



## Cover Memorandum/Staff Report

File #: 23-1146

Agenda Date: 9/5/2023

Item #: 7.A.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** September 5, 2023

RESOLUTION NO. 180-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, OVERRULING THE RECOMMENDATION OF DENIAL OF THE PLANNING AND ZONING BOARD, SERVING AS THE LOCAL PLANNING AGENCY FOR THE CITY, OF THE REZONING OF APPROXIMATELY 5.08 ACRES LOCATED AT 4594 133<sup>rd</sup> ROAD SOUTH FROM AGRICULTURE RESIDENTIAL TO SINGLE FAMILY RESIDENTIAL (R-1-A); PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.(QUASI-JUDICIAL)

### **Recommended Action:**

Review and consider Resolution No. 180-23, overruling the decision of the Planning and Zoning Board for rezoning the property located at 4594 133<sup>rd</sup> Road South from Palm Beach County Agricultural Residential (AR) to Single Family Residential (R-1-A); providing a conflicts clause and a severability clause; providing an effective date; and for other purposes.

### **Background:**

The subject property is a 5.08-acre parcel located at 4594 133<sup>rd</sup> Road South, west of Barwick Road and north of the Lake Worth Drainage District L-31 Canal and within the area designated in Map AD-1, "Future Annexation Area" in the Always Delray Comprehensive Plan. Cocoon Development LLC ("Applicant") submitted applications for voluntary annexation, a Land Use Map Amendment (LUMA) from Palm Beach County Medium Residential (MR-5) to Low Density Residential (LD), and a rezoning from Palm Beach County Agriculture Residential (AR) to Single Family Residential (R-1-A).

The County MR-5 land use designation allows 5 dwelling units per acre; the proposed City LD land use designation allows 1 to 5 dwelling units per acre. The applicant has requested R-1-A, Single Family Residential zoning, which is consistent with the proposed LD land use. *Single Family Residential Districts have been created to provide areas where the traditional single family detached residence can be established and maintained and be protected from the unwarranted intrusion of other inappropriate uses.*

On July 17, 2023, the Planning and Zoning Board, sitting as the Local Planning Agency for the City of Delray Beach, considered the rezoning at a public hearing and voted 5-2 to recommend denial of the request to rezone the property from Agriculture Residential (AR) to Single Family Residential (R-1-A). The voluntary annexation request was denied by a vote of 4-3 with (Chris Brown, Joy Howell, and Christina Morrison dissenting). A motion to deny the accompanying Land Use Map amendment LUMA application was passed by a vote of 4-3 with (Chris Brown, Joy Howell, and Christina Morrison dissenting).

The most significant board concern was the limited right-of-way of 133rd Road South, an existing, narrow "dead-end" road, and its ability to serve redevelopment that increases traffic.

On July 27, 2023, the Applicant filed a request to appeal the rezoning decision. Neither the annexation nor LUMA requests are included in this appeal because voluntary annexation and LUMA requests do not require a recommendation of approval to move forward for Commission consideration. However, if Resolution 180-23 is approved, the voluntary annexation, LUMA and rezoning ordinances will be heard as first reading.

The attached Planning and Zoning Board staff report provides a full analysis of the required findings and applicable policies for consideration for the annexation, land use amendment, and rezoning; the zoning analysis starts on page 9.

**City Attorney Review:**

Resolution No. 180-23 was approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

Not applicable.

**Timing of Request:**

Pursuant to LDR Section 2.4.7(E)(3)(c), the hearing of an appeal shall be held no more than 60 calendar from the date of the City Clerk's receipt of the request to appeal, which was July 27, 2023.