



## Cover Memorandum/Staff Report

File #: 19-1135

Agenda Date: 1/21/2020

Item #: 8.C.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** George Gretsas, City Manager  
**DATE:** January 21, 2020

ORDINANCE NO. 38-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING LAND PRESENTLY ZONED PALM BEACH COUNTY AGRICULTURAL RESIDENTIAL (AR) DISTRICT IN PART AND RESIDENTIAL HIGH (RH) DISTRICT IN PART, TO CITY OF DELRAY BEACH PLANNED RESIDENTIAL DEVELOPMENT WITH A SPECIFIED DENSITY OF SIX (6) DWELLING UNITS PER ACRE (PRD-6), FOR A DEVELOPMENT TO BE KNOWN AS BANYAN COURT, 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. (SECOND READING)

### **Recommended Action:**

Review and consider Ordinance No. 38-19 rezoning 6.68± acres from Palm Beach County Agriculture Residential (AR) and Residential High (RH) to City of Delray Beach Planned Residential Development, 6 du / acre (PRD-6).

### **Background:**

Banyan Court is the project formerly known as "Banyan Cove". 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.

In 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, a Future Land Use Map (FLUM) amendment to City MD - Medium Density, 5 -12 du/acre, and a Rezoning to City RM-8 - Multiple-Family Residential to allow 53 townhomes. On October 15, 2018, the Planning and Zoning Board considered the three actions and recommended approval of the annexation (6-0), the FLUM amendment (6-0), and the rezoning (4-2).

On November 27, 2018, the City Commission approved Ordinance No. 27-18 (annexation) on first

reading 3-2 (Johnson and Frankel dissenting).

At the December 12, 2018 City Commission meeting, the applicant requested postponement of the annexation (Ordinance No. 27-18), as well as of the first readings of the accompanying FLUM amendment (Ordinance No. 28-18) and Rezoning (Ordinance No. 29-19).

In early 2019, the applicant resubmitted the request for rezoning, but changed the requested zoning designation to Planned Residential Development, 6 du / acre (PRD-6). On October 21, 2019, the Planning and Zoning Board reviewed the request for rezoning to PRD-6 (as Ordinance No. 38-19) and recommended approval (7-0). The requested rezoning to PRD is accompanied by a Master Development Plan (MDP), which includes three waivers, for 40 zero-lot line single-family residences. The Planning and Zoning Board approved the MDP as a final action at its October 21, 2019 (7-0).

All three actions, annexation, FLUM amendment, and Rezoning are now brought forward for City Commission consideration as 2019 ordinances. This ordinance considers the Rezoning.

## Findings

In accordance with **LDR Section 2.4.5(C)(3) and Section 4.2.3**, the request for rezoning is being considered in conjunction with the annexation request and FLUM amendment. 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:

**North:**

**Zoning.** Palm Beach County Single Family (RS)

**Land Use.** Palm Beach County Low Residential, 3 du / acre (LR-3)

**Use.** Single family homes

**South**

**Zoning.** Palm Beach County Agriculture Residential (AR)

**Land Use.** Palm Beach County Medium Density Residential (MR-5)

**East**

**Zoning.** City of Delray Beach Community Facilities (CF)

**Land Use.** City of Delray Beach Community Facilities (CF)

**West**

**Zoning.** Palm Beach county Agriculture Residential (AR)

**Land Use.** City of Delray Beach Low Density Residential (LD)

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 school 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 submitted a MDP, along with a request for three waivers, which the Planning and Zoning Board voted 7-0 to approve on October 21, 2019. 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.

**City Attorney Review:**

Ordinance No. 38-19 was approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

NA

**Timing of Request:**

NA