

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 133rd 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.

WHEREAS, Cocoon Development III, LLC, (“Owner”) is the owner of 4594 133rd Road South with a Parcel Control Number (PCN) 00-42-46-12-00-000-3024 (the “Property”), generally located 300 feet on the west side of Barwick Road and north of the Lake Worth Drainage District L-31 Canal, as more particularly described in Exhibit “A,”; and

WHEREAS, the Property, measuring approximately 5.08 acres, is shown on the City of Delray Beach Zoning Map, July 6, 2021, and identified as a future annexation area (MAP-AD-23) in the Comprehensive Plan; and

WHEREAS, on March 15, 2023, Owner and Mike Covelli of Covelli Design Associates, INC, (collectively, the “Applicant”) submitted three applications for consideration - a Rezoning application (File No. 2023-107-REZ-CCA) with an associated Annexation request (File No. 2023-109-ANX-CCA), and a Land Use Map Amendment (File No. 2023-108-LUM-CCA) seeking to voluntarily annex the Property into the City with a land use map designation of Low Density Residential and a zoning map designation of Single Family Residential (R-1-A); and

WHEREAS, pursuant to LDR Section 2.4.5(D), a zoning petition requires consideration at a public hearing before the Planning and Zoning Board and a recommendation of approval in order to be considered by the City Commission; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this request at a public hearing on July 17, 2023, and did not recommend approval of the application to rezone the Property from Agriculture Residential to Single Family Residential (R-1-A), by a vote of 4 to 2; and

WHEREAS, on July 27, 2023, pursuant to LDR Section 2.4.7(E), Neil M. Schiller, Esq. of the Government Law Group filed an appeal on behalf of the Applicant of the decision of the Planning and Zoning Board; and

WHEREAS, on September 5, 2023, the City Commission, sitting as the Local Planning Agency of the City of Delray Beach, considered the request to rezone the Property from Agriculture Residential to Single Family Residential (R-1-A), at a public hearing.

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

Section 1. The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission has considered the appeal submitted by the Applicant and hereby overrules the Planning and Zoning Board's recommendation of denial.

Section 3. City staff is directed to schedule for consideration the ordinance for Rezoning the Property from Agriculture Residential Single Family (R-1-A) with the associated Annexation and Land Use Map Amendments for first reading.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Neil M. Schiller, Esq. of the Government Law Group at 137 NW First Avenue, Delray Beach, Florida, 33444.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the _____ day of _____, 2023.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

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 NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 46 SOUTH, RANGE 42, EAST PALM BEACH COUNTRY, FLORIDA.

EXHIBIT “B” PROPOSED ZONING



Date: 4/14/2023