

ORDINANCE NO. 22-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE LAND USE MAP AMENDMENT REDESIGNATING 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, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PALM BEACH COUNTY MEDIUM RESIDENTIAL TO LOW DENSITY RESIDENTIAL, PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT," FLORIDA STATUTES SECTION 163.3187; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach ("City") exercised the authority granted pursuant to the provisions of Florida Statutes Sections 163.3161 through 163.3248, inclusive, known as the "Community Planning Act"; and

WHEREAS, in passing Ordinance No. 19-19, the City Commission adopted the "Always Delray" Comprehensive Plan, including the City Land Use Map; and

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 ("Applicant") to submit a Land Use Map amendment for the Property; and

WHEREAS, the Property is shown on the Land Use Map as a Future Annexation area and an Advisory Land Use of Low Density (LD) Residential; and

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

WHEREAS, the Applicant simultaneously requested a small-scale Land Use Map amendment redesignating the Property to Low Density (LD) Residential, 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 Local Planning Agency, considered this item at a public hearing on July 17, 2023, and voted 4 to 3 to recommend that the Land Use Map designation not be changed for the Property hereinafter described, 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

WHEREAS, the City held all duly required public hearings prior to submission of the proposed amendment of the plan to the State Land Planning Agency of the Florida Department of Economic Opportunity (DEO), in accordance with Chapter 163.3184, *Florida Statutes*, for a small scale comprehensive plan amendment; and

WHEREAS, the City Commission considered the Land Use Map amendment and has considered the respective findings as set forth in 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. 22-23 is consistent with the Comprehensive Plan, meets the criteria set forth in the Land Development Regulations, and is in the best interests of the City.

Section 3. The City Commission of the City of Delray Beach hereby declares its intent to exercise the authority granted pursuant to the provisions of Florida Statutes Sections 163.3161 through 163.3248, Florida Statutes, inclusive, known as the “Community Planning Act.”

Section 4. The Land Use Map of the City of Delray Beach, Florida, be, and the same is hereby, amended to reflect a Land Use Map designation of Low Density (LD) Residential for the Property described in Exhibit “A” as shown in Exhibit “B”.

Section 5. The Land Use Map of the City of Delray Beach, Florida, shall, upon the effective date of this Ordinance, be amended to conform to the provisions of Section 4 hereof.

Section 6. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 7. 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 8. This Ordinance shall become effective thirty-one (31) days after adoption, unless the Comprehensive Plan amendment is timely challenged. If timely challenged, the effective date of this Ordinance shall be the date a final order is issued by the State Land Planning or the Administration Commission, finding the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this Amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this Amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

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 LAND USE**

