

ORDINANCE NO. 28-18

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT FOR THREE (3) PARCELS OF LAND KNOWN AS BANYAN COVE, AND RE-DESIGNATING SAID LAND FROM PALM BEACH COUNTY MEDIUM DENSITY RESIDENTIAL 5 UNITS PER ACRE (MR-5) TO CITY OF DELRAY BEACH MEDIUM DENSITY RESIDENTIAL 5-12 DU/AC (MD), PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187, SAID LAND IS LOCATED ON THE EAST SIDE OF BARWICK ROAD, AND IMMEDIATELY SOUTH OF LAKE WORTH DRAINAGE DISTRICT L-30 CANAL, AND WHICH MEASURES APPROXIMATELY 6.68± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach 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, via Ordinance No. 82-89, the City Commission adopted the document entitled "Comprehensive Plan - Delray Beach, Florida"; and,

WHEREAS, Andrew V. Podray is the fee simple owner of a three (3) parcels of land which measure approximately 6.68 acres ± and are located on the east side of Barwick Road, immediately south of the Lake Worth Drainage District L-30 Canal; and,

WHEREAS, the subject property hereinafter described has an existing Future Land Use Map (FLUM) designation from Palm Beach County of Medium Density Residential 5 units per acre (MR-5); and,

WHEREAS, the subject property has an "Advisory" Future Land Use Map Designation of Medium Density Residential 5-12 dwelling units per acre (du/ac) (MD); and,

WHEREAS, the owner of the property has requested re-designating the Future Land Use Map of said land from Palm Beach County Medium Density Residential 5 units per acre (MR-5); to City of Delray Beach Medium Density Residential 5-12 du/ac (MD); and,

WHEREAS, at its meeting of October 15, 2018, the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this item at a public hearing and voted 6 to 0 to recommend that the Future Land Use Map designation be changed for the property hereinafter described, based upon positive findings; and,

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the changes are consistent with and further the objectives and policies of the Comprehensive Plan; and,

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; and,

WHEREAS, the City Commission of the City of Delray Beach finds the ordinance is consistent with the Comprehensive Plan; and,

WHEREAS, it is appropriate that the Medium Density Residential 5-12 du/ac (MD) is hereby deemed the Future Land Use Map designation on the Future Land Use Map of the City of Delray Beach, Florida.

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

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That the Future Land Use Map designation of the subject property is hereby officially affixed as Medium Density Residential 5-12 du/ac (MD).

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

Section 4. That the Future Land Use Map of the City of Delray Beach, Florida, be and the same, is hereby amended to reflect a Future Land Use Map designation of Medium Density Residential 5-12 du/ac (MD) for the following described property:

Parcel I

The North 549.75 feet of the West one-quarter (W 1/4) of the Northwest one-quarter (NW 1/4) of the Northeast one-quarter (NE 1/4) of Section 12, Township 46 South, Range 42 East, Palm Beach County

Florida, less the West 40.00 feet of road right-of-way recorded in O.R. Book 52, Page 576, more particularly described as follows: The West 40 feet of the Northwest One-Quarter (NW 1/4) of the Northeast one-quarter (NE 1/4) of Section 12, Township 46 South, Range 42 East, less and except the Lake Worth Drainage District Canal L-30.

PARCEL II AND III

The North 521.00 feet of the South 771.00 feet of the West one-quarter (W 1/4) of the Northwest one quarter (NW 1/4) of the Northeast one-quarter (NE 1/4) of Section 12, Township 46 South, Range 42 East, Palm Beach County Florida, less the West 40.00 feet for road right-of-way, more particularly described as follows:

Commencing at the Southwest corner of the Northwest one quarter (NW 1/4) of the Northeast one-quarter (NE 1/4) of Section 12, Township 46 South, Range 42 East; thence run N00°00'00"E, along the West line of said Northwest one-quarter (NW 1/4) of the Northeast one-quarter (NE 1/4), a distance of 250.13 feet to a point on said West line, also being the center line of Barwick Road, (80 Foot Right-Of-Way); thence Run S88°10'24"E a distance of 40.00 feet to a point on the East right-of-way line of Barwick Road and the point of beginning; thence continue along the last described course, a distance of 295.82 feet to a point on the East line of the West one-quarter (W 1/4) of the Northwest one quarter (NW 1/4) of the Northeast one-quarter (NE 1/4) of said Section 12; thence run N00°04'35"E, along said East line, a distance of 521.24 feet to a point; thence run N88°10'25"W a distance of 296.52 feet to a point on the East right-of-way line of Barwick Road; thence run S00°00'00"W, along said East right-of-way line, a distance of 521.26 feet to the point of beginning.

Said land situate in the City of Delray Beach, Palm Beach County, Florida and contain 6.68 acres, more or less.

Section 5. That the Future 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. Repeal of Conflicting Ordinance. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 7. Severability. 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. Effective Date. That 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 _____, 2019.

Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson, City Clerk

First Reading _____
Second Reading _____

Approved as to form and legal sufficiency:

City Attorney