



## Cover Memorandum/Staff Report

File #: 23-1148

Agenda Date: 9/18/2023

Item #: 9.A.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** September 18, 2023

ORDINANCE NO. 21-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ANNEXING INTO THE CITY OF DELRAY BEACH A PARCEL OF LAND LOCATED WEST OF BARWICK ROAD, IMMEDIATELY NORTH OF LAKE WORTH DRAINAGE DISTRICT L-31 CANAL, AND IMMEDIATELY SOUTH OF 133RD ROAD SOUTH, WHICH MEASURES APPROXIMATELY 5.08 ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN, AND IS SITUATED CONTIGUOUS TO THE EXISTING MUNICIPAL LIMITS OF THE CITY OF DELRAY BEACH; PROVIDING FOR INCLUSION OF THIS PARCEL INTO THE CITY BOUNDARIES AND A REDEFINITION OF THE CITY BOUNDARIES PURSUANT TO SECTION 171.044(2), FLORIDA STATUTES; PROVIDING FOR CONFORMANCE WITH ALL VOLUNTARY ANNEXATION PROCEDURES AS SET FORTH IN SECTION 171.044, FLORIDA STATUTES; PROVIDING FOR FILING WITH PALM BEACH COUNTY AND THE DEPARTMENT OF STATE; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

### **Recommended Action:**

Review and consider Ordinance No. 21-23, a privately initiated request for annexation of a parcel of land located at 4594 133<sup>rd</sup> Road South, subject to Florida Statutes Section 171 and the City of Delray Beach Land Development Regulations Section 2.4.5(C)(1).

### **Background:**

The applicant has requested annexation of a vacant 5.08-acre parcel from unincorporated Palm Beach County to the City of Delray Beach. The annexation request is accompanied by a request for Land Use Map Amendment from Palm Beach County Medium Residential, 5 units per acre (MR-5) to City of Delray Beach Low Density (LD) land use, and a rezoning request from Palm Beach County Agriculture Residential (AR) to City of Delray Beach Single Family Residential (R-1-A). The property owner has identified an intention to develop the property as a single-family neighborhood. Conventionally sited single family detached residences are permitted by right in the requested R-1-A zoning district. The annexation request shall be considered prior to the land use designation and rezoning requests.

**LDR Section 2.4.5 (C)(1), Annexation of territory: Rule,** *"the owner of land may seek the annexation of contiguous property, under his ownership" pursuant to Florida Statutes.*

**Section 171.044, Florida Statutes** establish that *"the owner or owners of real properties in an unincorporated area of the County, which is contiguous to a municipality and reasonably compact, may petition the governing body of said municipality that said property be annexed to the*

*municipality."*

A petition for voluntary annexation was submitted by Covelli Design Associates, Inc. (Agent), on behalf of Cocoon Development III, LLC (Applicant and Property Owner of record).

**Section 171.044(5)** of the Florida Statutes says that *"land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves."* Pursuant to **Section 171.031, Definitions - (13)** defines "Enclave" as *"(a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality."*

The subject property is contiguous to the City of Delray Beach boundary line on all four sides. The only vehicular access to the property is through Barwick Road and 133<sup>rd</sup> Road South, which are under the City of Delray Beach jurisdiction. The granting of this request will not create an enclave as it will eliminate an existing enclave located within this area, as shown on Map AD-1, Planning Area (attached).

### **Comprehensive Plan Regulations Governing Annexation**

The subject property is located within the City of Delray Beach Planning Area (Map AD-1, attached). The Official Planning Area is the area for which most calculations and projections in the City's Comprehensive Plan are predicated upon. It is also considered the City's ultimate boundaries. The territory to be annexed is located within the North Military Trail/Barwick Road Area as identified on Map AD-23, Annexation Areas. Annexation of the subject territory is consistent with the Neighborhoods, Districts and Corridors Element Policy NDC 3.3.1, which calls for annexation of eligible properties through voluntary annexations as the opportunities arise.

A detailed review of all required findings and relevant information for review is provided in the attached Planning and Zoning Board staff report.

This item was on the June 19, 2023, Planning and Zoning Board agenda and was postponed at the request of the applicant. The Planning and Zoning Board reviewed Ordinance No. 21-23 at the July 17, 2023 meeting and was recommended for denial by a vote of 4 to 3 (Chris Brown, Christina Morrison and Joy Howell dissenting). The concerns raised were mostly regarding concurrency and the proposed R-1-A zoning district, when the parcel abuts R-1-AAA to the east.

### **City Attorney Review:**

Ordinance No. 21-23 was approved to form and legal sufficiency.

### **Funding Source/Financial Impact:**

Any development of the property will be taxed at the operating millage rate of 6.51 mills and debt millage rate of 0.16 mills. Full discussion of the anticipated financial impact is in the attached staff report.

### **Timing of Request:**

Ordinance No. 21-23 would be effective immediately upon adoption at second reading, anticipated for October 24, 2023.

