



## Legislation Text

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

ORDINANCE NO. 28-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT FOR THREE (3) PARCELS OF LAND KNOWN AS BANYAN COVE, AND RE-DESIGNATING SAID LAND FROM PALM BEACH COUNTY MEDIUM DENSITY RESIDENTIAL 5 UNITS PER ACRE (MR-5) TO CITY OF DELRAY BEACH MEDIUM DENSITY RESIDENTIAL 5-12 DU/AC (MD), PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187, SAID LAND IS LOCATED ON THE EAST SIDE OF BARWICK ROAD, AND IMMEDIATELY SOUTH OF LAKE WORTH DRAINAGE DISTRICT L-30 CANAL, AND WHICH MEASURES APPROXIMATELY 6.68± ACRES, 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:**

Move to approve on First Reading, Ordinance No. 28-18, for the small scale Future Land Use Map (FLUM) Amendment re-designating from Palm Beach County Medium Density Residential 5 du/ac (MR-5) to City Medium Density Residential 5-12 du/ac (MD); 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 2.5.5 (A) and 3.1.1 of the Land Development Regulations.

### **Background:**

The item before the City of Delray Beach ("City") City Commission is to consider a privately-initiated Future Land Use Map (FLUM) amendment in conjunction with an annexation and re-designating the FLUM from Palm Beach County Medium Density Residential 5 du/ac (MR-5) to City Medium Density Residential 5-12 du/ac (MD) 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. The FLUM amendment is being processed in conjunction with an annexation and rezoning from Palm Beach County Agricultural Residential (AR) in part and Residential High (RH) in part to City zoning of Medium Density Residential (RM)-8 units per acre.

### ***FUTURE LAND USE MAP AMENDMENT ANALYSIS***

The proposed FLUM amendment is being processed as a small-scale Comprehensive Plan

amendment pursuant to Florida Statutes, F.S. 163.3187.

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 Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

The current Palm Beach County Future Land Use Map designation for the property is MR-5. The City's FLUM designations as initially illustrated on the City's Future Land Use Map adopted in November, 1989, (and as formally amended subsequently) are advisory until a land use map amendment is processed, subsequent to annexation.

The current City "advisory" designation is MD. The requested Future Land Use Map Designation is (City) MD. The Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies which zoning districts are consistent with the Future Land Use Map designations. Pursuant to Table L-6, the proposed MD FLUM designation and the proposed Medium Density Residential (RM) Zoning District are consistent. The applicant proposes a density suffix of eight units per acre (RM-8) on the zoning district designation restricting the ultimate possible density further than "basic" RM.

A finding of Consistency requires that the requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan is required. The following highlights the applicable Objectives and Policies within the City of Delray Beach Comprehensive Plan which demonstrate consistency:

Policy B-3.3 (Future Land Use Element) of the Comprehensive Plan addresses unincorporated parcels which are located within the City's Planning Area and states: *"Within the Delray Beach Planning Area, the City's FLUM designation shall be in effect immediately upon annexation of a specific parcel. Following any annexation, the Future Land Use Map, and appropriate portions of the Comprehensive Plan, shall be amended to reflect the change in the City's boundaries."*

Policy B-3.4 (Future Land Use Element) of the Comprehensive Plan states *"For purposes of implementing Policy B-3.3, the Future Land Use Map designations as initially contained on the City's Future Land Use Map upon adoption in November, 1989, (and as formally amended subsequently) are hereby deemed to be the Future Land Use Map designations for the territory subject to provisions of the interlocal agreement."*

If the annexation is approved by the City Commission, a City FLUM designation will be applied to the subject property. Pursuant to F.S. 163.3187(5)b(2)(c), small scale development amendments may not become effective until 31 days after adoption. In addition to the Goals, Objectives, and Policies identified by the applicant above, the following additional Objectives and Policies also pertain and demonstrate consistency with the requested FLUM amendment:

*Future Land Use Element:*

*Objective A-1: Property shall be developed or redeveloped, in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

*Objective A-2: To reduce, and eventually eliminate, uses which are inconsistent with predominant adjacent land uses, and to insure compatibility of future development, the following policies shall be applied.*

*Policy A-2.3: Development of remaining vacant properties shall occur in a manner which is consistent with and complementary to adjacent development regardless of zoning designations. This policy shall be implemented through the review process associated with platting and site plans.*

The subject property does not have any unique environmental characteristics that would require mitigation measures as discussed further within the report. Nor does the site possess any specific characteristics that would be negatively impacted with a change to MD. The adjacent FLUM designations are indicated below:

	Land Use Map Designations
North	Unincorporated Palm Beach County Low Density Residential 3 units per acre (LR-3) north of the L-30 Canal
South	Unincorporated Palm Beach County Medium Density Residential 5 units per acre (MR-5)
East	Open Space (OS) and Community Facilities (CF)
West	Low Density Residential 0-5 du/ac (LD) and Unincorporated Palm Beach County MR-5

The proposed multi-family residential use is consistent with the MD FLUM designation. While the request is consistent with the City's advisory MD FLUM, it is necessary to ensure that the density and related intensity is appropriate and complimentary to the surrounding neighborhoods. This is addressed in the for the rezoning request.

*Objective B-2: Facilities and services which are provided by, or through, the City of Delray Beach shall be provided to new development concurrent with issuance of a Certificate of Occupancy pursuant to the following policies.*

*Policy B-2.3: Prior to recommending approval of any land use application which comes before it, the Local Planning Agency, or appropriate approving body, must make a finding of consistency with this objective and its supporting policies. If such a finding cannot be made, either conditions shall be made which provide for concurrency or the land use request shall be denied.*

This objective and supporting policies are addressed under the *Concurrency* portion of this analysis.

#### *Housing Element:*

*Objective A-3: For those areas identified as "stable residential" on the Residential Neighborhood Categorization Map, the City shall implement the following policies to ensure that they remain*

*“stable residential” and do not decline.*

*Policy A-3.1: Each area of the City that is identified as “stable residential” shall be included within a neighborhood association which has an official representation. The purpose and implementation of this policy is as provided in Objective A-1 and its related policies.*

*Policy A-3.2: The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to these neighborhoods and affixed to the zoning map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.*

The Housing Element classifies neighborhoods as to their overall appearance, and condition of the structures and infrastructure. Neighborhoods were identified in several categories:

Stable--No apparent signs of physical or other decline; no improvement needed.

Needing Stabilization--Appearance of minor code violations and maintenance problems; some improvement desired.

Needing Revitalization--Evidence of decline in condition of structures and yards; increase in crime; property values stagnant or declining.

Needing Rehabilitation--Numerous code violations; deteriorated and non- maintained structures; high level of absentee ownership; significant crime problems; large number of vacant lots.

The subject property is located within an area designated as “stable” on the Residential Neighborhood Categorization Map (map attached). 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.

#### *Conservation Element:*

*Policy B-2.1: The submission of a biological survey and a habitat analysis shall accompany land use requests for plan amendments, rezonings, and site plan approval. However, the requirement shall not apply to small parcels, developed parcels, or where it is apparent that there are no such resources.*

*Policy B-2.2: Whenever and wherever significant or sensitive flora and fauna communities are identified, plans shall be required to preserve the habitat to the extent feasible, or provide for mitigation if preservation is infeasible or inappropriate.*

A field review was conducted of the subject property to determine whether Policy B-2.1 and/or B-2.2 of the Comprehensive Plan were an issue. It was determined that a biological survey and a habitat analysis are not required based upon the existing conditions of the properties. However, conformance with respect to preservation of trees will be addressed during the site plan review process.

For *Concurrency*, development at the highest intensity possible under the requested designation were reviewed with respect to traffic, water and sewer, drainage, parks and recreation, and school capacity determination are evaluated below:

Sufficient capacity exists to meet water and sewer service demands for the subject property.

However, the extension and service of these resources to the subject property is the responsibility of the property owner. Sufficient parkland areas and recreational amenities exists for the proposed development. Capacity exists to accommodate solid waste from the subject property. No anticipated problems are identified with drainage.

For streets and traffic, the property will be accessed via Barwick Road. 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. Traffic congestion created during school drop-off and pick-up times is regularly mentioned by residents of the area as a concern.

With the requested density of eight units per acre, the trips generated by the proposed 53 units would be 352 tpd, with 30 AM peak hour trips and 33 PM peak hour trips. The submitted traffic study concludes that the estimated 352 trips per day and 30 AM peak hour trips and 33 PM peak hour trips at project build-out in 2022 and in conjunction with the required link analysis meets the requirements of Palm Beach County Traffic Performance Standards.

The City's traffic consultant (Kimley-Horn and Associates) reviewed the submitted traffic study. Their review indicates that the proposed development will have a "significant" impact on Barwick Road between the site and Lake Ida Road, with "significant" defined as adding more than one percent of the adopted level of service volume to the roadway. It should be noted that the project will add 17 peak hour trips to the road (i.e. one trip approximately every four minutes). The impact will not reduce the level of service, as Barwick Road has excess capacity allowing for additional growth more than 200 peak hour trips in the morning peak hour and more than 300 peak hour trips in the evening peak hour. The project will not significantly impact any other roads in the area. Furthermore, consistent with County requirements, the intersection of Lake Ida Road and Barwick Road was analyzed with the project and was determined to operate at an acceptable level of service. A Traffic Performance Standards (TPS) approval letter was issued by the Palm Beach County Traffic Division on November 15, 2018. based on a potential development of 53 dwelling units (copy attached).

Regarding school capacity availability determination, it has been determined by the Palm Beach County School District that sufficient capacity exists for the elementary and middle schools. As Atlantic High School is over capacity, the potential for three students to attend Atlantic High School will be an impact on the public school system that requires mitigation. Therefore, if the request is approved, the School District staff recommends the following condition to mitigate the impacts is included in the approval of a site and development plan.

*"In order to address the school capacity deficiency created by this proposed project at the District high school level, the property owner is required to contribute \$40,596 to the School District of Palm Beach County prior to issuance of the first building permit. The school capacity contribution is intended to supplement the required school impact fee (impact fee credit has already been applied)."*

Based on the above, positive findings are made with regard to *Concurrency* for all services and facilities.

Regarding *Compliance*, any proposed development of the subject property will be required to meet the criteria set forth by the Land Development Regulations

Staff supports the requested FLUM request to MD which is consistent with the existing City's advisory MD designation. 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:**

*Planning and Zoning Board:*

On October 15, 2018, on a vote of 6 to 0, the Planning and Zoning Board recommended approval to the City Commission of the small scale FLUM Amendment re-designating from Palm Beach County Medium Density Residential 5 du/ac (MR-5) to City Medium Density Residential 5-12 du/ac (MD); for the subject property.

NOTE: With respect to the associated rezoning, the Planning and Zoning Board recommended approval to the City Commission on a vote of 4 to 2, 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 8 du/ac (RM-8) for the subject property.

**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. 28-18  
Banyan Cove Aerial Map  
Banyan Cove FLUM Map  
Map of the City's Planning Area  
Residential Neighborhood Categorization Map  
Planning and Zoning Board Staff Report of October 15, 2018  
Table L-6 Land Use Designation/Zoning Matrix  
Palm Beach County Traffic Performance Standards letter  
Survey  
Public Comments