

ORDINANCE NO. 23-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING A PARCEL OF LAND MEASURING APPROXIMATELY 5.08 ACRES LOCATED WEST OF BARWICK ROAD, IMMEDIATELY NORTH OF LAKE WORTH DRAINAGE DISTRICT L-31 CANAL, AND IMMEDIATELY SOUTH OF 133RD ROAD SOUTH, FROM PALM BEACH COUNTY AGRICULTURE RESIDENTIAL TO SINGLE FAMILY R-1-A, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE “CITY OF DELRAY BEACH, ZONING MAP, JULY 6, 2021”; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Cocoon Development III, LLC, is the fee simple owner of a parcel of land which measures approximately 5.08 acres, located west of Barwick Road, immediately north of Lake Worth Drainage District L-31 Canal, and immediately south of 133rd Road South, at 4594 133rd Road South (“Property”), as more particularly described in Exhibit “A”; and

WHEREAS, the Owner authorized Covelli Design Associates, Inc. (“Agent”), to submit a request to rezone the Property, and

WHEREAS, the Property was previously outside the incorporated limits of the City of Delray Beach, located in unincorporated Palm Beach County, Florida; and

WHEREAS, the Applicant requested the Property be annexed into the City of Delray Beach, which the City Commission approved on \_\_\_\_\_, 2023; and

WHEREAS, the Applicant simultaneously requested the Property be provided a comprehensive plan designation of Low Density (LD) Residential in the City of Delray Beach Comprehensive Plan, which the City of Delray Beach approved on \_\_\_\_\_, 2023; and

WHEREAS, the Applicant also simultaneously requested a rezoning of the Property from Palm Beach County Agricultural Residential (AR) District to City of Delray Beach Single Family Residential (R-1-A), as shown in Exhibit “B”; and

WHEREAS, pursuant to Florida Statutes 163.3174(4), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on July 17, 2023, and voted 5 to 2 to recommend that the Property hereinafter described not be rezoned to Single Family Residential (R-1-A) District, finding that the request and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations, and is not in the best interest of the City; and

WHEREAS, on July 27, 2023, pursuant to LDR Section 2.4.7(E), the Applicant filed an appeal of the decision of the Planning and Zoning Board; and

WHEREAS, on September 5, 2023, the City Commission overruled the Planning and Zoning Board decision by approving Resolution No. 180-23; and

WHEREAS, the City Commission considered the rezoning request and has considered the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. The City Commission of the City of Delray Beach finds that Ordinance No. 23-23 is consistent with the Comprehensive Plan, meets the Criteria set forth in the Land Development Regulations, and the designation of Low Density Residential (R-1-A) District is appropriate for the Property and in the best interest of the City.

Section 3. The Zoning District Map of the City of Delray Beach, Florida, upon the effective date of this Ordinance, be, and the same is hereby, amended to reflect a zoning classification of Low Density Residential (R-1-A) District for the property described in Exhibit "A" as shown in Exhibit "B", attached hereto and incorporated herein.

Section 4. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 6. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 7. This Ordinance shall become effective concurrent with the effective date of Ordinance No. 22-23, amending the Land Use Map designation for the Property. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

PASSED AND ADOPTED in regular session on second and final reading on this day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND AN EASEMENT FOR ROAD AND UTILITY PURPOSES OVER THE SOUTH 20 FEET OF THE FOLLOWING DESCRIBED PARCEL: THE NORHTEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORHTWEST 1/4 OF SECTION 12, TOWNSHIP 46 SOUTH, RANGE 42, EAST PALM BEACH COUNRY, FLORIDA.

## EXHIBIT "B"

### PROPOSED ZONING



Date: 4/14/2023