



## Legislation Details (With Text)

**File #:** 20-833      **Version:** 1      **Name:**

**Type:** Ordinance      **Status:** Passed

**File created:** 10/1/2020      **In control:** City Commission

**On agenda:** 11/17/2020      **Final action:** 11/17/2020

**Title:** ORDINANCE NO. 48-20: 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) TO CITY OF DELRAY BEACH SINGLE FAMILY RESIDENTIAL (R-1-AA); FOR A PARCEL OF LAND 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. (SECOND READING)

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Ord. No. 48-20 - Proposed Ordinance, 3. Ord. No. 48-20 - PZB Staff Report, 4. Ord. No. 48-20 - Applicant's Justification Statement, 5. Ordinance 48-20 - Survey, 6. Legal Review Ord 46-20 47-20 and 48-20

Date	Ver.	Action By	Action	Result
11/17/2020	1	City Commission	approved	Pass

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** November 17, 2020

ORDINANCE NO. 48-20: 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) TO CITY OF DELRAY BEACH SINGLE FAMILY RESIDENTIAL (R-1-AA); FOR A PARCEL OF LAND 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. (SECOND READING)

### **Recommended Action:**

Review and consider Ordinance No. 48-20, a privately initiated rezoning request for the property located at 13029 Barwick Road from Palm Beach County Agricultural Residential (AR) to Delray Beach Single Family Residential (R-1-AA).

### **Background:**

The subject request is to assign a City of Delray Beach zoning designation for a one-acre property located at 13029 Barwick Road being considered for annexation. The proposed rezoning is from Palm Beach County Agricultural Residential (AR) to Delray Beach Single Family Residential (R-1-AA). The intended use of the property, which was previously used as a tree farm, is single family residential. A petition to annex the property into the City of Beach Beach has been submitted

concurrently with a land use designation and rezoning requests. The rezoning designation shall be considered after the annexation and land designation requests.

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. The submitted application complies with these requirements.

### **LDR Section 2.4.5(D), Findings**

LDR Section 2.4.5(D)(2) outlines the procedures for a zoning change, which includes the standard application items in Section 2.4.3. Valid reasons for approving a change in zoning, pursuant to LDR Section 2.4.5(D)(2) 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 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. Additionally, concurrent with annexation, an initial zoning designation must be applied to the property consistent with the requested Land Use designation and match the intensity of the proposed land use. The proposed Single Family Residential (R-1-AA) zoning designation is consistent with the proposed LD land use. The purpose and intent of the Single Family Residential Districts is to provide areas where the traditional single family detached residence can be established and maintained and be protected from the unwarranted intrusion of other inappropriate uses [LDR Section 4.4.3(A)]. The intended use of the one-acre property is a single family residence. Compatibility with the existing land use designations and the adjacent development pattern and zoning designations must be evaluated with respect to density and intensity of the proposed use.

### **LDR Section 3.2.2, Standards for Rezoning Actions**

Rezoning requests must meet five standards, 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.

Since the subject property is located in unincorporated Palm Beach County, a category on the Residential Neighborhood Categorization Map (Map AD-5) has not been assigned. However, the incorporated neighborhood surrounding the subject property, which the property is part of, is identified as "stable".

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

Not applicable. The proposed zoning designation is Single Family Residential (R-1-AA).

- (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. Commercial developments are not in the Single Family Residential zoning districts.

- (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 Low Density (LD) land use, Single Family Residential (R-1) is considered a preferred/compatible zoning district. Furthermore, the proposed zoning is compatible with the existing and approved uses surrounding the property, as follows:

**North:**

**Zoning.** N/A

**Land Use.** N/A

**Use.** Canal L-30

**South:**

**Zoning.** Planned Residential Development (PRD)

**Land Use.** Low Density (LD)

**Use.** Single Family Detached Residences (Bexley Park)

**East:**

**Zoning.** Planned Residential Development (PRD-6)

**Land Use.** Medium Density (MD)

**Use.** Single Family Detached Residences/ Approved, undeveloped site (Banyan Court)

**West:**

**Zoning.** Planned Residential Development

**Land Use.** Low Density

**Use.** Multiple Family and Single Family Detached Residences (Bexley Park)

- (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.

The Planning and Zoning Board Reviewed Ordinance No. 48-20 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. 48-20 must be adopted subsequent to Ordinance Nos. 46-20 and 47-20.