoning fulfills at least one of the reasons listed under Subsection (2).

A review of Subsection (2) is provided above. Chapter Three sets forth Level of Service Standards consistent with the Comprehensive Plan. It also sets forth performance standards by which a development application shall be assessed for the purpose of determining overall consistency with the Comprehensive Plan and with good planning, engineering and design practice. A complete review of both Chapter Three and the Comprehensive Plan is provided below.

Pursuant to **LDR Section 3.1.1, Required Findings**, prior to the approval of development applications, certain findings must be made in a form which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

(A) Future Land Use Map: The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.

The subject properties are currently zoned Agricultural Residential (AR) in part and Residential High (RH) in part. The proposed zoning is Medium Density Residential (RM). The proposed RM zoning designation is consistent with the MD Future Land Use Map designation and would allow for the proposed 53 unit, multi-family residential development planned for the subject site. Based upon the above, positive findings can be made with respect to Future Land Use Map Consistency.

(B) Concurrency: *Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

The proposed rezoning can meet the adopted concurrency standards. Concurrency findings with respect to Water and Sewer, Drainage, Parks and Recreation, Solid Waste, Schools, and Traffic were discussed within the Future Land Use Map analysis portion of the staff report.

(C) Consistency: A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

LDR Section 3.2.2, Standards for Rezoning Actions provides five standards that must be considered for rezoning of property, listed as follows:



- (A) The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to those areas identified as “stable” and “stabilization” on the Residential Neighborhood Categorization Map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.
- (B) Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95.
This Standard is not applicable.
- (C) Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design.
This Standard is not applicable.
- (D) That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.

Applicant's Comments:

The proposed future land use is consistent with the Comprehensive Plan and therefore already determined to be compatible with the existing and future land uses of the area.”

Staff Comments:

Under the MD Future Land Use Map designation, residential zoning districts which accommodate single family, duplex and multiple family units [within Rural Residential (RR); Single Family Residential (R-1 thru R-1-AAA); Low Density Residential (RL); Medium Density Residential (RM); Planned Residential Development (PRD) Zoning Districts] are allowed. Exhibit “A” provides density calculations based on the specific zoning categories which are deemed consistent with the MD FLUM designation.

The table and map below shows the zoning districts and uses that abut the subject property:

	<i>Zoning Designation</i>	<i>Use</i>
<i>North:</i>	Unincorporated Palm Beach County Single Family Residential (RS)	Single Family Residence
<i>South:</i>	Unincorporated Palm Beach County Agricultural Residential (AR)	Single Family Residence
<i>East:</i>	Open Space (OS) and Community Facilities (CF)	Banyan Creek Elementary School
<i>West:</i>	Unincorporated Palm Beach County (AR Agricultural Residential) and City Planned Residential Development (PRD)	Single Family Residence and Multi-family units



As noted previously, the requested zoning must be applied in context with the surrounding neighborhood and the resulting use of the land and zoning. Extending from the L-30 Canal on the north to the L-31 Canal on the south (approx. ½ mile), the adjacent neighborhoods fronting along Barwick Road are predominantly single family residential, however, a portion of the Bexley Park development that fronts on Barwick Road accommodates multi-family units.

The table below shows the approximate densities within the development/properties fronting along Barwick Road.

Overall, densities ranges from 1.13 units per acre to 4.84 units per acre. It must be noted that within Bexley Park, while the overall density for the development is 4.84 units per acre, pockets of the development exceed that density. The northeast portion of Bexley Park which fronts on Barwick Road, is developed as multi-family and contains 91 units (64 townhomes and 27 villas). This area measures approximately 8.85 ± acres and equates to a density of approximately 9.7 units per acre.

Development	Size/ Units	Density
Bexley Park (Single Family & Multi-Family)	54.5 acres – 264 units	4.84 units per acre
Golf Club Estates (Single Family)	11.08 acres - 44 units	3.97 units per acre
Single family residences Located between the subject property and Sabal Lakes Road	1.7 acres - 2 units	1.17 units per acre
Barwick Ranch (Single Family)	9.4766 acres - 28 units	2.95 units per acre
Sabal Lakes (Single Family)	123.82 acres - 452 units	3.65 units per acre
Single family residences south of 133 Rd S	4.4 acres - 5 units	1.13 units per acre

The residential character of this area/neighborhood includes multi-family residential components which has been integrated within the neighborhood. Based on Policy A-3.2, the assignment of a City zoning shall comply with the most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes.

Given the context of the neighborhood, with the Banyan Creek Elementary School to the east, the Bexley Park development which includes multi-family units to the west, and the single family uses to the south and west, it is appropriate to recommend a density less than eight units per acre.



- E) Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.

This Standard is not applicable.

REVIEW BY OTHERS

The subject properties are not in an area that requires review by the Community Redevelopment Agency (CRA) or Downtown Development Authority (DDA).

Palm Beach County Notice: On July 20, 2018, the Palm Beach County Planning Division was notified of the City's intent to annex this property. No objection has been received from Palm Beach County to date.

IPARC Notice: On August 22, 2018, notice of the Future Land Use Amendment has also been provided to the Interlocal Plan Amendment Review Committee (IPARC) which distributes the information to adjacent municipalities. No opposition has been noted.

Notice to Adjacent Municipality

On October 2, 2018, notice was provided to the City of Boynton Beach. Letter of support or objection, if any, will be presented at the Planning and Zoning Board meeting.

Courtesy Notices:

Special courtesy notices were provided to the following homeowners and civic associations:

- ☐ Country Manor
- ☐ Sabal Lakes
- ☐ Barwick Ranch Estates
- ☐ Bexley Park
- ☐ Chatelaine
- ☐ Rainberry Bay
- ☐ Rainberry Woods
- ☐ Delray Shores

Public Notice:

Formal public notice has been provided to the owner of the subject property as well as property owners within a 500' radius of the subject property. Letters of support or objection, if any, will be presented at the Planning and Zoning Board meeting.

ASSESSMENT AND CONCLUSION

Accommodating the annexation of this property is consistent with the City's program for annexation of territory within its planning and utility service area. The FLUM request to MD is consistent with the existing advisory MD designation. However, based on Policy A-3.2, the assignment of a City zoning shall comply with the most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes. A recommendation of Medium Density Residential with a density suffix of six units per acre (RM-6) is more appropriate in maintaining the overall low density



residential character of the neighborhood. The RM zoning district provides sufficient regulations to ensure that areas of incompatibility can be mitigated. Thus, positive findings can be made with respect to Concurrency and Compatibility with the surrounding land uses.

The City will receive additional revenue from property taxes, in addition to storm water assessment fees utility taxes, franchise fees, and licensing fees upon development. The total immediate revenue increase is approximately \$17,353.14 (ad valorem). Based upon the above, the proposed Annexation, Future Land Use Map Amendment and associated Rezoning application should be approved.

ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move a recommendation of approval to the City Commission for the Annexation, small scale FLUM Amendment re-designating from Palm Beach County Medium Density Residential 5 units per acre (MR-5) to City Medium Density Residential 5-12 du/ac (MD); and re-designating the zoning district from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part and establishing a City zoning of Medium Density Residential six units per acre (RM-6) for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with F.S. 171.044 in that the property is contiguous to the City, reasonably compact and does not create an enclave; consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.
- C. Move a recommendation of denial to the City Commission for the Annexation, FLUM Amendment re-designating from Palm Beach County Medium Density Residential 5 units per acre (MR-5) to City Medium Density Residential (MD), and re-designating the zoning district from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part and establishing a City zoning of Medium Density Residential, six units per acre (RM) for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with F.S. 171.044; inconsistent with the Comprehensive Plan, and does not meet the criteria set forth in Sections 2.4.5(D) (5), 3.1.1 and 3.2.2 of the Land Development Regulations.

Attachments:

Attachments:

- Aerial Location Map
- Survey of Property
- Applicant's Justification Statement
- City of Delray Beach Future Land Use Map
- City of Delray Beach Zoning Map
- City of Delray Beach Planning Area
- Residential Neighborhood Categorization Map
- Table L-6 Land Use designation/Zoning Matrix

**EXHIBIT A**

Zoning District	Density/Lot Size Requirements
Rural Residential	Minimum lot size 3 acres
R-1-A	Minimum lot size 7,500 sq. ft. (5 units per acre)
R-1-AAB	Minimum lot size 9,000 sq. ft. (4 units per acre)
R-1-AA	Minimum lot size 9,500 sq. ft. (4 units per acre)
R-1-AAA & R-1-AAAB	Minimum lot size 12,500 sq. ft. (3 units per acre)
RL	Minimum lot size 8,000 sq. ft. density ranges allowed from three to six units per acre.*
RM	Minimum lot size 8,000 sq. ft. density ranges allowed from six to twelve units per acre. ** Increases above 12 units per acre are allowed with designated workforce housing overlay districts.
PRD	Minimum site area is five acres. Density is determined at the time a PRD zoning designation is applied on the property (i.e. PRD-8 limits the density to 8 units per acre. To seek a density greater than that shown in such a manner, would require rezoning. If there is no density suffix, then the maximum density shall be as allowed by the Future Land Use Map. At least 50 percent of the units must be in single family detached units where the overall density is six units per acre or less, or at least 40 percent where the overall density is greater than 6 units per acre. - 15% percent of the gross area of the site must be placed in common open space where the overall density is 6 units per acre or less, or at least 20 percent where the overall density is greater than 6 units per acre.

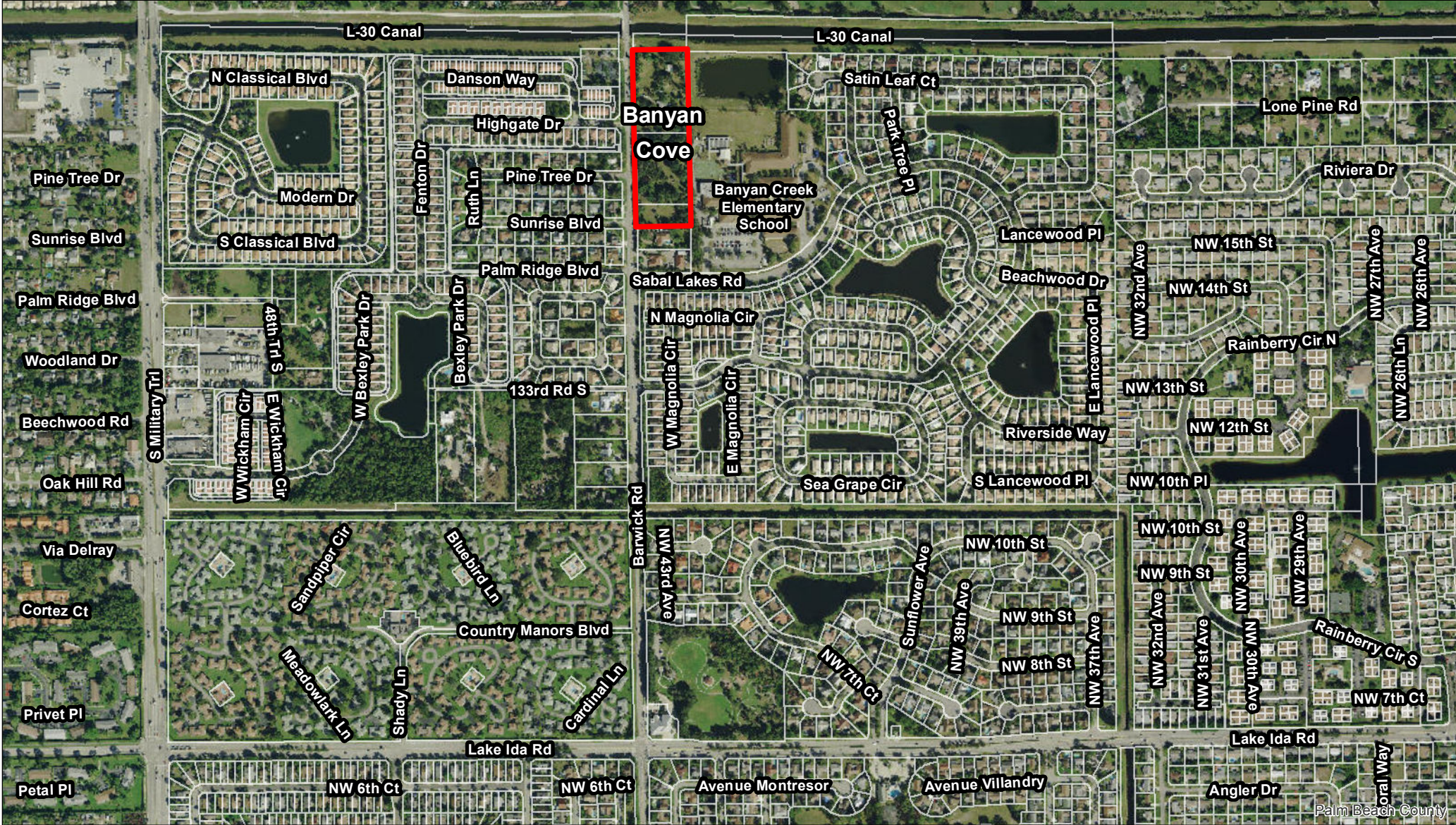
* Density increases above 3 units are allowed provided certain site development performance standards are met.

**Density increases above 6 units are allowed provided certain site development performance standards are met.

**EXHIBIT B**

City Commission Estimated Adoption Schedule

Annexation Ordinance	
November 20, 2018	City Commission – 1 st Reading
December 4, 2018	City Commission- 2 nd Reading
Future Land Use Map (FLUM) Ordinance	
January 15, 2019	City Commission 1 st Reading
February 5, 2019	City Commission 2 nd Reading
Rezoning Ordinance	
February 5, 2019	City Commission 1 st Reading
March 28, 2019	City Commission 2 nd Reading



City of Delray Beach
Development Services

Banyan Cove

General Location

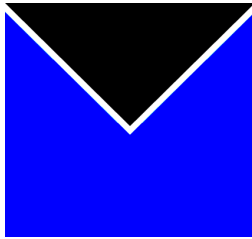


0 375 750
Feet

Print Date: 10/3/2018

TREE TABLE

#	CALIPER (")	SPECIES	#	CALIPER (")	SPECIES	#	CALIPER (")	SPECIES	#	CALIPER (")	SPECIES	#	CALIPER (")	SPECIES	#	CALIPER (")	SPECIES
1	12	PALM	161	15	PALM	311	12	PALM	461	12	PALM	611	12	PALM	761	12	PALM
2	12	PALM	162	15	PALM	312	12	PALM	462	12	PALM	612	12	PALM	762	12	PALM
3	14	PALM	163	15	PALM	313	12	PALM	463	12	PALM	613	12	PALM	763	12	PALM
4	14	PALM	164	15	PALM	314	12	PALM	464	12	PALM	614	12	PALM	764	12	PALM
5	12	PALM	165	15	PALM	315	12	PALM	465	12	PALM	615	12	PALM	765	12	PALM
6	14	PALM	166	15	PALM	316	12	PALM	466	12	PALM	616	12	PALM	766	12	PALM
7	12	PALM	167	15	PALM	317	12	PALM	467	12	PALM	617	12	PALM	767	12	PALM
8	10	UNKNOWN	168	15	PALM	318	12	PALM	468	12	PALM	618	12	PALM	768	12	PALM
9	10	UNKNOWN	169	15	PALM	319	12	PALM	469	12	PALM	619	12	PALM	769	12	PALM
10	14	PALM	170	15	PALM	320	12	PALM	470	12	PALM	620	12	PALM	770	12	PALM
11	7	UNKNOWN	171	15	PALM	321	12	PALM	471	12	PALM	621	12	PALM	771	12	PALM
12	14	PALM	172	15	PALM	322	12	PALM	472	12	PALM	622	12	PALM	772	12	PALM
13	12	PALM	173	15	PALM	323	12	PALM	473	12	PALM	623	12	PALM	773	12	PALM
14	35	GAR	174	15	PALM	324	12	PALM	474	12	PALM	624	12	PALM	774	12	PALM
15	17	PALM	175	15	PALM	325	12	PALM	475	12	PALM	625	12	PALM	775	12	PALM
16	10	PALM	176	15	PALM	326	12	PALM	476	12	PALM	626	12	PALM	776	12	PALM
17	12	PALM	177	15	PALM	327	12	PALM	477	12	PALM	627	12	PALM	777	12	PALM
18	10	UNKNOWN	178	15	PALM	328	12	PALM	478	12	PALM	628	12	PALM	778	12	PALM
19	10	UNKNOWN	179	15	PALM	329	12	PALM	479	12	PALM	629	12	PALM	779	12	PALM
20	45	GAR	180	15	PALM	330	12	PALM	480	12	PALM	630	12	PALM	780	12	PALM
21	10	PALM	181	15	PALM	331	12	PALM	481	12	PALM	631	12	PALM	781	12	PALM
22	45	GAR	182	15	PALM	332	12	PALM	482	12	PALM	632	12	PALM	782	12	PALM
23	17	UNKNOWN	183	15	PALM	333	12	PALM	483	12	PALM	633	12	PALM	783	12	PALM
24	35	GAR	184	15	PALM	334	12	PALM	484	12	PALM	634	12	PALM	784	12	PALM
25	45	GAR	185	15	PALM	335	12	PALM	485	12	PALM	635	12	PALM	785	12	PALM
26	17	PALM	186	15	PALM	336	12	PALM	486	12	PALM	636	12	PALM	786	12	PALM
27	12	PALM	187	15	PALM	337	12	PALM	487	12	PALM	637	12	PALM	787	12	PALM
28	10	UNKNOWN	188	15	PALM	338	12	PALM	488	12	PALM	638	12	PALM	788	12	PALM
29	10	UNKNOWN	189	15	PALM	339	12	PALM	489	12	PALM	639	12	PALM	789	12	PALM
30	10	UNKNOWN	190	15	PALM	340	12	PALM	490	12	PALM	640	12	PALM	790	12	PALM
31	10	UNKNOWN	191	15	PALM	341	12	PALM	491	12	PALM	641	12	PALM	791	12	PALM
32	10	UNKNOWN	192	15	PALM	342	12	PALM	492	12	PALM	642	12	PALM	792	12	PALM
33	10	UNKNOWN	193	15	PALM	343	12	PALM	493	12	PALM	643	12	PALM	793	12	PALM
34	10	UNKNOWN	194	15	PALM	344	12	PALM	494	12	PALM	644	12	PALM	794	12	PALM
35	10	UNKNOWN	195	15	PALM	345	12	PALM	495	12	PALM	645	12	PALM	795	12	PALM
36	10	UNKNOWN	196	15	PALM	346	12	PALM	496	12	PALM	646	12	PALM	796	12	PALM
37	10	UNKNOWN	197	15	PALM	347	12	PALM	497	12	PALM	647	12	PALM	797	12	PALM
38	10	UNKNOWN	198	15	PALM	348	12	PALM	498	12	PALM	648	12	PALM	798	12	PALM
39	10	UNKNOWN	199	15	PALM	349	12	PALM	499	12	PALM	649	12	PALM	799	12	PALM
40	10	UNKNOWN	200	15	PALM	350	12	PALM	500	12	PALM	650	12	PALM	800	12	PALM
41	10	UNKNOWN	201	15	PALM	351	12	PALM	501	12	PALM	651	12	PALM	801	12	PALM
42	10	UNKNOWN	202	15	PALM	352	12	PALM	502	12	PALM	652	12	PALM	802	12	PALM
43	10	UNKNOWN	203	15	PALM	353	12	PALM	503	12	PALM	653	12	PALM	803	12	PALM
44	10	UNKNOWN	204	15	PALM	354	12	PALM	504	12	PALM	654	12	PALM	804	12	PALM
45	10	UNKNOWN	205	15	PALM	355	12	PALM	505	12	PALM	655	12	PALM	805	12	PALM
46	10	UNKNOWN	206	15	PALM	356	12	PALM	506	12	PALM	656	12	PALM	806	12	PALM
47	10	UNKNOWN	207	15	PALM	357	12	PALM	507	12	PALM	657	12	PALM	807	12	PALM
48	10	UNKNOWN	208	15	PALM	358	12	PALM	508	12	PALM	658	12	PALM	808	12	PALM
49	10	UNKNOWN	209	15	PALM	359	12	PALM	509	12	PALM	659	12	PALM	809	12	PALM
50	10	UNKNOWN	210	15	PALM	360	12	PALM	510	12	PALM	660	12	PALM	810	12	PALM
51	10	UNKNOWN	211	15	PALM	361	12	PALM	511	12	PALM	661	12	PALM	811	12	PALM
52	10	UNKNOWN	212	15	PALM	362	12	PALM	512	12	PALM	662	12	PALM	812	12	PALM
53	10	UNKNOWN	213	15	PALM	363	12	PALM	513	12	PALM	663	12	PALM	813	12	PALM
54	10	UNKNOWN	214	15	PALM	364	12	PALM	514	12	PALM	664	12	PALM	814	12	PALM
55	10	UNKNOWN	215	15	PALM	365	12	PALM	515	12	PALM	665	12	PALM	815	12	PALM
56	10	UNKNOWN	216	15	PALM	366	12	PALM	516	12	PALM	666	12	PALM	816	12	PALM
57	10	UNKNOWN	217	15	PALM	367	12	PALM	517	12	PALM	667	12	PALM	817	12	PALM
58	10	UNKNOWN	218	15	PALM	368	12	PALM	518	12	PALM	668	12	PALM	818	12	PALM
59	10	UNKNOWN	219	15	PALM	369	12	PALM	519	12	PALM	669	12	PALM	819	12	PALM
60	10	UNKNOWN	220	15	PALM	370	12	PALM	520	12	PALM	670	12	PALM	820	12	PALM
61	10	UNKNOWN	221	15	PALM	371	12	PALM	521	12	PALM	671	12	PALM	821	12	PALM
62	10	UNKNOWN	222	15	PALM	372	12	PALM	522	12	PALM	672	12	PALM	822	12	PALM
63	10	UNKNOWN	223	15	PALM	373	12	PALM	523	12	PALM	673	12	PALM	823	12	PALM
64	10	UNKNOWN	224	15	PALM	374	12	PALM	524	12	PALM	674	12	PALM	824	12	PALM
65	10	UNKNOWN	225	15	PALM	375	12	PALM	525	12	PALM	675	12	PALM	825	12	PALM
66	10	UNKNOWN	226	15	PALM	376	12	PALM	526	12	PALM	676	12	PALM	826	12	PALM
67	10	UNKNOWN	227	15	PALM	377	12	PALM	527	12	PALM	677	12	PALM	827	12	PALM
68	10	UNKNOWN	228	15	PALM	378	12	PALM	528	12	PALM	678	12	PALM	828	12	PALM
69	10	UNKNOWN	229	15	PALM	379	12	PALM	529	12	PALM	679	12	PALM	829	12	PALM
70	10	UNKNOWN	230	15	PALM	380	12	PALM	530	12	PALM	680	12	PALM	830	12	PALM
71	10	UNKNOWN	231	15	PALM	381	12	PALM	531	12	PALM	681	12	PALM	831	12	PALM
72	10	UNKNOWN	232	15	PALM	382	12	PALM	532	12	PALM	682	12	PALM	832	12	PALM
73	10	UNKNOWN	233	15	PALM	383	12	PALM	533	12	PALM	683	12	PALM	833	12	PALM
74	10	UNKNOWN	234	15	PALM	384	12	PALM	534	12	PALM	684	12	PALM	834	12	PALM
75	10	UNKNOWN	235	15	PALM	385	12	PALM	535	12	PALM	685	12	PALM	835	12	PALM
76	10	UNKNOWN	236	15	PALM	386	12	PALM	536	12	PALM	686	12	PALM	836	12	PALM
77	10	UNKNOWN	237	15	PALM	387	12	PALM	537	12	PALM	687	12	PALM	837	12	PALM
78	10	UNKNOWN	238	15	PALM	388	12	PALM	538	12	PALM	688	12	PALM	838	12	PALM
79	10	UNKNOWN	239	15	PALM	389	12	PALM	539	12	PALM	689	12	PALM	839	12	PALM
80	10	UNKNOWN	240	15	PALM	390	12	PALM	540	12	PALM	690	12	PALM	840	12	PALM
81	10	UNKNOWN	241	15	PALM	391	12	PALM	541	12	PALM	691	12	PALM	841	12	PALM
82	10	UNKNOWN	242	15	PALM	392	12	PALM	542	12	PALM	692	12	PALM	842	12	PALM
83	10	UNKNOWN	243	15	PALM	393	12	PALM	543	12	PALM	693	12	PALM	843	12	PALM
84	10	UNKNOWN	244	15	PALM	394	12	PALM	544	12	PALM	694	12	PALM	844	12	PALM
85	10	UNKNOWN	245	15	PALM	395	12	PALM	545	12	PALM	695	12	PALM	845	12	PALM
86	10	UNKNOWN	246	15	PALM	396	12	PALM	546	12	PALM	696	12	PALM	846	12	PALM
87	10	UNKNOWN	247	15	PALM	397	12	PALM	547	12	PALM	697	12	PALM	847	12	PALM
88	10	UNKNOWN	248	15	PALM	398	12	PALM	548	12	PALM	698	12	PALM	848	12	PALM
89	10	UNKNOWN	249	15	PALM	399	12	PALM	549	12	PALM	699	12	PALM	849	12	PALM
90	10	UNKNOWN	250	15	PALM	400	12	PALM	550	12	PALM	700	12	PALM	850	12	PALM
91	10	UNKNOWN															



MILLER LAND PLANNING, INC.

508 E. Boynton Beach Boulevard
Boynton Beach, FL 33435

Phone ■ (561)736-8838

Fax ■ (561)736-8079

Email ■ millerlandplanning.com

Banyan Cove

City of Delray Beach

Application for Annexation, Future Land Use and Initial Zoning
Justification Statement

Original: July 13, 2018

APPLICATION REQUEST

On behalf of the property owner and applicant, Andrew Podray, Miller Land Planning, is pleased to propose this application for voluntary annexation of a 6.68 acre property located on the east side of Barwick Road approximately 250 feet north of Sabal Lakes Road. The property is currently in an enclave area under the jurisdiction of Palm Beach County however identified and planned for annexation into the City of Delray Beach. Along with the annexation, the application also requests that the City apply the future land use designation of Medium Density (MD) Residential as currently shown on the City's Future Land Use Map and corresponding Medium Residential (RM) zoning district. Prior to this request, applications were filed with Palm Beach County to request a land use amendment to allow 8 units per acre. Palm Beach County has issued staff reports in support of the density at 8 units per acre. Likewise, discussions with the Delray Beach City Manager, City Attorney and City Planning & Zoning Director relative to annexation have been based on a density of 8 units per acre. Accordingly, this application requests the annexation, land use amendment to MD at 8 units per acre and corresponding zoning of RM. Approval of this application will allow for a future site plan application and development of multiple family residential or related development allowed by the RM zoning district.

PROJECT SUMMARY

Property Owner:	Andrew V. Podray
Applicant:	Andrew V. Podray
Agent:	Miller Land Planning, Inc.
Project Manager:	Ailish Villalobos / Bradley Miller, AICP
Site Location:	East side of Barwick Road approximately 250 feet north of Sabal Lakes Road.
Property Control No's:	00-42-46-12-00-000-1020/1050/1060
Existing Land Use:	MR-5 (Palm Beach County)
Proposed Land Use:	MD (City of Delray Beach) with density at 8 units per acre
Existing Zoning:	AR/RH (Palm Beach County)

Proposed Zoning: RM (City of Delray Beach)

Site Area: 6.68 acres

BACKGROUND

This site is located within an enclave area that is under the jurisdiction of Palm Beach County, but planned and intended for annexation into the City of Delray Beach. The City serves this area with emergency services as well as water and sewer service. The City is also responsible for the maintenance of Barwick Road in this area. In 2016, the City and County collaborated on a proposed Interlocal Service Boundary Agreement (ISBA) to annex the properties within the enclave but after months of presentations, discussion and public hearings with the affected property owners, the City Council decided to stop the ISBA process.

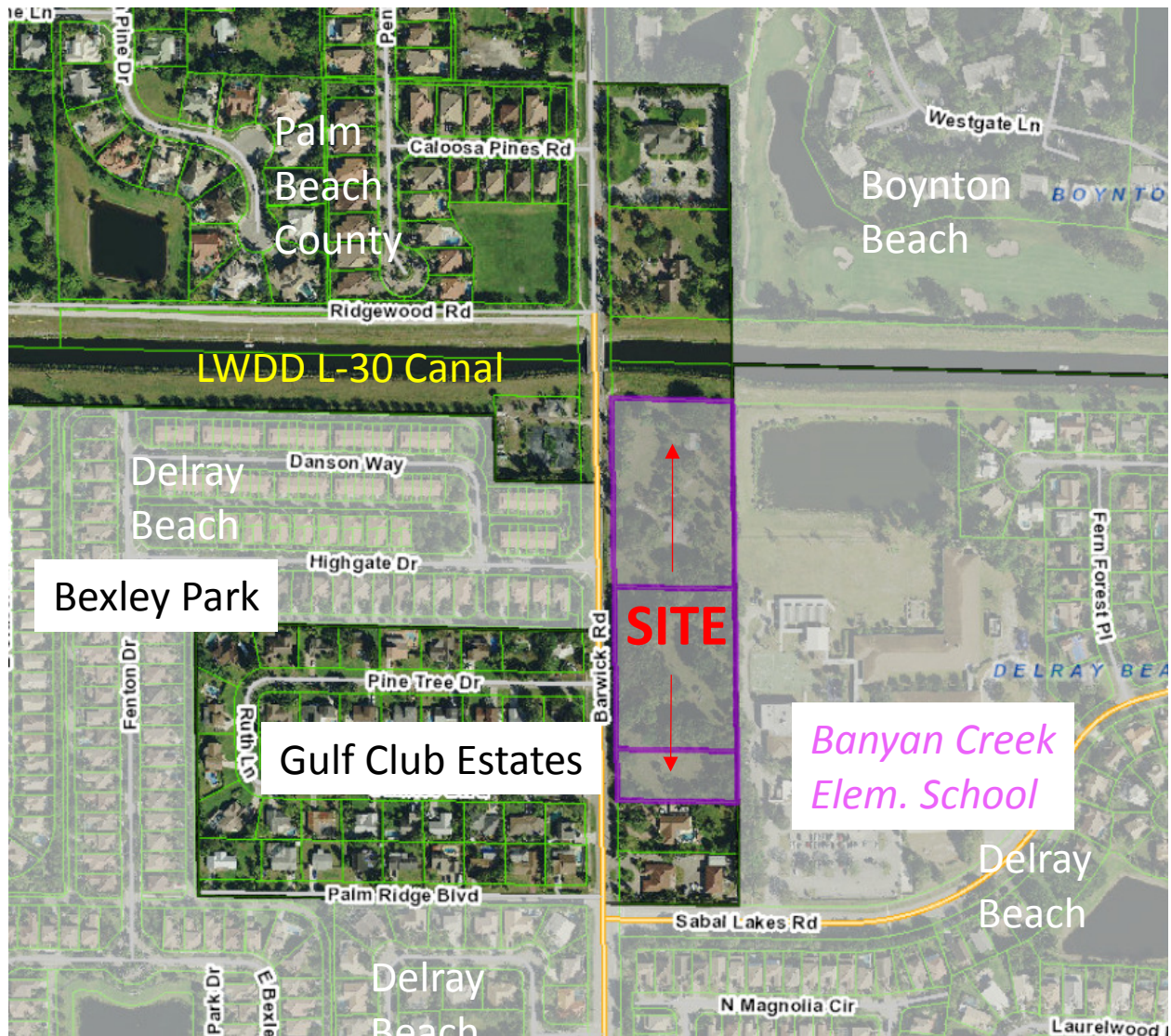
In 2018, MLP on behalf of the applicant, has filed applications for a land use amendment and rezoning of the property through Palm Beach County for residential density of 8 units per acre which would allow for 53 units of multi family residential development. Through that process, discussions continued with the City of Delray Beach about the procedures for future annexation of the property into the City. Through the involvement of the City Manager, City Attorney and City Planning & Zoning Director, it has been determined that the Florida Statutes allows for the voluntary annexation of this property and reduces the enclave area remaining in Palm Beach County. Based on that determination, this application requests concurrent approval of voluntary annexation from Palm Beach County to the City of Delray Beach, implementation of the land use designation from Medium Residential 5 u/a (MR-5 Palm Beach County) to Medium Density (MD) Residential 5 – 12 u/a (City) and initial zoning from AR and RH (Palm Beach County) to Medium Density Residential (RM – City). No formal site plan application is being submitted at this time but acknowledged that a formal Site Plan application will be required for the proposed development prior to issuance of development permits.

APPLICATION DESCRIPTION

Miller Land Planning, agent for the applicant, is requesting the subject 6.68 acre property be voluntarily annexed into the City of Delray Beach from Palm Beach County, the designation of MD land use be implemented and the initial corresponding zoning of RM be approved.

The subject property is presently improved with a single family home and accessory structures that according to the property appraiser were built in 1959. The surrounding area has changed significantly since 1959 with the development of the Banyan Creek Elementary School in 1988 to the east, Sabal Lakes in the early 2000's to the east and southeast, Bexley Park to the west around 2005 and the Hunter's Run to the northeast in the City of Boynton Beach in the 1980's. Likewise, most of the existing homes within Gulf Club Estates on the west side of Barwick Road and the two homes south of the subject property were constructed in the late 1970's or early 1980's. With that development, the City of Delray Beach has expanded its boundaries around this site by annexing the school property and Sabal Lakes community to the east and the Bexley Park development and other properties on the west side of Barwick Road. The Gulf Club Estates area on the west side of Barwick Road, one parcel on the west side of Barwick Road at the canal and two parcels immediately south of the subject property remain in the unincorporated area of Palm Beach County, however they too are designated to ultimately be

annexed into the City of Delray Beach. To the north is the LWDD L-30 canal which separates the municipal boundaries of the City of Delray Beach on the south and the City of Boynton Beach on the north. There are two parcels on the north side of the canal in the unincorporated area of Palm Beach County that have not been annexed into the City of Boynton Beach. An aerial exhibit is provided below to depict the jurisdictional boundaries relative to the subject site.



The uses that surround the subject property are described below.

- | | |
|--------|--|
| North: | LWDD L-30 Canal. Single Family Residential in unincorporated Palm Beach County with a Future Land Use of LR-3 and Zoning is Single Family Residential (RS). |
| South: | Single Family Residential in unincorporated Palm Beach County with a Future Land Use of Medium Density Residential (MR-5) and Zoning is Agricultural Residential (AR). |

- East: Banyan Creek Elementary School in City of Delray Beach with Future Land Use of Institutional and Zoning is Community Facilities (CF).
- West: Bexley Park Community with Triplex, Townhomes, and Zero Lot Line homes in the City of Delray Beach with a Future Land Use of Low Density Residential (LD) and Zoning is Planned Residential Development (PRD).
- Golf Club Estates with Single Family Residential homes in unincorporated Palm Beach County with Future Land Use of Medium Density Residential (MR-5) and Zoning is Agricultural Residential (AR).

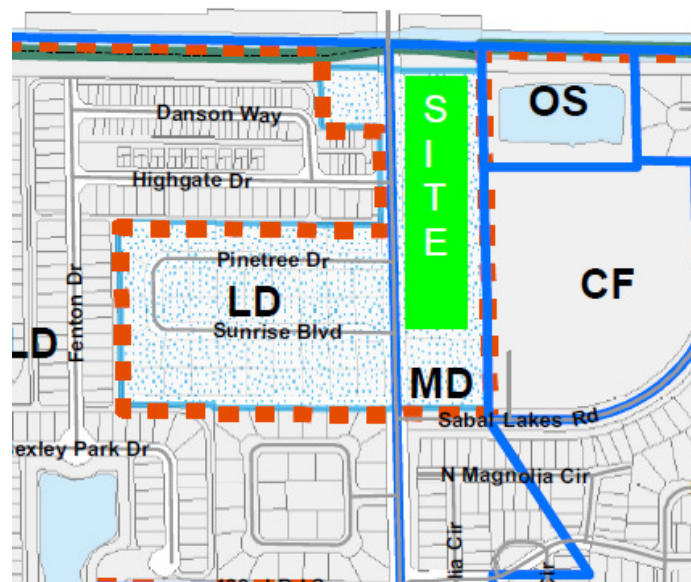
Furthermore, the proposed annexation, land use and zoning will be consistent with the surrounding area. Sabal Lakes and Gulf Club Estates are single family home communities where Bexley Park is a planned residential community which includes a mix of housing types including single family zero lot line homes, townhouses and triplex homes. The residential density is dispersed across the entire community with the lower density development being in the southern and western areas and the higher density development being in the northeastern area which is closest to the subject property. Overall the Bexley Park community complies with the Low Density (0-5 u/a) designation of the Future Land Use, however the higher density development in the northern area of the community from Barwick Road west to Fenton Drive contains triplex and townhome units that are developed at approximately 9 units per acre for that area.

The Banyan Creek Elementary School is also a factor for both the future development of the subject site as well as the existing traffic conditions on Barwick Road. The active play area of the school abuts the majority of the subject property's east boundary creating a compatibility concern, especially for single family homes. Likewise, the current traffic conditions at the peak hour times of the school, both morning and afternoon, create stacking and turning movement issues along Barwick Road and more particularly at the intersection with Sabal Lakes Road which is the only road to access the school. Although, the County has reviewed and approved a traffic study for the proposed applications for the subject site, the traffic concerns of the surrounding residents during the peak times of school traffic are real and need to be addressed by the School District, County and City.

Given these existing conditions, the owner/applicant over the past several years has had significant developer interest in developing the site for multi-family residential housing. Under the current jurisdiction, the regulatory process of Palm Beach County, added with the process of the City of Delray Beach to secure water and sewer service, the interest has never come to action into actual development. Annexation of the property along with the implementation of the MD land use and RM zoning within the City will establish the basis and reduce the regulatory process to a Site Plan application and the necessary permits for the specific development plan.

REVIEW CRITERIA FOR ANNEXATION

In the City's Comprehensive Plan, Future Land Use Element, an explanation is provided at the beginning within the Land Use and Population Data section of the history of areas outside of the City's boundaries that are planned to be annexed. The section continues with reference to the 1989 Comprehensive Plan being based on the "Official Planning Area" which includes properties anticipated for annexation and shown on Map #1 of the Comprehensive Plan. The subject property is within an area shown for future annexation and is designated for the MD land use designation as proposed. A clip of the Future Land Use Map is provided in the section below for reference of the current designation for the MD land use. The goals, objectives and policies of the Comprehensive Plan fully support the annexation of areas that are part of the "Official Planning Area".



Section 2.4.5.(C) of the City's code outlines the procedures for annexation. This application complies with the required information and procedure for voluntary annexation, including the findings being consistent with Comprehensive Plan Objective B-3 which are addressed below.

REVIEW CRITERIA FOR FUTURE LAND USE MAP AMENDMENTS

Policy A.1-7 of the Comprehensive Plan requires Amendments to the Future Land Use Map (FLUM) to be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:

- **Demonstrated Need** -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, including but not limited to the minimum amount of land required to accommodate the medium population projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or

*similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. **This requirement shall not apply to requests** for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply **to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied**, or when the requested designation is of a similar intensity to the advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.*

Response: As indicated directly within the policy (and highlighted above in bold for emphasis), this requirement does not apply to applications associated with annexations when applying the City's advisory FLUM designation. As shown in the graphic above, the Future Land Use Map shows this site with a planned MD land use designation which is also being requested with the annexation. Accordingly this requirement is not applicable.

- **Consistency** -- *The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan.*

Response: Objective B-3 of the Comprehensive Plan addresses annexation of properties. Policy B-3.1 and B-3.2 confirm that services such as fire protection, code enforcement and water and sewer facilities shall be provided to those properties anticipated for annexation. Policy B-3.3 and B-3.4 state that the FLUM designation as shown on the City's Future Land Use Map "shall be in effect immediately upon annexation of a specific parcel". For the subject site, as shown above, the Future Land Use designates this site with the MD land use designation. Accordingly, this application is consistent with the policy and should be immediately effective upon approval of the annexation.

- **Concurrency** -- *Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

Response: The subject property was previously subject to land use and zoning applications through Palm Beach County, therefore, concurrency services for proposed development that exceeded the highest intensity possible was evaluated and found to be sufficient for traffic capacity and school capacity. Correspondence confirming these determinations is provided as an attachment to this application. That application was later modified to allow a lesser development program however was not required to re-evaluate the traffic or school impacts since they were sufficient at a greater amount of intensity.

Water and sewer service is available to the property through the City of Delray Beach, also documented and attached. With the annexation of the property into the City, there is no requirement for a water and sewer service agreement otherwise required if the property remains in the County. The water and sewer requirements for the specific development will be evaluated and confirmed at time of a Site Plan application. Likewise, fire and police services are available to the property and will also be confirmed at time of Site Plan application.

Adequate services are available to serve the subject site as proposed.

- **Compatibility** -- *The requested designation will be compatible with existing and future land uses of the surrounding area.*

Response: The compatibility of surrounding uses is described in detail above within this statement. The proposed future land use is consistent with the Comprehensive Plan and therefore already determined to be compatible with the existing and future land uses of the area.

- **Compliance** -- *Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.*

Response: Following approval of the annexation and implementation of the future land use and zoning, a Site Plan application will be required to be processed through the City for the specific proposed development. The proposed development will be required to comply with all applicable provisions and requirements of the Land Development Regulations and the Site Plan application process will confirm compliance.

REVIEW CRITERIA FOR INITIAL ZONING

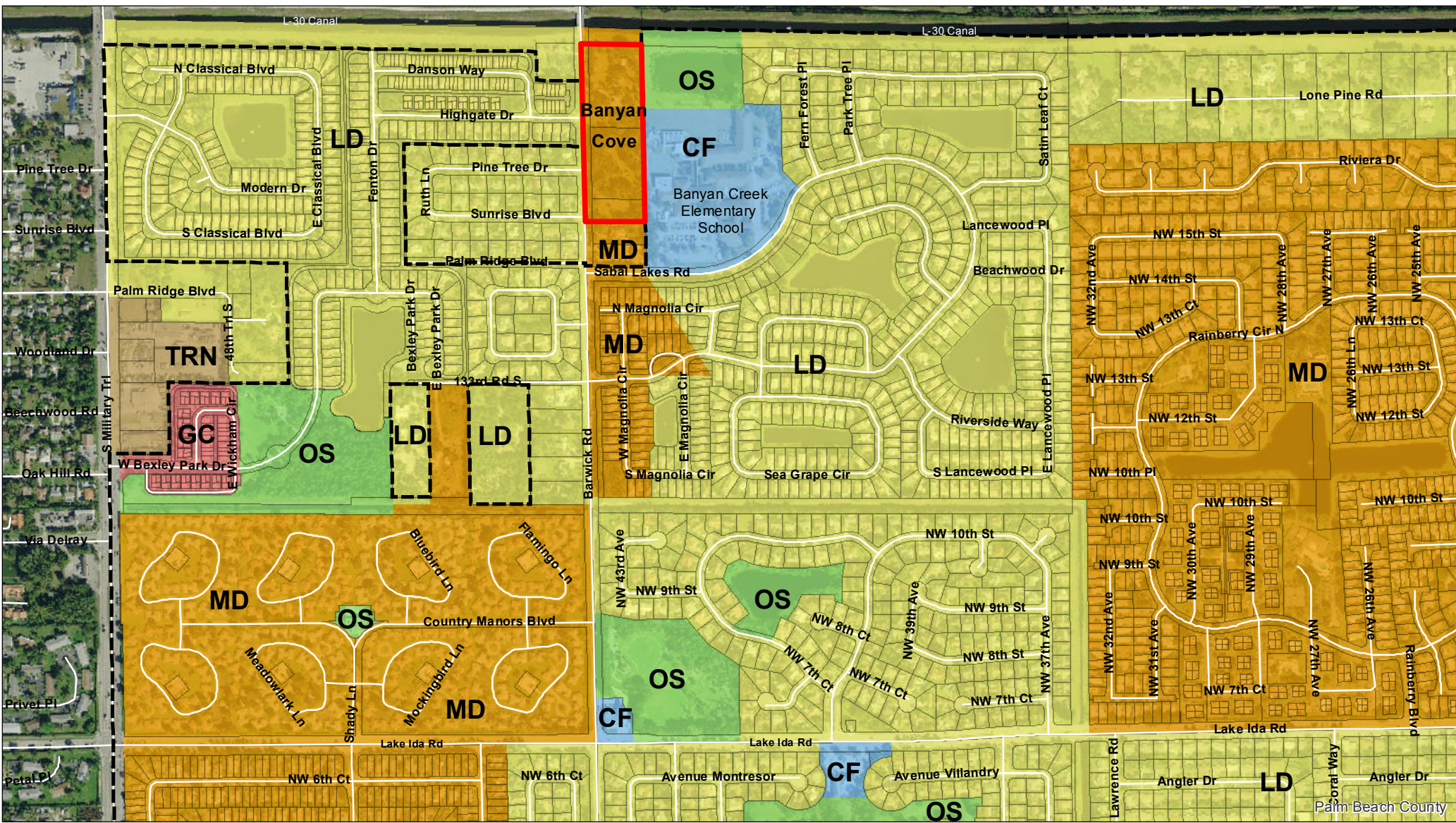
Section 2.4.5. (C)(3) and Section 4.2.3. of the City's Code indicate that an application for voluntary annexation must be considered with an application for an initial zoning designation. This application proposes a voluntary annexation, consistent with the Comprehensive Plan, implementation of the MD land use designation as shown on the City's Future Land Use Map and proposes the initial zoning designation of RM - Multiple Family Residential (Medium Density) which corresponds with the MD land use designation.

A change of zoning district designation must comply with Section 2.4.5(D) of the City's Code and requires a statement of the reasons for the change. The section lists three "valid reasons" for approving the change and that the City Commission must find that the rezoning fulfills at least one of the "valid reasons". This application fulfills the last two reasons (B & C) in that there is a change of circumstance that makes the current zoning inappropriate and that the requested zoning is similar in intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and or neighborhood. The change in circumstance is based on the annexation of the property from Palm Beach County to the City of Delray Beach. The County zoning for this property is part Agricultural Residential (AR) and the balance Residential High (RH). With the annexation, an initial zoning designation needs to be applied to the property consistent with the Future Land Use Map designation of MD which allows residential density from 5 to 12 units per acre. The proposed 8 units per acre is consistent with the MD land use did RM zoning. The initial zoning proposed by this application is RM, Multiple Family Residential (Medium Density) which allows residential density from 6 to 12 units per acre. The RM district is consistent with the MD land use and the requirement for annexation as indicated in Section 2.4.5.(D). The proposed 8 units per acre is consistent with the MD land use did RM zoning. The proposed 8 units per acre is consistent with the MD land use did RM zoning.

CONCLUSION

As indicated in the Comprehensive Plan, this property along with others in the City are planned for and intended to be annexed into the City of Delray Beach. This application will reduce an existing enclave of area currently under jurisdiction of Palm Beach County by voluntary annexation into the City of Delray Beach. In conjunction with the annexation, the planned designation of MD land use and corresponding zoning of RM will be applied to the property which will allow the property to be developed appropriately and consistently with the surrounding area. The application is consistent with the rules and procedures for voluntary annexation, is consistent with the designation for land use complies with the findings for approval by the City Commission.

The project manager for this application at Miller Land Planning is Ailish Villalobos. Should any additional information be required, she can be contacted at the number above or via email at ailish@mlpc.net.



City of Delray Beach
Development Services

Banyan Cove

Future Land Use Map Designations

 Municipal Boundary

 Low Density Residential

 Medium Density Residential

 Transitional

 Commercial

 Community Facilities

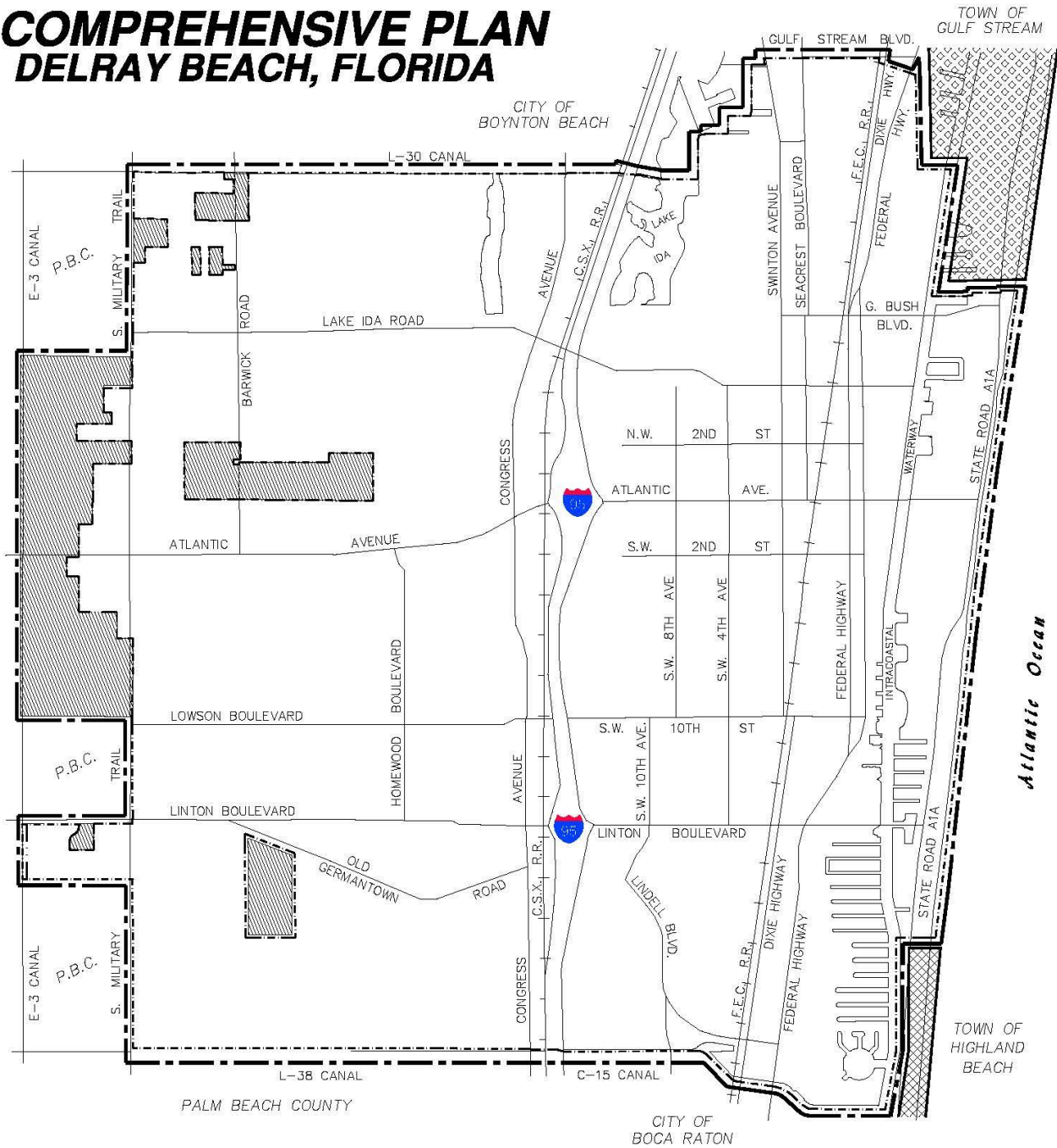
 Open Space / Recreation



0 250 500 1,000
Feet

Print Date: 10/3/2018

COMPREHENSIVE PLAN DELRAY BEACH, FLORIDA



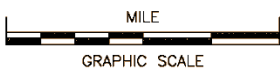
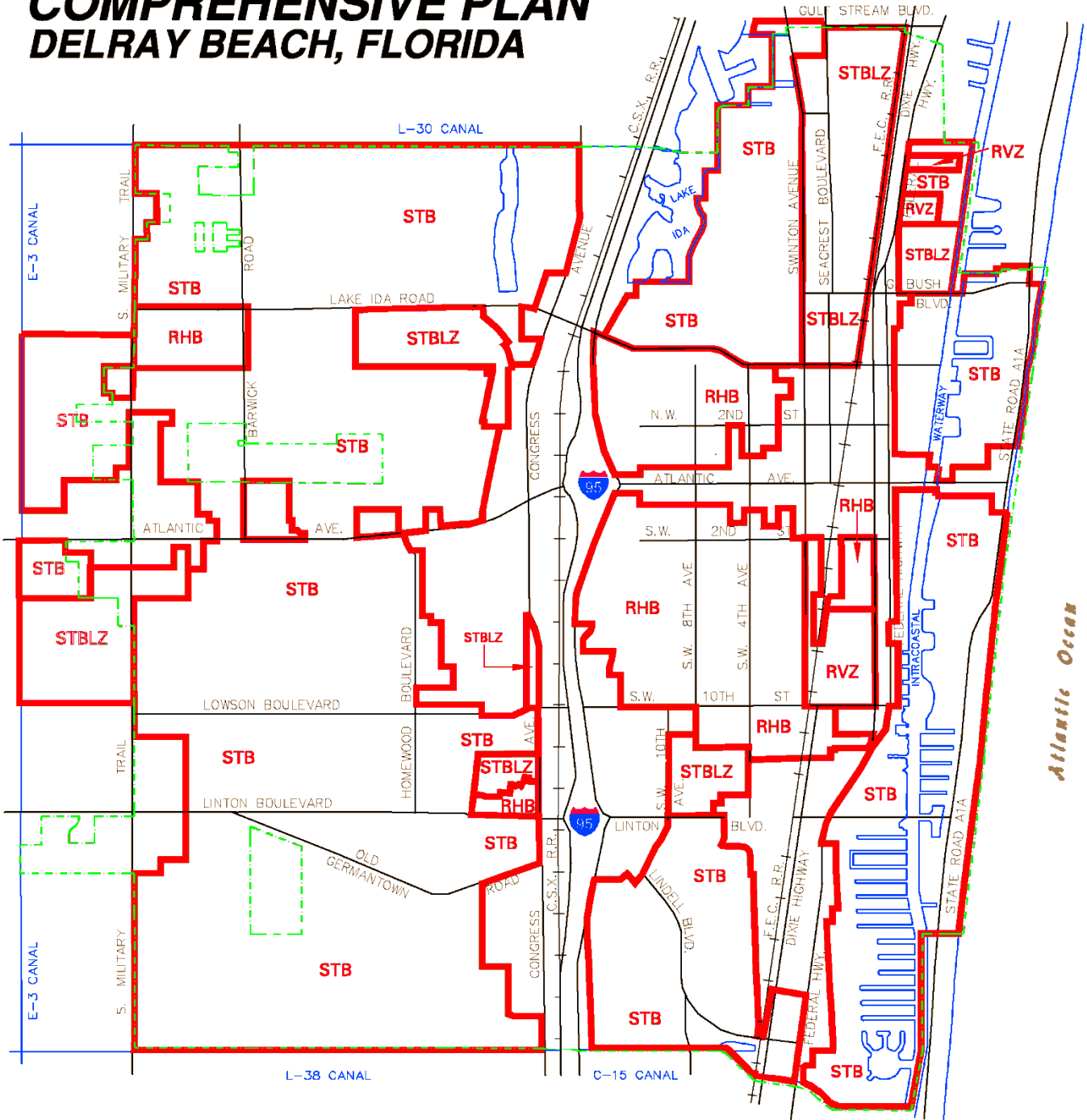
CITY OF DELRAY BEACH, FLORIDA
PLANNING & ZONING DEPARTMENT

MARCH 2015

PLANNING AREA MAP #1

LEGEND:	PLANNING AREA (ULTIMATE CITY BOUNDARY)	CITY LIMITS
TOWN OF GULF STREAM (WATER & FIRE SERVICE)	TOWN OF HIGHLAND BEACH (SEWER & FIRE SERVICE)	COUNTY JURISDICTION

COMPREHENSIVE PLAN DELRAY BEACH, FLORIDA



CITY OF DELRAY BEACH, FLORIDA
PLANNING & ZONING DEPARTMENT

MARCH 2008

RESIDENTIAL NEIGHBORHOOD CATEGORIZATION MAP MAP #22

LEGEND: STB — STABLE

STBLZ — NEEDING STABILIZATION

RVZ — NEEDING REVITALIZATION

RHB — NEEDING REHABILITATION

CITY LIMITS — — — — —

Table L-6 Land Use Designation/Zoning Matrix

RESIDENTIAL ZONING DISTRICTS

LAND USE DESIGNATION	ZONING DISTRICTS											
	A (2)	RR	R-1-AAA	R-1-AAAB	R-1-AA	R-1-AAB	R-1-A	R-1-AB	MH	RL	RM	PRD
LOW DENSITY RESIDENTIAL	X	X	X	X	X	X	X	X		X		X
MEDIUM DENSITY RESIDENTIAL	X	X (5)	X	X	X	X	X	X		X	X	X
TRANSITIONAL	X		X	X	X	X	X	X	X	X	X	X
COMMERCIAL CORE											X	
GENERAL COMMERCIAL	X											
INDUSTRIAL	X											
COMMERCE	X											
RECREATION & OPEN SPACE	X	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)	X(6)
CONSERVATION												
COMMUNITY FACILITY	X											
MIXED USE												
CONGRESS AVENUE MIXED USE (1)												

NON-RESIDENTIAL ZONING DISTRICTS

	ZONING DISTRICTS																		
LAND USE DESIGNATIONS	GC	AC	NC	PC	CBD	POC	POD	PCC	MIC	I	LI	RO	HAD	SAD	CF	CD	OS	OSR	MROC
LOW DENSITY RESIDENTIAL														X	X		X	X	
MEDIUM DENSITY RESIDENTIAL														X	X		X	X	
TRANSITIONAL			X			X	X					X		X	X		X	X	
COMMERCIAL CORE					X							X		X	X		X	X	
GENERAL COMMERCIAL	X	X	X	X		X	X							X	X		X	X	
INDUSTRIAL								X		X	X			X	X		X	X	
COMMERCE								X	X		X			X	X		X	X	
RECREATION & OPEN SPACE														X	X		X	X	
CONSERVATION														X		X	X		
COMMUNITY FACILITY														X	X		X (4)	X (4)	
MIXED USE													X (3)	X	X				
CONGRESS AVENUE MIXED USE (1)														X	X				X

- (1) CONGRESS AVENUE MIXED USE – See Congress Avenue Mixed Use description beginning on page FL - 40, for more specific details.
 (2) Agricultural zoning may function as a "holding" zone in all of the noted Future Land Use Map designations except for the Rural Residential designation where it is a permanent zoning.
 (3) The HAD zoning district is a special use district which is only applicable to the Old School Square Historic District.
 (4) Open Space (OS), and Open Space & Recreation (OSR) zoning are utilized on the Community Facilities (CF) land use designation where more restriction is required to constrain uses.
 (5) The Rural Residential (RR) zoning is utilized in the Medium Density Residential (MDR) designation as a "holding" zone
 (6) Residential zoning districts are permitted within the Recreation and Open Space (OS) land use designation for open space and recreation uses (e.g. golf courses and water bodies)