



## Legislation Text

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File #: 20-733, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** October 20, 2020

ORDINANCE NO. 47-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL SCALE LAND USE MAP AMENDMENT FOR ONE PARCEL OF LAND RE-DESIGNATING LAND APPROXIMATELY ONE ACRE IN SIZE FROM PALM BEACH COUNTY MEDIUM RESIDENTIAL (MR-5) TO CITY OF DELRAY BEACH LOW DENSITY (LD), PURSUANT TO SECTION 163.3187 FOR THE PROPERTY LOCATED AT 13029 BARWICK ROAD, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

### **Recommended Action:**

Review and consider Ordinance No. 47-20 on First Reading, a privately initiated land use map amendment redesignating the property located at 13029 Barwick Road from Palm Beach County Medium Residential (MR-5) to Delray Beach Low Density (LD).

### **Background:**

The subject request is to change the land use designation for a one-acre property located at 13029 Barwick Road from from Palm Beach County Medium Residential (MR-5) to Delray Beach Low Density (LD). The intended use of the property, which was previously used as a tree farm, is single family residential. The property is currently under Palm Beach County's jurisdiction; a petition to annex the property into the City of Delray Beach has been submitted concurrently with a land use designation and rezoning requests. The land use designation shall be considered after the annexation request and prior to the rezoning request.

Pursuant to **LDR Section 2.4.5(A), Amendments to the Comprehensive Plan**, *amendments to the Comprehensive Plan must follow the procedures outlined in the Florida Statutes*. The land use amendment is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253, as it consists of less than 10 acres.

### **Findings**

Pursuant to **LDR Section 3.1.1, Required Findings**, "findings shall be made by the body which has the authority to approve or deny the development application." These findings relate to the Land Use Map Designation, Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

### **Land Use Map**

The subject property is within the City's Planning Area (see Map AD-1 attached), which is considered

the City's ultimate boundaries. The current Land Use Designation is Palm Beach County Medium Residential, 5 units per acre (MR-5). The requested Land Use Designation is Low Density (LD), which allows for a maximum of 5 units per acre. The Neighborhood, Districts, and Corridors Element, of the Comprehensive Plan, Table NDC-1, identifies which zoning districts are preferred and compatible with the Land Use designations. Pursuant to the Table NDC-1, the proposed Single Family Residential (R-1-AA) zoning district is listed as a preferred zoning designation for the LD land use designation.

### **Consistency**

A finding of consistency requires that the requested designation be consistent with Goals, Objectives, and Policies of the adopted Comprehensive Plan. The applicable Objectives and Policies from the adopted plan are provided below. The proposed land use map amendment is required for annexation into the City of Delray Beach. An analysis of the applicable goals, objectives, and policies in the Comprehensive Plan is provided in this report.

Objective NDC 3.4, Land Use Map Amendments: *Use a consistent set of standards to evaluate amendments to the Land Use Map.*

Policy NDC 3.4.1: *Amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances, and the following findings can be determined:*

- *That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan.*
- *That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,*
- *That the requested land use designation is compatible with the land use designations of the surrounding area; and,*
- *That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.*

The consistent set of standards, as identified by Policy NDC 3.4.1, are similarly provided as part of the required findings in Section 3.1.1 and are further analyzed below. Regarding compatibility, the land use designation of the surrounding area consists of Residential Medium Density (MD) to the east and Residential Low Density (LD) to the west and south. Canal L-30 is located to the north, which does not have a land use designation.

Policy NDC 3.4.3: *Apply the advisory land use designation to parcels as they are annexed into the municipal city limits; the findings in Policy 3.4.1 must be made to apply an alternative land use designation.*

Both the advisory and requested land use designation is Low Density (LD).

Policy CSR 4.2.3: *Require the submission of a biological survey and a habitat analysis with land use requests for plan amendments, rezonings, and site plan approval, with an exception where it is*

*apparent that no such resources exist, as determined by staff.*

A field review of the subject property was conducted by staff to determine whether there are any significant habitats or biological communities. Based upon the existing conditions of the property, it was determined that a biological survey and a habitat analysis are not required. However, a tree survey was submitted to document the existing trees located within the property. Subsequent to annexation, a tree removal permit would be required to remove any trees associated with the development of a single-family detached residence and conformance with respect to preservation of the existing trees will be addressed during the site plan review process, as applicable.

**Concurrency:** Concurrency as defined by the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements to maintain the standards of the adopted Comprehensive Plan.

The one-acre property is intended to be developed as a single-family residence; however, under the requested land use designation of LD, a maximum of 5 units per acre is allowed. Under the proposed Single Family Residential (R-1-AA) zoning district, a subdivision of the existing property into a maximum of four fee simple lots would be feasible based on the overall lot size and the minimum development standards listed in LDR Section 4.3.4(K). If a subdivision is proposed after the annexation, land use designation and zoning designation requests are approved, consideration of the applicable concurrency standards would be further analyzed as part of the subdivision review process. Given the low intensity of the highest development intensity possible under the requested land use and rezoning, no concerns pertaining to the adopted concurrency standards are anticipated as indicated below under concurrency review of traffic, schools, utilities, and solid waste.

**Streets and Traffic.** The property can be accessed via Barwick Road, which extends from West Atlantic Avenue on the south and terminates at Coconut Lane in the City of Boynton Beach to the north. The segment of Barwick Road that is located within the City's Planning Area is under the jurisdiction of the City of Delray Beach for associated maintenance responsibility and will not change upon annexation. 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, which is the ultimate right-of-way for this portion of Barwick Road, per the Mobility Element Table MBL-1. Dedication of additional right-of-way is not required.

As requested by the applicant, submittal of a traffic study was waived by the Department Director as the applicant is proposing land use and rezoning designations that are the lowest in residential intensity AVAILABLE, and given the size of the property and the intended use of one single family detached residence, no impacts in the traffic demand are anticipated. Given that the subject property is located within the City's Planning Area, and the requested land use is the same as the advisory land use, projections of development demands have been accounted for as part of the Comprehensive Plan and services offered by the City. Should the property be subdivided into multiple parcels or developed with a use in higher intensity, review of potential impacts, including traffic, will be evaluated.

**Schools.** The intended use of the property is one residential dwelling unit. Submittal of a School Capacity Availability Determination is not required. Should the property be subdivided in the future

into more lots, impacts on the public school system will be evaluated.

Utilities, Policy NDC 3.2.3, PFE 2.4.4, PFE 3.4.3: Provide water and sewer facilities to unincorporated areas upon demand in a manner consistent with City policies with an agreement to voluntarily annex upon eligibility; if the property is already eligible, annexation shall precede the provision of services.

Water. The subject property is located within the City of Delray Beach Utility Service Area, which includes the City's Planning Area, for the provision of water and sewer services. Municipal water service is available via connection to an eight-inch water main located along Barwick Road. Further evaluation of utility access provisions will be performed during the review process of the site development proposal. The Public Utilities Department has determined that sufficient water capacity is available to serve this site.

Sewer. Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out. Sewer services for a single-family residence can be accommodated via a lateral connection to the eight-inch sewer line located on Barwick Road. The extension of the City's sewer system will be required to provide sewer service to the subject property. Should the property be subdivided in the future into more lots, sewer services and connection locations will need to be further evaluated.

Solid Waste. The Solid Waste Authority (SWA) is the waste collector for both the City and the County. Potential impacts will be evaluated, as necessary, as part of any subsequent development requests.

*Compatibility -- The requested designation will be compatible with existing land uses of the surrounding area.*

The site is surrounded by residential land use designations. The residential land use designation of the properties to the south and west is Low Density, which is the same designation requested for the subject property. The residential land use designation of the properties to the east is Medium Density. The area immediately to the north is a canal, which canals don't have a land use designation.

*Compliance: That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.*

Compliance of the land use in relation to the applicable Land Development Regulations are briefly analyzed within the Planning and Zoning Board staff report; a building permit for the anticipated single-family residence will be specifically reviewed for compliance with the applicable development regulations once received.

The Planning and Zoning Board Reviewed Ordinance No. 47-20 at the August 17, 2020 meeting and unanimously recommended approval (6-0).

**City Attorney Review:**

Approved as to legal form and sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Ordinance No. 47-20 must be heard after approval of Ordinance No. 46-20 and prior to Ordinance No. 48-20.