



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Banyan Court (fka Banyan Cove) Rezoning

Meeting	File No.	Application Type
October 21, 2019	2018-162	Rezoning

Request

Provide a recommendation to the City Commission regarding the rezoning of three (3) parcels totaling 6.68± acres from Palm Beach County Agricultural Residential (AR) and Residential High (RH) to City of Delray Beach Planned Residential Development, 6 du / ac (PRD-6), and an associated Master Development Plan and waivers for Banyan Court (fka Banyan Cove).

Background Information

Banyan Court is a proposed single-family residential development on 6.68± acres bordered to the north by Canal LWDD L-30; to the east by the Banyan Creek Elementary School; to the south by single family residences located in unincorporated Palm Beach County (the north side of Sabal Lakes Road); and to the west by Bexley Park, a Planned Residential Development (PRD) located within the City of Delray Beach; as well as a single family subdivision known as Golf Club Estates and a single family residence (located south of the L-30 Canal) all located within unincorporated Palm Beach County. The subject property encompasses three parcels: one single-family residence with two accessory structures is located on the northernmost parcel and the remaining two parcels are vacant.

The request for rezoning accompanies a petition for annexation and future land use map (FLUM) amendment. Several requests have previously been made to the City pertaining to the subject property. The history of petitions is outlined below.

13132 Barwick Road & Unaddressed Parcel (South 3.54-acres)

March 17, 1997: The Planning and Zoning Board considered requests for Annexation, Future Land Use Map amendment, and zoning of Medium Density Residential (RM) and recommended that the requests be approved with an initial zoning of Medium Density Residential - 8 du/ac (RM-8). The petitions were withdrawn prior to final action by the City Commission.

June 2, 2000: Application requests for Annexation, Future Land Use Map amendment, and zoning of Community Facilities (CF), and a conditional use for the expansion of the Pathway to Recovery Facility were submitted.

August 21, 2000: The Planning and Zoning Board recommended approval of the Annexation and Small-Scale Future Land Use Map amendment re-designating from Palm Beach County MR-5 to City CF, with a zoning designation of CF for Pathways to Recovery, Inc.

October 3, 2000: The City Commission denied the annexation, small-scale FLUM amendment, and rezoning request submitted on August 21, 2000. Subsequently, the buildings were demolished and the site has remained vacant.



13038 Barwick Road (North 3.13-acre Parcel)

March 19, 2012: The Planning and Zoning Board considered requests for Annexation, FLUM amendment re-designating from Palm Beach County MR-5 to City MD, and re-designating the zoning district from Palm Beach County AR to City Agricultural (A). The Board recommended approval to the City Commission of the requested petitions.

March 20, 2012: Palm Beach County Planning Department issued a letter of objection to the annexation contending that the proposed annexation would create an enclave. The application did not move forward to the City Commission.

June 8, 2012: A Water Service Agreement was approved to provide City water services for the property, for the use by the single-family residential structure.

13038 Barwick Road, 13132 Barwick Road & Unaddressed Parcel (All Parcels)

2017: The applicant filed an application with Palm Beach County to amend the land use designation from MR-5 to 8 du/acre. During the review process, it was determined by the Delray Beach City Manager, City Attorney, and City Development Services Director that the applicant should file a petition to annex into the City of Delray Beach. In 2018, the applicant filed a petition for annexation into the City, future land use amendment to City MD - Medium Density, 5-12 du/acre, and rezoning to City RM-8 - Multiple-Family Residential to allow 53 townhomes. The Planning and Zoning Board recommended approval of the annexation, FLUM amendment, and rezoning on October 15, 2018. However, the annexation petition and future land use petition were postponed prior to final action by the City Commission in December 2018, and the rezoning request (voted on as Ordinance 29-19) was withdrawn.

Review and Analysis

Rezoning

In accordance with **LDR Section 2.4.5(C)(3)** and **Section 4.2.3**, the subject request for rezoning is being considered in conjunction with the annexation request and FLUM amendment that the Planning and Zoning Board previously recommended approval of on October 15, 2018. The applicant has submitted a new rezoning request, to reflect feedback from City Boards, elected officials, and members of the public. The requested rezoning is to PRD-6 (no greater than 6 dwelling units per acre), with an associated Master Development Plan (which includes 3 waivers) for 40 zero-lot line single-family residences.

Pursuant to **LDR Section 2.4.5(D)(1)**, the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board. **LDR Section 2.4.5(D)** outlines the procedures for a zoning change, which includes the standard application items in **LDR Section 2.4.3**. In accordance with **2.4.3(E)**, a traffic study must be prepared to address the development of property under reasonable intensity pursuant to the existing and proposed zoning. Based on the traffic study (dated May 2, 2019) submitted by the applicant, the trips generated by the proposed 40 units would be 400 tpd, with 30 AM peak hour trips and 42 peak hour trips. The traffic study concludes that the estimated trips per day and AM / PM peak hour trips at project build-out in 2023 meets the requirements of Palm Beach County Traffic Performance Standards (TPS). The TPS approval letter from the Palm Beach County Traffic Division, dated July 18, 2019, confirms that the proposed development meets Palm Beach County Traffic Performance Standards.

Pursuant to **LDR Section 2.4.5(D)(2)**, valid reasons for approving a change in zoning are:

- 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 application fulfills the last two criteria. The change of circumstance (annexation from Palm Beach County and land use map amendment) necessitates the adoption of City zoning. Concurrent with annexation, an initial zoning designation must be applied to the property consistent with the FLUM designation; Table L-6 in the Future Land Use Element considers the MD designation to be compatible with the PRD zoning district. The proposed zoning can be considered more appropriate to the surrounding neighborhoods than the existing AR and RH zoning designations because it allows a development intensity that is compatible with and similar to the existing

development. The surrounding uses are single family residential to the north; an elementary school to the east; single family residential to the south; and a mix of traditional single family, zero lot line single family, a multi-family triplex, and townhomes to the west.

Rezoning requests must meet five standards pursuant to **LDR Section 3.2.2**, which are described below as they relate to the proposed rezoning under consideration.

- (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.*

Because the subject property is located in unincorporated Palm Beach County, a category on the Residential Neighborhood Categorization Map has not been assigned. However, the City of Delray Beach neighborhoods adjacent to the subject property are categorized as Stable.

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

Not applicable. This is a residential development.

- (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.*

Not applicable. The proposed development is residential and does not have a commercial component.

- (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 proposed MD land use, PRD is a compatible zoning district. The PRD zoning district is characterized by "flexible densities in which multiple family and single family detached dwellings are designed together so as to: promote improved design, character, and quality of development; to preserve natural, scenic, and open space features of a site; and to accommodate flexibility in design." The existing uses and zoning surrounding the proposed development is as follows:

	Zoning Designation	Land Use	Use
North	LWDD L-30 Canal; County-Single Family (RS)	County-Low Residential, 3 units / acre (LR-3)	Single family
South	County-Agricultural Residential (AR)	County- Medium Density Residential (MR-5)	Single family
East	City-Community Facilities (CF)	City-Community Facilities (CF)	Banyan Creek Elementary
West	County-Agricultural Residential (AR)	Low Density Residential (LD)	Golf Club Estates: single family Bexley Park: zero lot line, and townhomes

The proposed zoning is compatible with and similar to the surrounding residential development both in use and in development intensity. The Lake Worth Drainage District L-30 canal is located to the north of the development, which provides separation from the development to the north. Banyan Creek Elementary is located to the east, and a large portion of the site is retention / green space. Those applicable requirements to "properly mitigate adverse impacts from the new use" are reviewed with the Master Development Plan.

- (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.*

Not applicable. The proposed development is not within the coastal planning area.

LDR Section 4.4.7 - Planned Residential Development (PRD) District “provides a residential zoning district with flexible densities in which multiple family and single family detached dwellings” are allowed to “promote improved design, character, and quality of development; to preserve natural, scenic, and open space features of a site; and to accommodate flexibility in design.” Single family conventional and zero lot line are allowed within the PRD district. Rezoning to PRD must be accompanied by a Master Development Plan (MDP). The applicant has submitted a MDP, along with a request for three waivers. Subsequent to approval of the MDP by the Planning and Zoning Board, the elevations must be approved by the Site Plan Review and Appearance Board (SPRAB). Development standards for the PRD are as follows:

- a) *At least 50 percent of the units must be in single family detached units where the overall density is six units per acre or less, or at least 40 percent where the overall density is greater than six units per acre;*

The project is 100 percent single family detached units.

- b) *Fifteen percent of the gross area of the site must be placed in common open space where the overall density is six units per acre or less, or at least 20 percent where the overall density is greater than six units per acre;*

The project has provided 32.8 percent open space.

- c) *Minimum site area is five acres.*

The site is 6.68 acres.

Master Development Plan

LDR Section 2.4.5(F) provides the criteria for MDP approval. Generally, “the approving body must make a finding that development of the property pursuant to the site plan will be compatible and harmonious with adjacent and nearby properties and the City as a whole, so as not to cause substantial depreciation of property values.” The MDP is subject to the provisions of LDR Section 3.2.3 (Standards for site plan and / or plat actions), as described below.

- (a) *The development plan provides for an effective and unified treatment of the development potential of the site, making appropriate provisions for the preservation of scenic features and amenities of the site;*

The proposed development provides circulation throughout the site with vehicle and pedestrian travelways. Three different home models are proposed by the applicant. Model A is 1,916 SF on a single-story. Models B and C are both two stories. Model B is 2,694 SF and Model C is 2,995 SF. The site layout preserves open space through the inclusion of four (4) green swales on the north west and south west borders of the property. A biological survey and a habitat analysis are not required based upon the existing conditions of the properties determined in a field assessment. However, the applicant is required to relocate and mitigate certain trees (relocation details are provided on the landscape plan).

- (b) *The development plan fosters harmony with existing or proposed development in areas surrounding the site.*

The surrounding existing developments provide a mix of community facilities, single-family homes, single-family zero lot line homes, triplexes, and townhomes. As a single-family zero lot line development, the proposed development is similar.

- (c) *Buildings in the layout shall be an integral part of the development and have convenient access to and from adjacent uses and blocks;*

The development provides two points of ingress / egress on Barwick Road. There is also a linear park with a walking trail along Barwick Road, and a pedestrian arcade approximately midway between each driveway perpendicular to Barwick Road. This improves circulation and provides residents multiple options for mobility within the development and connection to the surrounding area.

- (d) *In the multiple family portion, individual buildings shall be related to each other in design, masses, materials, placement, and connections so as to provide a visually and physically integrated development. Treatment of the sides and rear of buildings shall be comparable in amenity and appearance to the treatment given to the front.*

Not applicable. The proposed development is a single-family development.

- (e) *The landscape treatment for plazas, streets, paths, and service and parking areas shall be designed as an integral part of a coordinated landscape and street furniture design.*

The linear path along Barwick Road has plantings along the pathway, as well as a row of plantings along the adjacent property line. The streets internal to the neighborhood have trees planted in front of each property, and the pedestrian entrance to the neighborhood is lined with a row of trees. Three of the four swale areas will have trees that have been relocated from other areas of the property; the fourth swale area includes many new trees, all identified in the landscape plan.

- (f) *The location, shape, size, and character of the common open space must be suitable for the contemplated development in terms of density, population characteristics, and housing types;*

Section 4.4.7(F)(2) requires that fifteen percent of the gross area of the site must be placed in common open space where the overall density is six units per acre or less. The development has provided 32.8% dispersed throughout the four large swale areas on the north west and south west sides of the property ;two of the areas provide covered pavilions with benches and dog waste stations.

- (g) *Common open space must be used for amenity or recreational purposes and must be suitably improved for its intended use. Natural features, worthy of preservation, shall be incorporated into the common open space system;*

Several large trees are identified for relocation to swale areas on the landscape plan; two of the four swale areas include pavilions with benches, and dog waste stations.

- (h) *Roads, pedestrian ways, and open space shall be designed as an integral part of the overall design and shall be properly related to buildings and appropriately landscaped;*

There are two driveways that provide ingress and egress to the development from Barwick Road. An additional landscaped pedestrian pathway is located midway between the two entrances perpendicular to Barwick Road. The roads internal to the development have trees located at 40' intervals. The sidewalk runs through a landscaped linear park along the west property line along Barwick Road.

- (i) *There shall be an adequate amount of pedestrian ways and landscape spaces to limit pedestrian use of vehicular ways, and to separate pedestrian ways and public transportation loading places from general vehicular circulation;*

The applicant has provided 4' sidewalks internal to the development on both sides of the north-south road, and on both sides of the south roadway. There is a 5' sidewalk along the length of the property along Barwick Road, and a landscaped pedestrian arcade perpendicular to Barwick Road midway between the two entrances. A bus stop is located south of the development site along Barwick Road.

- (j) *The location and design of pedestrian ways should emphasize desirable views of new and existing development.*

The development provides multiple pedestrian pathways throughout the development that provide connectivity to the pedestrian network outside of the development. Additionally, all sidewalks are landscaped with trees at 40' intervals.

- (k) *Tot lots and recreational areas shall be a feature of all new housing developments which utilize PRD zone districts. (OSR A-3.3)*

The applicant has provided two pavilions with dog waste stations and benches in two of the four green swale areas.

Waivers

The applicant has requested the following:

Waiver	Code Section	Required	Proposed	Request
Waiver 1	Zero Lot Line Side Setbacks Section 4.3.4(H)(3)(a)	0/15'	0/10'	5' Reduction
Waiver 2	Minimum Lot Width/Frontage for Zero Lot Line PRD Corner Lots Section 4.3.4(k)	60'	40'	20' Reduction
Waiver 3	Sidewalk Width Section 6.1.3(B)(1)(b)	5'	4' (Internal)	1' Reduction

Pursuant to **LDR Section 2.4.7(B)(5), Waivers: Findings**, prior to granting a waiver, the granting body shall make findings that the granting of the waiver:

- a) *Shall not adversely affect the neighboring area;*

The requested waivers, to reduce the zero lot line side setbacks from 15' to 10', the minimum lot width and frontage from 60' to 40', and the sidewalk width from 5' to 4', are internal to the project and should have no direct effect on the neighboring area because they are internal to the neighborhood and do not face adjacent neighborhoods.

- b) *Shall not significantly diminish the provision of public facilities;*

The requested waivers to reduce the minimum lot frontage and width and side setbacks relate to the site plan layout and do not impact public facilities, including the provision of water and sewer and access by emergency responders. The requested sidewalk width waiver relates to public facilities and required access. However, granting of the waiver will not negatively impact the public facility as the driveways function as the required passing area at 200-foot intervals, and is compliant with the Americans With Disabilities Act by meeting the slope requirements.

- c) *Shall not create an unsafe situation;*

Waiver 1 allows sufficient space between the homes within the development for air circulation and landscaping. The reduction of corner lots in Waiver 2 provides sufficient and safe separation from roadways because of the parking spaces provided between the property lines along the street. The reduced sidewalk widths in Waiver 3 is compliant with the Americans with Disabilities Act and allows safe mobility for wheelchair users.

- d) *Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.*

The requested waivers could be granted in a similar circumstance for another applicant if they do not create any unsafe conditions, diminish public facilities, or adversely impact adjacent developments.

The applicant's waiver request and justification statement is attached.

Outstanding Technical Requirements

The following items are outstanding technical items that must be addressed prior to site plan certification of the Master Development Plan:

- The applicant must create easements for the water and sewer mains by separate instrument based on as-built locations, not on the plat. The City does not want the roadway ownership to be able to be confused with utility easements. Prior to Site Plan Certification show the proposed easements on the plans.
- The photometric plans show items labelled SD MH: 4 and SD MH: 1 out in the Right-of-Way of Barwick Road but these items are not identified as to what they are. There are details for a bollard light and a pole mounted light neither of which are acceptable to be placed in Barwick Road Right-of-Way although they are perfectly acceptable within the private roads/common areas. The City will require use of the City Standard light pole in Barwick Road Right-of-Way. This must be accomplished prior to Site Plan Certification.
- The minimum width for sidewalks per ADA is 5'. The driveways can be used as the required 60" x 60" wheelchair passing area every 200 feet. However, the driveway grades must accommodate the ADA required slope.
- As a new residential development greater than 25 units, the applicant must provide 100% of the cost of the purchase and installation of a bus shelter (\$11,000) per City of Delray Beach Comprehensive Plan, Policy A-1.5 and LDR Section 2.4.3 (D) (7) that at the time of building permit.

Review By Others

The subject property is not within a redevelopment area or overlay.

The **City Commission** is anticipated to review Ordinance No. 38-19 (Rezoning), Ordinance No. 37-19 (Future Land Use Map amendment), and Ordinance 27-18 (Annexation) at its meetings on November 19, 2019 (First Reading) and January 14, 2020 (Second Reading, Final Adoption).

Board Action Options

Separate motions must be made for the rezoning request and the master development plan with waivers. Options for board actions for each item are provided below.

Rezoning

- Recommend **approval** of Ordinance No. 38-19, a privately-initiated request to rezone 6.68± acres from Palm Beach County Agricultural Residential (AR) and Residential High (RH) to City Planned Residential Development, 6 du/acre (PRD-6), finding that the rezoning and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- Recommend **denial** of Ordinance No. 38-19, a privately-initiated request to rezone 6.68± acres from Palm Beach County Agricultural Residential (AR) and Residential High (RH) to City Planned Residential Development, 6 du/acre (PRD-6), finding that the rezoning and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.
- Continue With Direction

Master Development Plan and Waivers

- Recommend **approval** of the Banyan Court Master Development Plan for 40 zero lot line single family lots; with a waiver from LDR Section 4.3.4(H)(3)(a) to allow a reduction from the required 15 foot setback to 10 feet, a waiver from LDR Section 4.3.4(k) to reduce the required frontage for corner lots from 60 feet to 40 feet, and a waiver from LDR Section 6.1.3(B)(1)(b) to reduce the width of internal sidewalks from 5 feet to four feet; finding that the approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- Recommend **approval, as amended**, of the Banyan Court Master Development Plan for 40 zero lot line single family lots ; with a waiver from LDR Section 4.3.4(H)(3)(a) to allow a reduction from the required 15 foot setback to 10 feet, a waiver from LDR Section

4.3.4(k) to reduce the required frontage for corner lots from 60 feet to 40 feet, and a waiver from LDR Section 6.1.3(B)(1)(b) to reduce the width of internal sidewalks from 5 feet to four feet; finding that the approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.

- C. Recommend **denial** of the Banyan Court Master Development Plan for 40 zero lot line single family lots; with a waiver from LDR Section 4.3.4(H)(3)(a) to allow a reduction from the required 15 foot setback to 10 feet, a waiver from LDR Section 4.3.4(k) to reduce the required frontage for corner lots from 60 feet to 40 feet, and a waiver from LDR Section 6.1.3(B)(1)(b) to reduce the width of internal sidewalks from 5 feet to four feet; finding that the approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.

- D. Continue With Direction

Public and Courtesy Notices

☒ Courtesy Notices are not applicable to this request.

☐ Public Notices are not required for this request.

☒ Public Notice was posted at the property 7 calendar days prior to the meeting.

☒ Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

☐ Public Notice was mailed to the adjacent property owners 20 days prior to the meeting.

☒ Public Notice was published in the Sun Sentinel October 11, 2019, 10 calendar days prior to the meeting.

☒ Public Notice was posted to the City's website 10 calendar days prior to the meeting.

☒ Public Notice was posted in the main lobby at City Hall 10 working days prior to the meeting.

☒ Agenda was posted at least 5 working days prior to meeting.

