

Narrative and Justification

The Chateaus - 4594 133rd Road S

Annexation – Land Use Amendment - Rezoning

The subject property is located in unincorporated Palm Beach County. The site is an enclave that is surrounded on all sides by lands within the city of Delray Beach jurisdiction. The property owner is requesting a voluntary annexation to annex the property into the city of Delray Beach's jurisdiction along with an amendment to the land use plan and a rezoning consistent with the Delray Beach Land Development Code and comprehensive plan. The remaining subject parcel after road and canal right of way dedications is 4.54 acres in size.

Voluntary Annexation

The voluntary annexation would eliminate an unincorporated enclave and expand the city limit of Delray Beach. The proposed development plan would be to create a single family subdivision at a density less than the maximum permitted. However, evaluations for essential services have been calculated based on the maximum density of 22 dwelling units. After dedication to the Lake Worth Drainage District to the south and to 133rd Road right of way to the north the net site acreage is 4.54 acres at 5 dwelling units per acre results in 22 units maximum.

The lot configuration which will be incorporated into a future plat will be designed to be sensitive to the surrounding existing lots. To the east of the subject site are lots that front on Barwick Road which are the largest adjacent lots. The proposed subject site lots adjacent to the rears of the existing eastern lots will be designed to be the deepest lots in the subdivision with a buffer and drainage easement along the eastern portion (rear) of the proposed lots.

To the north, the existing Barwick Ranch lots have rear yards backing up to 133rd Road right of way. The rear of the Barwick Ranch lots have fences or hedges along the right of way. The subject site plan is dedicating the right of way required to complete the right of way needed for 133rd Road. Adjacent to the south side of the ultimate right of way landscape buffers will be provided on the north side of the 2 proposed lots adjacent to the south of the road right of way. The lots are similar in size within the Barwick Ranch subdivision which are approximately 9,500 square feet for the lots adjacent to the roadway. To the west of Barwick Ranch is the Bexley Park subdivision which has lots approximately 5,500 square feet in size. The 2 proposed lots within the subject site that will be adjacent to the south side of the 133rd Road right of way are 14,600 square feet and 9,600 square feet which are compatible with the lots within Bexley Park and Barwick Ranches.

To the west of the subject site, the property is within the Delray Beach jurisdiction and has a land use designation of MD-Medium Density 5-12 units per acre with a zoning

designation of RM-8. This is the highest density that is adjacent to the subject site. Therefore, the smallest lot of the proposed subject subdivision have been placed adjacent to the western site boundary. These lots are approximately 7,700 square feet and are compatible with the parcel density to the west.

To the south, the subject site is adjacent to the Lake Worth Drainage District canal right of way. An additional 44 feet of right of way is being dedicated by the subject site. To the south of the canal is the Country Manors Condominium. The proposed lots adjacent to the south property line are deeper to provide distance to minimize the visual impact across the canal. These lots range from approximately 15,600 to 8,900 square feet and are 144 feet deep.

The zoning and land use evaluation associated with the annexation does not require a subdivision plan for approval. The above information is provided to demonstrate the owner is aware of the surrounding developments and is proposing a development plan that is compatible with the surrounding uses. A major subdivision plat will be filed and processed upon approval of the annexation and associated land use amendment and rezoning. A tree survey and an arborist report of all trees was prepared and utilized to prepare the tree disposition plan is included in the submission documents. Ownership is aware of the tree preservation requirement within the Land Development Code.

As per the requirement for voluntary annexation the following per Delray Beach Land Development Regulations and the Comprehensive Plan provides the sections below for a justification for the annexation as follows:

Per LDR Section 2.4.5(C)(1) Rule. The owner of land may seek the annexation of contiguous property, under his ownership. The City may initiate an annexation of private property if said right has been delegated via provisions of a water service agreement or other agreement to that end. Further, the City may initiate annexation of property pursuant to Florida Statutes. [Amd. Ord. 2-95 1/17/95]

This is a request for a voluntary annexation that is an unincorporated enclave surrounded on all side by the city of Delray Beach jurisdiction. Water and Sewer or any other applicable agreements will be processed in conjunction with the annexation.

Per LDR Section 2.4.5(C)(4) Findings. The City Commission must make findings that the annexation is consistent with Objective NDC 3.3 of the Neighborhoods, Districts, and Corridors Element, and complies with F.S. Chapter 171. [Amd. Ord. 2-95 1/17/95] (Ord. No. 23-20, § 7, 9-10-20)

Objective NDC 3.3: Annexation Continue to annex unincorporated areas within the City's Planning Area.

This is a request for a voluntary annexation that is an unincorporated enclave surrounded on all sides by the city of Delray Beach jurisdiction.

Policy NDC 3.3.1 Undertake the following program for the annexation of remaining eligible properties: a. Prepare an "urban services annexation report" as required by Florida Statutes, for each of the remaining designated annexation areas depicted on Map AD-24 (Annexation Areas):

Foxe Chase subdivision

Delray Community Hospital Area

Barwick Road Area (north of West Atlantic Avenue) – Subject Site Location

West Atlantic Avenue & Military Trail)

North Military Trail / Barwick Road Area.

High Point Delray Area (north of West Atlantic Avenue)

Country Club Acres (west of Military Trail)

Response: The subject property is within the Barwick Road Area as listed above.

b. Work with Palm Beach County to address the annexation of improved property that lacks adequate sewer, water, street, and/or drainage facilities pursuant to the Palm Beach County Annexation Incentive Program;

Response: Not applicable for voluntary annexation see item d. below

c. Recommend whether annexation should be pursued and, if so, the means by which annexation should occur; and,

Response: Not applicable for voluntary annexation see item d. below

d. Accommodate individual voluntary annexations as the opportunities arise.

Policy NDC 3.3.2 Apply the City's land use designation immediately upon annexation of a parcel. Following any annexation, amend the Land Use Map, and appropriate portions of the Comprehensive Plan, to reflect the change in the city's boundaries.

Response: As a voluntary annexation the city should accommodate the request to annex the property into the city of Delray Beach jurisdiction. In conjunction with the approval, the zoning and land use will be modified to reflect the boundary and designation changes.

(A) *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.

Response: The proposed land use designation once annexed into Delray Beach will be LD –Low Density 1 to 5 units per acre which is consistent with the unincorporated land use designation of MR5–Medium Density 5 units per acre. Zoning in the unincorporated area AR–Agriculture Residential which will be changed to R-1-A–Single Family when annexed into the City of Delray Beach. The proposed zoning designation will be compatible with the proposed land use designation and consistent with the current County designations. Positive findings can be made.

- (B) **Compliance with LDRs.** Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations. [Amd. Ord. 13-99 3/16/99]

Response: A major subdivision plat will be designed utilizing the applicable code sections and will be in compliance with the LDRs.

Rezoning Associated with Voluntary Annexation

The voluntary annexation of the unincorporated enclave into the jurisdiction of Delray Beach will require the zoning on the property to be amended from the County zoning designation to an appropriate City zoning designation. The unincorporated county zoning designation is AR-Agriculture Residential which will be amended to the city of Delray Beach zoning designation of R-1-A Single Family Residential. An application for rezoning of the subject property is included with the project application as per the following:

Per LDR Section 2.4.5 (D)(2) - **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 include:

- 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;**

Circumstances have changed due to a voluntary annexation application to bring the subject site from the unincorporated area into the city of Delray Beach jurisdiction. The zoning is proposed to be changed to be consistent with the city of Delray Beach zoning designation as R-1-A, Single Family Residential.

- **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.**

The unincorporated land use designation is MR5- Medium Residential 5 units to the acre and the unincorporated zoning designation of AR-agriculture Residential. The land use associated with annexation into the city of Delray Beach is proposed to be LD-Low Density, 1-5 units to the acre and the proposed zoning will be R-1-A, which is a more appropriate zoning designation as related to the land use designation (both existing and proposed) vs. the current Agriculture Residential designation.

Land Use Amendment Associated with Voluntary Annexation

The voluntary annexation of the unincorporated enclave into the jurisdiction of Delray Beach will require the land use designation on the property to be amended from the County land use designation to an appropriate City land use designation. The unincorporated land use designation is MR5- Medium Residential 5 units to the acre. The land use once annexed into the city of Delray Beach is proposed to be LD-Low Density 1-5 units to the acre.

As per the Delray Beach Comprehensive Plan

Objective NDC 3.4 Future Land Use Map Amendments Use a consistent set of standards to evaluate amendments to the Land Use Map.

Policy NDC 3.4.1 Amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or GOAL NDC 3 URBAN SERVICES NDC GOP | 21 similar circumstances, and the following findings can be determined:

- That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan; and,
Response: The proposed land use designation of LD-Low Density 1-5 units per acre (resulting from voluntary annexation) is consistent with the current unincorporated land use designation of MR5 – 5 units per acre. The proposed land use designation is appropriate for the neighborhood based on existing development patterns and lot sizes in the surrounding neighborhood (see description above) by providing a subdivision of varied size single family lots. Positive finding can be found related to the Goals, Objectives, and Policies within the Neighborhoods, Districts, and Corridors section of the Comprehensive Plan.

- That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,
The project meets the concurrency standards and does not impact the level of service for essential services. Water and sewer use agreements will be processed with the voluntary annexation as applicable. Appropriate impact fees will be paid at the time of building permit.
- That the requested land use designation is compatible with the land use designations of the surrounding area; and,
The areas to the north and east have a land use designation of LD-Low Density Residential and the areas to the west and south have a land use designation of MD- Medium Density Residential. The proposed density for the subject site will be LD-Low density with density of 5 units per acre which is compatible with surrounding land use designations.
- That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.
The proposed development plan is in conformity with the land Development Regulations. No variances or Waivers are being requested as a part of the application or are needed for the plan to be in compliance with the Land Development Regulations

Policy NDC 3.4.2 Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation (See Table NDC-1).

As described in the above narrative, care was taken in determining proposed lot sizes and orientation of those lot sizes as related to the existing surrounding uses and lot sizes. Buffers will also be incorporated to provide an additional level of compatibility to surrounding uses. Proposed land use and zoning designations are compatible with the surrounding designations.

Policy NDC 3.4.3 Apply the advisory land use designation to parcels as they are annexed into the municipal city limits; the findings in Policy 3.4.1 must be made to apply an alternative land use designation.

See Policy 3.4.1 above

Per Sec. 3.1.1, prior to the approval of development applications, findings shall be made by the body which has the authority to approve or deny the development application. The findings shall be related the following items:

- (A) **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 Land Use Map.

Response: The proposed land use designation is compatible with the surrounding land uses with proposed lots of varying sizes. The current unincorporated county land use designation is MR5–Medium Residential 5 units to the acre. The proposed land use designation once annexed into Delray Beach will be LD–Low Density 1 to 5 units per acre which is consistent with the unincorporated land use designation. Zoning in the unincorporated area AR–Agriculture Residential which will be changed to R-1-A–Single Family when annexed into the City of Delray Beach. The proposed zoning designation will be compatible with the proposed land use designation. Positive findings can be made.

- (B) **Concurrency.** Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.

A SCAD application is being filed as a part of this voluntary annexation application to address school capacity. Letters are being provided related to water, sewer, and solid waste capacity. Drainage calculations are included showing adequate drainage capacity is being provided within the propose subdivision. Traffic studies are included that show adequate capacity exists to support the proposed development of the subject site.

Table CIE-2 Level of Service Standards	
FACILITY	STANDARDS
Sewer Treatment System	
Generation Inflow	115 gal per person per day.
Plant Design Capacity	24 mgd average / 30 mgd peak.
Water Treatment System	
Finished Water Usage	234.8 gal per person per day.
Storage	15% of maximum flow + fire reserve at 1.5 mg + emergency reserve at 25% of storage
Raw Water	19.10 mgd
Permitted Water Treatment Capacity	26 mgd
Water Pressure	20 psi, minimum.
Solid Waste	
Generation Inflow	7.13 pounds per capita per day.
Drainage	

 South Florida Water Management District Standard	Retention of the first one inch of runoff for the entire site or 2.5 inches of water storage times the percentage of impervious areas, to protect water quality.
Roads	
 Local Streets	"E" under any condition.
 City Collectors and Arterials	"E" under any conditions.
 County Streets	"D" under any conditions, per the adopted County level of service. Basis for calculations are the County Traffic Performance Standards
 State Facilities	"D" Under any conditions
 SIS Facilities	"E" for I-95 and "D" for the Tri-Rail connector (Atlantic Avenue westward from I-95 to Congress Avenue and Congress Avenue southward to the Tri-Rail Station)
Coastal Zone Levels of Service	Sufficient for reasonable use of the land with respect to traffic, solid waste, water supply, drainage, and sewage capacity and considers future flood risk
<i>Source: The City of Delray Beach</i>	

From the Comprehensive Plan:

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