



## Legislation Text

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**File #:** 18-835, **Version:** 1

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**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Mark R. Lauzier, City Manager  
**DATE:** December 11, 2018

ORDINANCE NO. 27-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ANNEXING INTO THE CITY OF DELRAY BEACH, THREE (3) PARCELS OF LAND LOCATED ON THE EAST SIDE OF BARWICK ROAD IMMEDIATELY SOUTH OF LAKE WORTH DRAINAGE DISTRICT L-30 CANAL, INFORMALLY KNOWN AS BANYAN COVE, WITH THE SAME BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS HEREIN, COMPRISING APPROXIMATELY 6.68± ACRES IN SIZE AND SITUATED CONTIGUOUS TO THE EXISTING MUNICIPAL LIMITS OF THE CITY OF DELRAY BEACH; PROVIDING FOR INCLUSION OF THESE THREE (3) PARCELS INTO THE CITY AND A REDEFINITION OF THE CITY BOUNDARIES PURSUANT TO SUBSECTION 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. (SECOND READING/PUBLIC HEARING)

### **Recommended Action:**

Move to approve on First Reading, Ordinance No. 27-18, annexing three parcels of land located on the east side of Barwick Road, immediately south of the Lake Worth Drainage District L-30 Canal, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with F.S. 171.044, in that the property is contiguous to the City, reasonably compact and does not create an enclave; consistent with the Comprehensive Plan, and meets the criteria set forth in Sections 2.4.5 (C) of the Land Development Regulations.

### **Background:**

The voluntary annexation request for three parcels of land located on the east side of Barwick Road, immediately south of the Lake Worth Drainage District L-30 Canal. The subject property measures approximately 6.68± acres. A single family residence with accessory structures is located on the northernmost parcel and the remaining two parcels are vacant. The proposed annexation is being processed in conjunction with a Future Land Use Map amendment from Palm Beach County Medium Density Residential 5 dwelling units per acre (du/ac) (MR-5) to City Medium Density Residential 5-12 du/ac (MD) and rezoning from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part to City zoning of Medium Density Residential (RM)-8 du/ac.

Since 1997 several requests were made to the City pertaining to the annexation of the subject property. The Planning and Zoning Board Report provides a complete outline of the annexation request history. The attached Planning and Zoning Board Staff Report of October 15, 2018, also includes the applicant's justification and the staff analysis for the requested actions.

## **ANNEXATION ANALYSIS**

### *Florida Statutes Governing Voluntary Annexations:*

Pursuant to the Florida Statutes 171.044, *"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"*. The voluntary annexation was submitted by Miller Land Planning, agent, on behalf of Andrew V. Podray, the property owner of record. The parcels are contiguous to the City of Delray Beach along the east property line which extends a total of 980.69'. The subject property is compact as all three parcels abut one another and measure 297.43' x 980.69'.

Pursuant to F.S. 171.044 (5) *"land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves"*.

F.S. 171.031, Definitions - (13) "Enclave" means:

(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.

Florida Statutes allows for the voluntary annexation that reduces an enclave area. With the annexation of the Bexley Park development, located on the west side of Barwick Road, that portion of the development that abuts Barwick Road was identified as Parcel "K", PCN: 00-42-46-12-00-000-3180 in the adopted ordinance (please refer to the attached location map). Parcel "K" as described within Ordinance No. 31-02 excluded a portion of the Barwick Road right-of-way and is described as: 12-46-42 NE ¼ of NE ¼ of NW ¼ (less E 40 ft. Barwick Rd R/W, N 140 ft. L -30 Cnl /R/W & S 159 ft. of N 299 ft. of W 209 f.t of E 249 ft. Barwick Road is an 80 feet right-of-way. The west one-half (40') of Barwick Road was not included in the annexation action. Therefore, the resulting impact maintains the continued passage of vehicular traffic to the unincorporated areas to the south through the County, thus the proposed action reduces the enclave area remaining in Palm Beach County.

### *Land Development Regulations Governing Annexations:*

Pursuant to the Land Development Regulations 2.4.5 (C)(1), *"the owner of land may seek the annexation of contiguous property, under his ownership"* pursuant to Florida Statutes. The voluntary annexation petition was submitted by Andrew V. Podray, property owner, in accordance with Chapter 171, Florida Statutes and the subject property is contiguous to the City of Delray Beach as noted above.

### *Consistency with the City's Comprehensive Plan:*

Upon adoption of the 1989 Comprehensive Plan, the City's "reserve annexation area" was replaced by the boundaries of its "Official Planning Area". The Official Planning Area is the area for which most calculations and projections in which the City's Comprehensive Plan are predicated upon. It is also considered the City's ultimate boundaries. The Planning Area is

specifically delineated on Map #1, Future Land Use Element. The subject property is located within the City's Planning Area.

#### Designated Annexation Areas

The properties to be annexed is located within designated Annexation Area "E" (North Military Trail/Barwick Road Area) as identified in the Future Land Use Element of the Comprehensive Plan. Annexation of the subject property is consistent with the Future Land Use Element Policy B -3.5, which calls for annexation of eligible properties through voluntary annexations as the opportunities arise.

#### Provision of Services

When annexation of property occurs, services shall be provided in a manner, which is consistent with services provided to other similar properties already in the City (Future Land Use Element Policy B-3.1). A complete analysis of the provision of services with respect to Police, Fire and Emergency Services, Water and Sewer, Streets, Parks and Recreation, and Solid Waste is outlined in the Planning and Zoning Board Staff report. With the initial annexation, it was determined that additional manpower will not be required for police and fire and emergency services. The Police Department requested that the need for additional manpower is reevaluated once the site is fully developed.

With respect to water and sewer facilities, sufficient capacity exist to meet water and sewer service demands for the subject property. However, the extension and service of these resources to the subject property is the responsibility of the property owner. Also, sufficient parkland areas and recreational amenities as well as capacity to accommodate solid waste exists to serve the subject property.

For streets and traffic, the property will be accessed via Barwick Road. Barwick Road extending from the LWDD L-30 Canal to Lake Ida Road accommodates two-lanes (with turn lanes at intersections). The right-of-way of Barwick Road that abuts the subject property is 80 feet wide. Traffic congestion created during school drop off and pick up times is regularly mentioned by residents of the area as a concern. With the requested density of eight units per acre, the trips generated by the proposed 53 units would be 352 tpd, with 30 AM peak hour trips and 33 peak hour trips. The traffic study concludes that the estimated 352 trips per day and 30 AM peak hour trips and 33 PM peak hour trips at project build-out in 2022 and in conjunction with the required link analysis meets the requirements of Palm Beach County Traffic Performance Standards. The City's traffic consultant reviewed the submitted traffic study and indicates that the proposed development will have a "significant" impact on Barwick Road between the site and Lake Ida Road, with "significant" defined as adding more than one percent of the adopted level of service volume to the roadway. It should be noted that the project will add 17 peak hour trips to the road (i.e. one trip approximately every four minutes). The impact will not reduce the level of service, as Barwick has excess capacity allowing for additional growth of over 200 peak hour trips in the morning peak hour and over 300 peak hour trips in the evening peak hour. The project will not significantly impact any other roads in the area. Furthermore, consistent with County requirements, the intersection of Lake Ida Road and Barwick Road was analyzed and was determined to operate at an acceptable level of service with the project.

Regarding education and school capacity availability determination, it has been determined by the Palm Beach County School District, that sufficient capacity exists for the elementary and

middle schools. As Atlantic High School is over capacity, the potential for three students to attend Atlantic High School will be an impact on the public school system that requires mitigation. Therefore, if the request is approved the School District staff recommends the following condition to mitigate the impacts is included in the approval of a site and development plan.

*“In order to address the school capacity deficiency created by this proposed project at the District high school level, the property owner is required to contribute \$40,596 to the School District of Palm Beach County prior to issuance of the first building permit. The school capacity contribution is intended to supplement the required school impact fee (impact fee credit has already been applied).”*

Based on the assessed values of the properties, an increase of \$1,722.16 in ad valorem taxes will be realized by the property owner. The total taxes (including non-ad valorem taxes) currently assessed in Palm Beach County is \$15,630.98. With annexation, the total taxes assessed will be approximately \$17,353.14, as the non-ad valorem assessments for solid waste and stormwater are not known.

Accommodating the annexation of this property is consistent with the City's program for annexation of territory within its planning and utility service area. The City will receive additional revenue from property taxes, in addition to storm water assessment fees utility taxes, franchise fees, and licensing fees upon development. Annexation is appropriate and provides the opportunity for the subject property located within the City's Planning Area to be developed in conformance with the City's Land Development Regulations (LDRs).

Following the annexation, actions pertaining to the Future Land Use Map amendment from Palm Beach County Medium Density Residential 5 units per acre (MR-5) to City Medium Density Residential 5-12 du/ac (MD); and, rezoning from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part, to City zoning of Medium Density Residential 8 du/ac (RM-8) will be considered by the City Commission.

#### Review by Others:

##### Planning and Zoning Board:

On October 15, 2018, on a vote of 6 to 0, the Planning and Zoning Board recommended approval of the annexation request for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with F.S. 171.044, in that the property is contiguous to the City, reasonably compact and does not create an enclave; consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5 (C) of the Land Development Regulations.

NOTE: The following actions were also taken by the Board:

- Recommended approval to the City Commission on a vote of 6 to 0, for the small scale FLUM Amendment re-designating from Palm Beach County Medium Density Residential 5 du/ac (MR-5) to City Medium Density Residential 5-12 du/ac (MD); for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.5.5(A) and 3.1.1 of the Land Development Regulations.

- Recommended approval to the City Commission on a vote of 4 to 2, re-designating the zoning district from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part and establishing a City zoning of Medium Density Residential 8 du/ac (RM-8) for the subject property, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Sections 2.4.5(D)(5), 3.1.1 and 3.2.2 of the Land Development Regulations.

Attachments:

Ordinance No. 27-18

Location Map

Survey

Map of the City's Planning Area

Planning and Zoning Board Staff Report of October 15, 2018

Letters of opposition

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A