

**CITY OF PALM BEACH GARDENS
CITY COUNCIL
Agenda Cover Memorandum**

**Meeting Date: September 6, 2018
Ordinance 20, 2018**



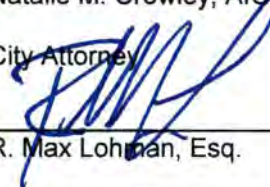
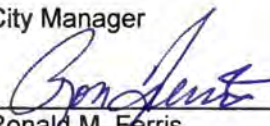


Subject/Agenda Item:

Ordinance 20, 2018 – A 5.74-acre Parcel Voluntary Annexation Request

Public Hearing and First Reading: A request from 11940 Highway One Realty, LLC for a Voluntary Annexation of a 5.74-acre parcel located on the southeast corner of the intersection of Juno Road and U.S. Highway One approximately 0.5 miles north of the intersection of PGA Boulevard and U.S. Highway One.

Recommendation to APPROVE

Recommendation to DENY

<p>Reviewed by: Planning Manager  Peter Hoffheinz, AICP Development Compliance and Zoning Manager</p> <p style="text-align: center;"><u>NA</u> Bahareh Wolfs, AICP Director of Planning and Zoning  Natalie M. Crowley, AICP City Attorney  R. Max Lohman, Esq.</p> <p>Approved By: City Manager  Ronald M. Ferris</p>	<p>Originating Dept.: Planning & Zoning Project Manager  Martin L. Fitts, AICP Senior Planner</p> <p><input type="checkbox"/> Quasi – Judicial <input checked="" type="checkbox"/> Legislative <input checked="" type="checkbox"/> Public Hearing</p> <p>Advertised: <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Date: N/A Paper: N/A</p> <p>Affected parties: <input checked="" type="checkbox"/> Notified <input type="checkbox"/> Not Required</p>	<p>Finance: Accountant  Tresha Thomas</p> <p>Fees Paid: <u>N/A</u></p> <p>Funding Source: <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Other <u>N/A</u></p> <p>Budget Acct.#: <u>N/A</u></p> <p>Effective Date: <u>N/A</u></p> <p>Expiration Date: <u>N/A</u></p>	<p>Council Action: <input type="checkbox"/> Approval <input type="checkbox"/> Approval w/ Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____</p> <p>Attachments:</p> <ul style="list-style-type: none"> • Location Map • Map A.4-Potential Future Annexation Map • Legal Description • Ordinance 20, 2018
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EXECUTIVE SUMMARY

This is a request from 11940 Highway One Realty, LLC for the voluntary annexation of a 5.74-acre site. The land is located on the southeast corner of the intersection of Juno Road and U.S. Highway One approximately 0.5 miles north of the intersection of PGA Boulevard and U.S. Highway One. The subject site is within unincorporated Palm Beach County and consists of a shopping center developed in 1986. The site is currently vacant, and the owner is seeking to renovate and reopen the site with new tenants. However, no site plan changes are proposed at this time. The voluntary annexation petition satisfies all criteria of Section 171.044, *Florida Statutes*, and the property is within a potential annexation area identified on the City's Comprehensive Plan Map A.4-Potential Future Annexation.

BACKGROUND

The subject property is located on the City's Comprehensive Plan Map A.4.-Potential Future Annexation. The Applicant is requesting voluntary annexation into the City of Palm Beach Gardens. The 5.74 acres consist of one parcel under single ownership. The City has received the owner's consent and signature. Therefore, it is eligible for annexation through the voluntary process per Chapter 171.044, *Florida Statutes*.

LAND USE AND ZONING

The subject site currently has a Palm Beach County Future Land Use designation of Commercial High, with an underlying High Residential-8 (CH/8) and a County zoning designation of General Commercial (GC) District. The subject site is adjacent to the Golden Bear Plaza within Palm Beach Gardens and a single-family residence located within the County to the south and the Hidden Key development to the east within Palm Beach County. To the west and north are retail stores, a preschool, and the Captains Key development, all in unincorporated Palm Beach County. The existing uses, zoning districts, and future land-use designations of the adjacent properties are summarized in Table 1.

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Table 1. Existing Zoning and Land-Use Designations

EXISTING USE	ZONING	FUTURE LAND USE
<u>Subject Property</u> Carl's Plaza shopping center	General Commercial (GC) Palm Beach County	Commercial High, with an underlying High Residential-8 (CH/8) Palm Beach County
<u>North</u> Residential, Retail Palm Beach County	Single Family Residential (RS), General Commercial (GC) Palm Beach County	Low Residential, 2 units per acre (LR-2), Commercial High, with an underlying High Residential-8 (CH/8) Palm Beach County
<u>West</u> Preschool, Retail Palm Beach County	Multi-Family Residential (Medium Density) (RM), General Commercial (GC) Palm Beach County	Commercial High, with an underlying High Residential-8 (CH/8) Palm Beach County
<u>South</u> Golden Bear Plaza Palm Beach Gardens	Planned Unit Development (PUD) with underlying Professional Office (PO) Palm Beach Gardens	Professional Office (PO) Palm Beach Gardens
<u>East</u> Canal, Residential Palm Beach County	Single Family Residential (RS) Palm Beach County	Low Residential, 2 units per acre (LR-2) Palm Beach County

CONSISTENCY WITH FLORIDA STATUTES

Section 171.044, *Florida Statutes*, includes criteria that an area being considered for voluntary annexation shall satisfy prior to local government annexation:

(1) The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.

Staff Comment: The subject area is located within unincorporated Palm Beach County and is contiguous on the southern boundary to the City's municipal boundaries and is reasonably compact. The parcel is included in the Map A.4.-Potential Future Annexation of the City's Comprehensive Plan. Therefore, the proposed annexation is consistent with this section of the Florida Statutes.

(2) Upon determination by the governing body of the municipality that the petition bears the signatures of all owners of property in the area proposed to be annexed, the governing body may, at any regular meeting, adopt a nonemergency ordinance to annex said property and redefine the boundary lines of the municipality to include said property. Said ordinance shall be passed after notice of the annexation has been published at least once each week for two consecutive weeks in some newspaper in such city or town or, if no newspaper is published in

said city or town, then in a newspaper published in the same county; and if no newspaper is published in said county, then at least three printed copies of said notice shall be posted for four (4) consecutive weeks at some conspicuous place in said city or town. The notice shall give the ordinance number and a brief, general description of the area proposed to be annexed. The description shall include a map clearly showing the area and a statement that the complete legal description by metes and bounds and the ordinance can be obtained from the office of the city clerk.

Staff Comment: The subject property is under single ownership, and the City has received the signature of the property owner of the area to be annexed. Prior to the adoption of the Ordinance by the City Council for annexation, the notice (legal advertisement) will be published once each week for two consecutive weeks in the City's local newspaper (The Palm Beach Post), to meet the requirements of the Florida Statute.

(3) An ordinance adopted under this section shall be filed with the clerk of the circuit court and the chief administrative officer of the county in which the municipality is located and with the Department of State within seven (7) days after the adoption of such ordinance. The ordinance must include a map which clearly shows the annexed area and a complete legal description of that area by metes and bounds.

Staff Comment: This requirement shall be satisfied within seven days of adoption of the Ordinance by the City Council.

(4) The method of annexation provided by this section shall be supplemental to any other procedure provided by general or special law, except that this section shall not apply to municipalities in counties with charters which provide for an exclusive method of municipal annexation.

Staff Comment: Palm Beach County has been directly notified of the submission of this voluntary annexation petition. On June 18, 2018, the Preliminary Notification, as outlined in the Palm Beach County Voluntary Annexation Process Overview as governed by Chapter 177.044, *Florida Statutes*, and Ordinance 2007-018, was completed. This was accomplished through a letter mailed to Ms. Verdenia Baker, County Administrator, with copies to the Palm Beach County Planning Director Lorenzo Aghemo as instructed in the Palm Beach County overview documentation.

(5) Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves.

Staff Comment: The proposed annexation does not create an enclave as defined in Chapter 171.031(13)(a) and (b), *Florida Statutes*. Annexation of the subject property does not create an area that is enclosed and bounded on all sides by the City, nor does it create an area that is enclosed and bounded within the City and a natural or manmade obstacle that allows passage of vehicular traffic to that unincorporated area only through the City. The unincorporated parcel located at 11920 U.S. Highway One currently has vehicular access only through the City and is an enclave pursuant to Chapter 171.031(13)(b), *Florida Statutes*. The proposed annexation will not create an enclave or expand an existing enclave.

(6) Not fewer than ten (10) days prior to publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the Board of the County Commissioners of the county wherein the municipality is located. The notice provision provided in this subsection may be the basis for a cause of action invalidating the annexation.

Staff Comment: A copy of the notice will be provided via certified mail to the Board of County Commissioners no fewer than ten days prior to publishing the Ordinance notice in The Palm Beach Post as required.

LEVEL OF SERVICE ANALYSIS (LOS)

Water and Wastewater

The property is located within the Seacoast Utility Authority (SUA) service area and currently receives potable water and sanitary sewer service through SUA. SUA will continue to provide potable water and sanitary sewer service after annexation.

Solid Waste

The property is located in the Solid Waste Authority of Palm Beach County (SWA) service area that is the provider of solid waste disposal and recycling services. The proposed annexation will not negatively impact the SWA.

Recreation

The proposed annexation is commercial in nature, so the City's recreation Level of Service Standards do not apply.

Drainage

The subject property is located within the boundaries of the South Florida Water Management District (SFWMD) and Palm Beach County. Legal positive outfall is available via discharge to the canal adjacent to the site on the east. Existing site drainage conditions may need to be modified and the allowable discharge reviewed in accordance with SFWMD and the City of Palm Beach Gardens criteria if significant redevelopment occurs on this site.

Public Safety

The Police Department (letter dated June 22, 2018) and Fire Department (letter dated June 29, 2018) have indicated they have the capacity to serve the proposed annexation area to maintain the police and fire Levels of Service.

Traffic

No change in the square footage is proposed with the annexation, and there are no adverse impacts to the Traffic Level of Service. The Palm Beach County Engineering Department had advised the City of existing roadway improvement conditions for the approved redevelopment of the site. No site plan has been submitted with the annexation petition for redevelopment of the site. The roadway improvement conditions will be evaluated when a redevelopment site plan is submitted, and the appropriate conditions will be applied at that time.

Conclusion of Level of Service Analysis

The Applicant's analysis demonstrates that there will be no direct adverse impacts on the adopted Level of Service (LOS) standards for water, wastewater, solid waste, recreation, police and fire services, and traffic. Therefore, the proposed annexation will not pose a negative impact on the public facilities in the area.

CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN

The proposed annexation area is included in the City's Potential Future Annexation Area (Map A.4.) as outlined in the City's Comprehensive Plan.

PLANNING, ZONING, AND APPEALS BOARD (PZAB)

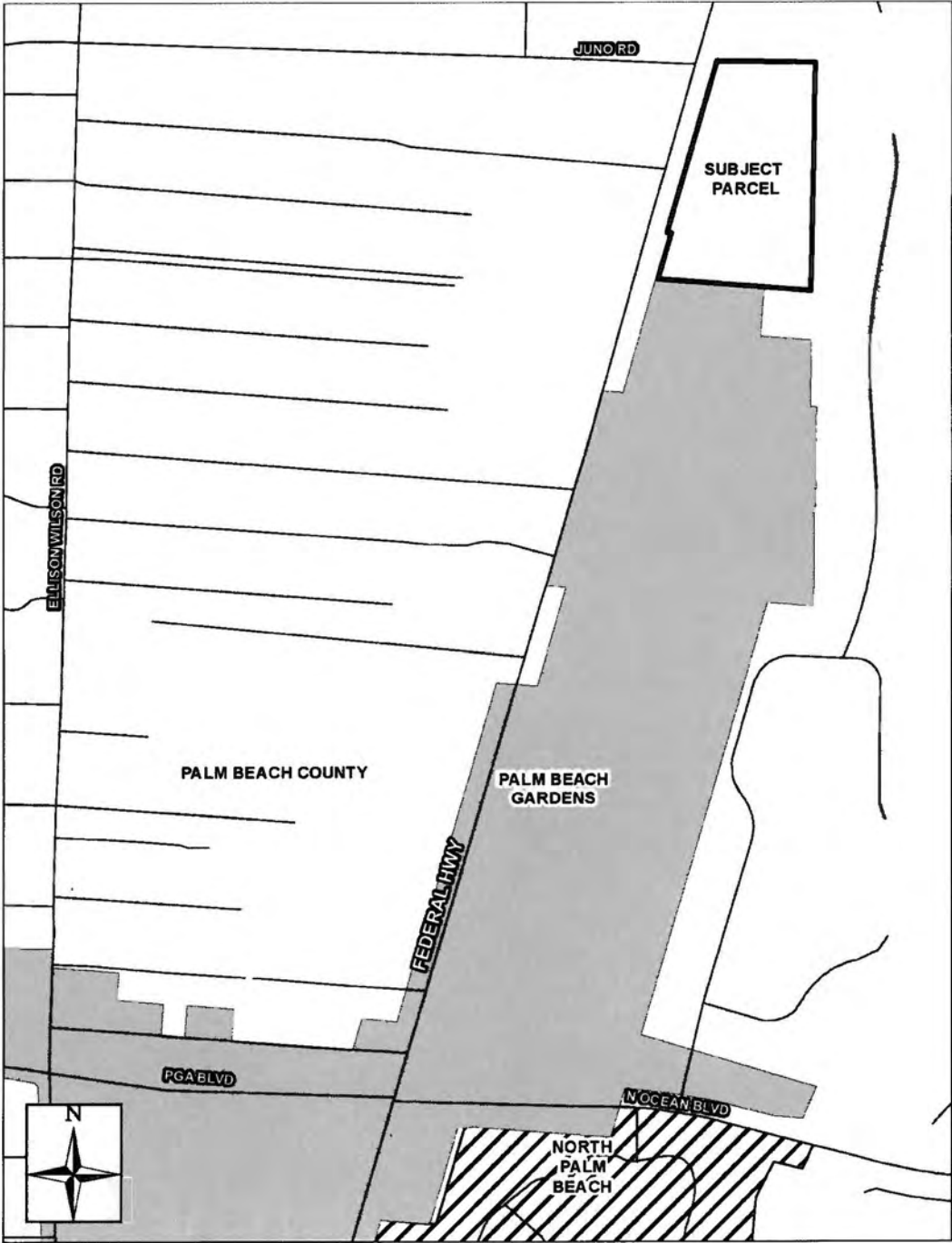
The Planning, Zoning, and Appeals Board heard the request at the August 14, 2018, meeting and recommended approval by a vote of 4 to 0.

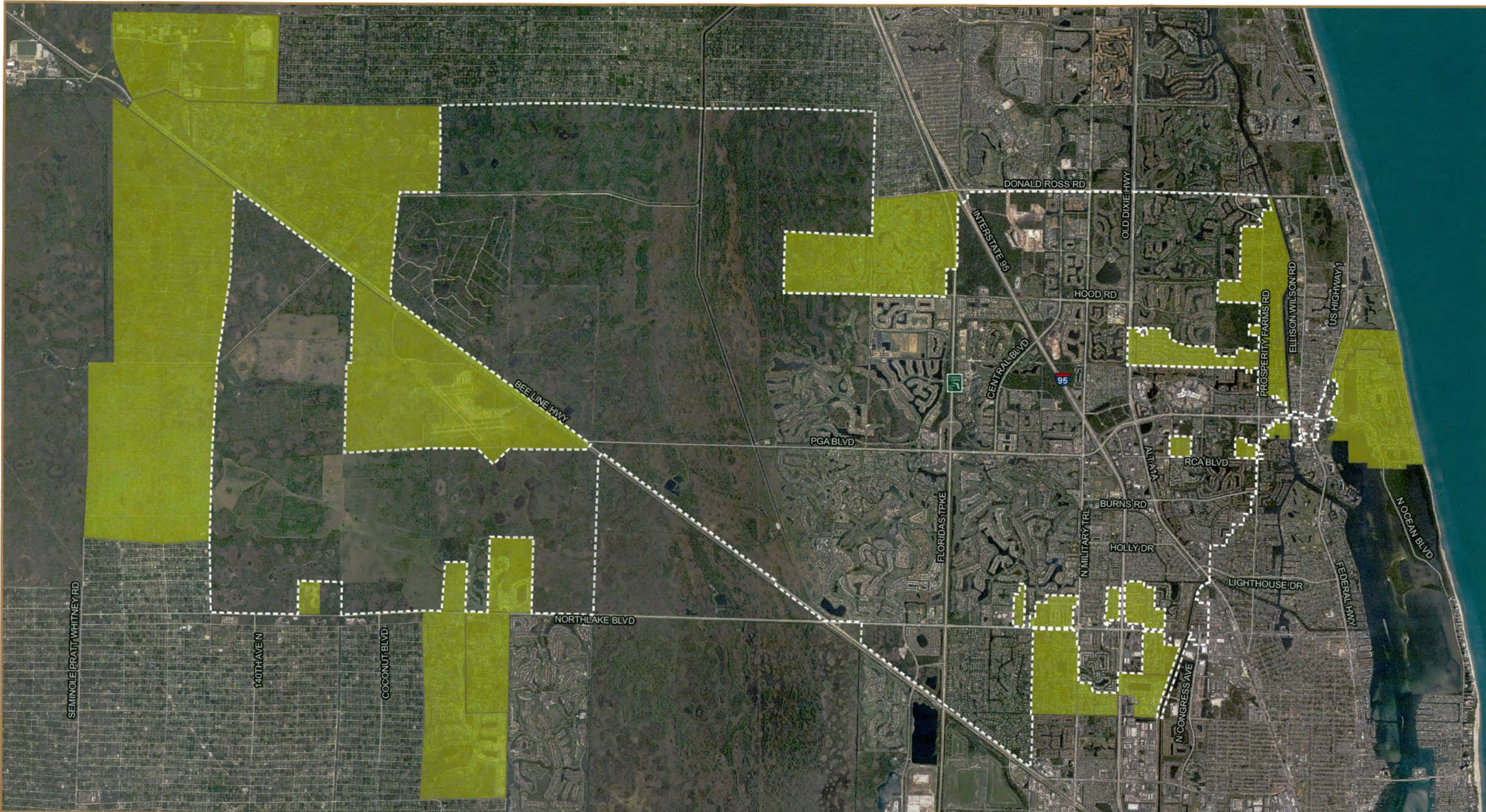
STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of Ordinance 20, 2018 for the 5.74-acre parcel based upon the following findings of fact:

- The subject annexation request is consistent with Chapter 171.044, *Florida Statutes*.
- The subject property meets the City of Palm Beach Gardens Level of Service Standards.
- The subject property is included in the City's Potential Future Annexation Area as shown on the City's Comprehensive Plan Map A.4.

Location Map





MAP A.4. POTENTIAL FUTURE ANNEXATION
 City of Palm Beach Gardens
 Palm Beach County, Florida

 POTENTIAL ANNEXATION AREA  MUNICIPAL BOUNDARY



Updated September 21, 2016
 Source: PBG-Planning & Zoning

LEGAL DESCRIPTION

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE CENTERLINE OF U.S. HIGHWAY NO. 1 (NORTH FEDERAL HIGHWAY) (STATE ROAD NO. 5) WITH THE NORTH LINE OF SAID NORTHWEST 1/4; THENCE SOUTH $89^{\circ}13'02''$ EAST ON SAID NORTH LINE 62.30 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH $89^{\circ}13'02''$ EAST ON SAID NORTH LINE 292.60 FEET TO THE NORTHWEST CORNER OF LOT 18 OF "HIDDEN KEY NORTH", RECORDED IN PLAT BOOK 28, PAGE 129, OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH $01^{\circ}08'10''$ WEST ON THE WEST LINE OF SAID LOT 18 AND LOTS 19, 20, 21, 22, AND 23 OF SAID "HIDDEN KEY NORTH", 672.13 FEET TO THE INTERSECTION WITH THE NORTH LINE OF THE PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 15153, PAGE 1902, OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE NORTH $85^{\circ}38'52''$ WEST ON SAID NORTH LINE AND ON THE NORTH LINE OF THE PARCELS OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2936, PAGE 1450 AND IN OFFICIAL RECORDS BOOK 20480, PAGE 248, OF THE PUBLIC RECORDS OF SAID COUNTY, 456.93 FEET TO THE SOUTHEAST CORNER OF ADDITIONAL RIGHT-OF-WAY FOR U.S. HIGHWAY NO. 1 RECORDED IN OFFICIAL RECORDS BOOK 5630, PAGE 207 OF SAID PUBLIC RECORDS; THENCE ON THE EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY NO. 1 THE FOLLOWING 3 NUMBERED COURSES AND DISTANCES: 1) NORTH $16^{\circ}24'36''$ EAST 139.94 FEET; 2) NORTH $88^{\circ}46'31''$ WEST 12.43 FEET; 3) NORTH $16^{\circ}24'36''$ EAST 528.34 FEET TO THE POINT OF BEGINNING.

ORDINANCE 20, 2018

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2
3
4 AN ORDINANCE OF THE CITY COUNCIL OF CITY OF PALM BEACH
5 GARDENS, FLORIDA, ANNEXING, PURSUANT TO A PETITION FOR
6 VOLUNTARY ANNEXATION, A PARCEL OF REAL PROPERTY
7 COMPRISING A TOTAL OF 5.74 ACRES, MORE OR LESS,
8 LOCATED ON THE SOUTHEAST CORNER OF U.S. HIGHWAY ONE
9 AND JUNO ROAD, APPROXIMATELY 0.5 MILES NORTH OF THE
10 INTERSECTION OF PGA BOULEVARD AND U.S. HIGHWAY ONE IN
11 PALM BEACH COUNTY, FLORIDA, AS MORE PARTICULARLY
12 DESCRIBED HEREIN; DECLARING THAT THE VOLUNTARY
13 ANNEXATION PETITION BEARS THE SIGNATURE OF THE OWNER
14 OF THE REAL PROPERTY ANNEXED HEREBY; AMENDING
15 ARTICLE II OF THE CITY CHARTER BY REDEFINING THE
16 CORPORATE LIMITS; PROVIDING FOR TRANSMITTAL TO THE
17 FLORIDA DEPARTMENT OF STATE, THE FLORIDA GOVERNOR'S
18 OFFICE, AND PALM BEACH COUNTY; PROVIDING A CONFLICTS
19 CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO
20 CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER
21 PURPOSES.
22
23

24 **WHEREAS**, the City of Palm Beach Gardens has received an application (ANNX-
25 18-06-000014) from 11940 Highway One Realty, LLC, owner of Carl's Plaza, for
26 annexation of one parcel under one owner, totaling 5.74 acres, more or less, that is
27 currently located in Palm Beach County, into the City of Palm Beach Gardens; and
28

29 **WHEREAS**, the area to be annexed is contiguous to the City and is reasonably
30 compact; and
31

32 **WHEREAS**, the annexation of the area will not result in the creation of an enclave;
33 and
34

35 **WHEREAS**, the area to be annexed meets the requirements of Section 171.044,
36 *Florida Statutes*, concerning the character of the area to be annexed; and
37

38 **WHEREAS**, the annexation area is included in the City's Potential Future
39 Annexation Area of the City's Comprehensive Plan; and
40

41 **WHEREAS**, the Planning and Zoning Department has reviewed the application,
42 has determined it is sufficient, and has recommended approval; and
43

44 **WHEREAS**, this annexation petition (ANNX-18-06-000014) was reviewed by the
45 Planning, Zoning, and Appeals Board at a public hearing on August 14, 2018, and
46 recommended approval by a vote of 4 to 0; and

1 **WHEREAS**, the City Council deems approval of this Ordinance to be in the best
2 interests of the health, safety, and welfare of the residents and citizens of the City of Palm
3 Beach Gardens and the public at large.
4

5
6 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**
7 **OF PALM BEACH GARDENS, FLORIDA**, that:
8

9 **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.
10

11 **SECTION 2.** The City Council of the City of Palm Beach Gardens finds that the
12 written petition for voluntary annexation filed with the City bears the signature of the owner
13 of the real property hereby annexed into the City.
14

15 **SECTION 3.** The City Council hereby annexes into the City of Palm Beach
16 Gardens an area of contiguous, compact, unincorporated territory located on the
17 southeast corner of the intersection of Juno Road and U.S. Highway One approximately
18 one-half (0.5) mile north of the intersection of U.S. Highway One and PGA Boulevard, as
19 reflected on Exhibit "A", attached hereto, for the real property described as follows:
20

21 (See Exhibit "B" for Legal Description)
22

23 **SECTION 4.** Article II of the Charter of the City of Palm Beach Gardens, Florida,
24 that contains the legal description of the City's incorporated municipal boundaries is
25 hereby redefined to include the real property described in Exhibit "B", attached hereto,
26 and the property is hereby declared to be within the City's corporate limits. A certified
27 copy of this Ordinance shall be filed as a revision to the City Charter with the Department
28 of State of the State of Florida within 30 days from the effective date of this Ordinance in
29 accordance with Sections 166.031(3) and 171.091, *Florida Statutes*.
30

31 **SECTION 5.** Section 2-1 of the City Charter, entitled "Boundaries", is hereby
32 amended to reflect the property annexed into the City by this Ordinance.
33

34 **SECTION 6.** The City's Director of Planning and Zoning is hereby directed to
35 ensure that this Ordinance and all other necessary documents are forwarded to the Florida
36 Department of State and other agencies in accordance with Section 171.091, *Florida*
37 *Statutes*.
38

39 **SECTION 7.** Codification of Section 3 of this Ordinance is hereby authorized and
40 directed.
41

42 **SECTION 8.** All ordinances or parts of ordinances of the City of Palm Beach
43 Gardens, Florida, that are in conflict with this Ordinance are hereby repealed to the extent
44 of such conflict.
45
46

1 **SECTION 9.** If any section, paragraph, sentence, clause, phrase, or word of this
2 Ordinance is for any reason held by a court of competent jurisdiction to be
3 unconstitutional, inoperative, or void, such holding shall not affect the remainder of this
4 Ordinance.

5
6 **SECTION 10.** This Ordinance shall become effective immediately upon adoption.

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PASSED this ____ day of _____, 2018, upon first reading.

PASSED AND ADOPTED this ____ day of _____, 2018, upon second and final reading.

CITY OF PALM BEACH GARDENS	FOR	AGAINST	ABSENT
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By: _____ Maria G. Marino, Mayor	_____	_____	_____
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_____	_____	_____	_____
Carl W. Woods, Vice Mayor			

_____	_____	_____	_____
Mark T. Marciano, Councilmember			

_____	_____	_____	_____
Matthew Jay Lane, Councilmember			

_____	_____	_____	_____
Rachelle A. Litt, Councilmember			

ATTEST:

BY: _____
Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: _____
R. Max Lohman, City Attorney



EXHIBIT "A"

Location Map

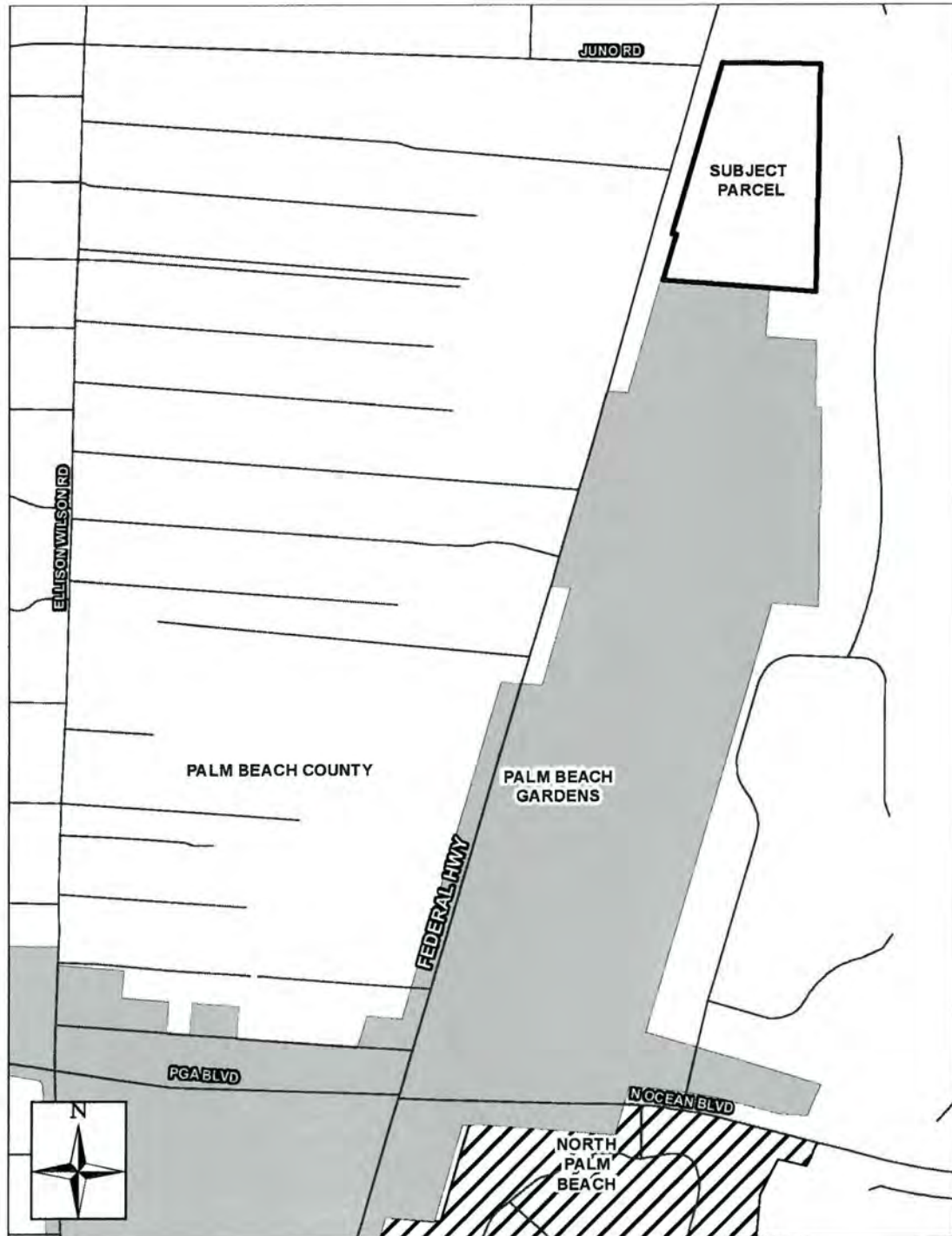


EXHIBIT "B"

LEGAL DESCRIPTION:

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