



## Legislation Text

---

**File #:** 18-803, **Version:** 1

---

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

ORDINANCE NO. 29-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING PORTIONS OF LAND PRESENTLY ZONED PALM BEACH COUNTY AGRICULTURAL RESIDENTIAL (AR) DISTRICT, IN PART, AND RESIDENTIAL HIGH (RH) DISTRICT, IN PART, TO CITY OF DELRAY BEACH MEDIUM DENSITY RESIDENTIAL DISTRICT (RM-8), FOR ALL THREE (3) PARCELS OF LAND KNOWN AS BANYAN COVE, LOCATED ON THE EAST SIDE OF BARWICK ROAD, IMMEDIATELY SOUTH OF LAKE WORTH DRAINAGE DISTRICT L-30 CANAL, AND WHICH MEASURES APPROXIMATELY 6.68± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

### **Recommended Action:**

Move to approve on First Reading, Ordinance No. 29-18, 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 (RM-6) Residential 6 units per acre, 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.

### **Background:**

The item before the City of Delray Beach ("City") City Commission is to consider a privately-initiated rezoning request 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 RM-8 (8 units per acre) in conjunction with an annexation 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.

### ***Review by Others:***

### **Planning and Zoning Board:**

On October 15, 2018, on a vote of 4 to 2, the Planning and Zoning (P&Z) Board recommended approval to the City Commission 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 at 8 units per acre (RM-8) for the subject property.

The P&Z Board commented that the Medium Density (RM-6) Residential District at 6 units per acre would not be subject to the Performance Standards required in LDR Section 4.4.6 (RM zoning district). The Performance Standards address traffic circulation, open space, increased setbacks and landscaping if adjacent to areas of lower density, and streetscape and building design. The Performance Standards are required for projects having a density above the base density of 6 units per acre within the RM zoning district. The Board concluded that requiring the Performance Standards would result in a better development.

### **ZONING ANALYSIS**

Pursuant to LDR Section 2.4.5(D) Change of Zoning District Designation. (1), Rule. The City Commission, by ordinance, after review and recommendation for approval by the P&Z Board may amend the Official Zoning Map. Pursuant to LDR Section 2.4.5(D) Change of Zoning Designation. (2) Required information. Requires that a statement of the reasons for the requested zoning change are included in the application. Valid reasons for approving a change in zoning include:

- That the zoning had previously been changed, or was originally established, in error;
- That there has been a change in circumstance which makes the current zoning inappropriate;
- That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

The change of zoning is being sought with the annexation of the subject property. With annexation, it is required that a City zoning district is assigned. The associated Future Land Use Map (FLUM) amendment to Medium Density (MD) is consistent with the City's advisory FLUM designation for the property. The RM zoning district is consistent with the MD FLUM land use designation; however, with respect to density and intensity of the proposed use, compatibility with the existing land use designations and the adjacent development pattern and zoning designations must be evaluated. Based upon the above, positive findings are made with respect to LDR Section 2.4.5(D)(5).

Pursuant to LDR Section 2.4.5(D) Change of Zoning Designation. (5), Findings., in addition to provisions of Chapter Three, the City Commission must make a finding that the rezoning fulfills at least one of the reasons listed under Subsection (2). A review of Subsection (2) is provided above.

Pursuant to LDR Section 3.1.1. Required Findings., prior to the approval of development applications, certain findings must be made in a form which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

*(A) Future Land Use Map: The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.*

The subject properties are currently zoned Agricultural Residential (AR) in part and Residential High (RH) in part. The proposed zoning is Medium Density Residential (RM). The requested RM-8 (8 units/acre) zoning designation is consistent with the MD FLUM designation and would allow for the proposed 53 unit, multi-family residential development proposed for the subject site. Based upon the above, positive findings are made with respect to Future Land Use Map Consistency.

*(B) Concurrency: Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

The proposed rezoning meets the adopted concurrency standards. Concurrency findings with respect to Water and Sewer, Drainage, Parks and Recreation, Solid Waste, Schools, and Traffic are discussed within the attached Planning and Zoning Board staff report.

*(C) Consistency: A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*

LDR Section 3.2.2, Standards for Rezoning Actions provides five standards that must be considered for rezoning of property, listed as follows:

A) The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to those areas identified as “stable” and “stabilization” on the Residential Neighborhood Categorization Map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.

Given existing development patterns, with multi-family units to the west within the Bexley Park subdivision and the surrounding single family units, a recommendation of Medium Density Residential with a density suffix of 6 units per acre (RM-6) is more appropriate in maintaining the overall low density residential character of the neighborhood.

B) Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95.

*This Standard is not applicable.*

C) Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design.

*This Standard is not applicable.*

D) That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.

Under the MD Future Land Use Map designation, residential zoning districts which accommodate single family, duplex and multiple family units [within Rural Residential (RR);

Single Family Residential (R-1 thru R-1-AAA); Low Density Residential (RL); Medium Density Residential (RM); Planned Residential Development (PRD) Zoning Districts] are allowed. Exhibit "A" provides density calculations based on the specific zoning categories, which are deemed consistent with the MD FLUM designation.

	Zoning Designation	Use
North:	Unincorporated Palm Beach County Single Family Residential (RS)	Single Family Residence
South:	Unincorporated Palm Beach County Agricultural Residential (AR)	Single Family Residence
East:	Open Space (OS) and Community Facilities (CF)	Banyan Creek Elementary School
West:	Unincorporated Palm Beach County (AR Agricultural Residential) and City Planned Residential Development (PRD)	Single Family Residence and Multi-family units

The requested zoning must be applied in context with the surrounding neighborhood and the resulting use of the land and zoning. Extending from the L-30 Canal on the north to the L-31 Canal on the south (approx. ½ mile), the adjacent neighborhoods fronting along Barwick Road are predominantly single family residential, however, a portion of the Bexley Park development that fronts on Barwick Road accommodates multi-family units.

The table below shows the approximate densities within the development/properties fronting along Barwick Road.

Overall, densities range from 1.13 units per acre to 4.84 units per acre. It must be noted that within Bexley Park, while the overall density for the development is 4.84 units per acre, pockets of the development exceed that density. The northeast portion of Bexley Park, which fronts on Barwick Road, is developed as multi-family and contains 91 units (64 townhomes and 27 villas). This area measures approximately 8.85± acres and equates to a density of approximately 9.7 units per acre.

Development	Size/ Units	Density
Bexley Park (Single Family & Multi-Family)	54.5 acres – 264 units	4.84 units per acre
Golf Club Estates (Single Family)	11.08 acres - 44 units	3.97 units per acre
Single family residences located between the subject property and Sabal Lakes Road	1.7 acres - 2 units	1.17 units per acre
Barwick Ranch (Single Family)	9.4766 acres - 28 units	2.95 units per acre
Sabal Lakes (Single Family)	123.82 acres - 452 units	3.65 units per acre
Single family residences south of 133 <sup>Rd</sup> Road South	4.4 acres - 5 units	1.13 units per acre

The residential character of this area/neighborhood includes multi-family residential components,

which has been integrated within the neighborhood. Based on Policy A-3.2, the assignment of a City zoning shall comply with the most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes.

Given the context of the neighborhood, with the Banyan Creek Elementary School to the east, the Bexley Park development which includes multi-family units to the west, and the single family uses to the south and west, it is appropriate to recommend a density less than 8 units per acre.

- E) Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity, which is similar to the adjacent development.

*This Standard is not applicable.*

Regarding Compliance, any proposed development of the subject property will be required to comply with the Land Development Regulations.

While the P&Z Board at its meeting of October 15, 2018, recommended approval of the Medium Density (RM-8) Residential District, staff continues to recommend a density of six units per acre based on the above analysis.

The attached Planning and Zoning Board Staff Report of October 15, 2018, includes the applicant's justification and the staff analysis for the requested action.

**Review by Others:**

As stated above the Planning and Zoning Board on October 15, 2018, on a vote of 4 to 2, the Planning and Zoning (P&Z) Board recommended approval to the City Commission 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 at 8 units per acre (RM-8) for the subject property.

The P&Z Board commented that the Medium Density (RM-6) Residential District at 6 units per acre would not be subject to the Performance Standards required in LDR Section 4.4.6 (RM zoning district). The Performance Standards address traffic circulation, open space, increased setbacks and landscaping if adjacent to areas of lower density, and streetscape and building design. The Performance Standards are required for projects having a density above the base density of 6 units per acre within the RM zoning district. The Board concluded that requiring the Performance Standards would result in a better development.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

If passed on first reading, a public hearing will be held on January 15, 2019

**Attachments:**

Ordinance No. 29-18  
Banyan Cove Aerial  
Banyan Cove Zoning Map  
Neighborhood Categorization Map  
Table L-6 Land Use Designation/Zoning Matrix  
Planning and Zoning Board Staff Report of October 15, 2018  
Palm Beach County Traffic Performance Standards Letter  
Survey  
Public Comments