

	DEVELOPMENT & NEIGHBORHOOD SERVICES STAFF REPORT AND RECOMMENDATION
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Subject/Agenda Item:

Ordinance 2023-23: ANX-23-02 – Denton Nursery Voluntary Annexation - 4964 Gardner Lane and LWDD parcel First Reading: A voluntary request for two (2) parcels of land totaling approximately 6.22 acres. The first site is a 3.5918-acre residential lot located on the east side of the terminus of Gardner Lane at 4964 Gardner Lane and the second parcel is the 2.63-acre adjacent Lake Worth Drainage District (LWDD) drainage easement parcel adjacent to the Canal 14 right-of-way.

Recommendation to APPROVE

Recommendation to DENY

Quasi-Judicial

Legislative

Public Hearing

<p>Originating Department: Planning & Engineering</p> <p>Project Manager</p> <p>_____</p> <p>Gionni Gallier, Senior Planner</p>	<p>Reviewed By:</p> <p>Director of Development & Neighborhood Services (DNS)</p> <p>_____</p> <p>Denise Malone, AICP, Director DNS</p>
<p>Approved By:</p> <p>City Manager</p> <p>_____</p> <p>Andrea McCue</p>	<p>Public Notice:</p> <p><input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required</p> <p>Date: 12/28/23, 5/2/24, 5/9/24</p> <p>Paper: Lake Worth Herald, Palm Beach Post</p> <p>Mailing</p> <p><input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required</p> <p>Notice Distance: 300'</p>
<p>Attachments:</p> <ul style="list-style-type: none"> • Ordinance 2023-23 • Exhibit "A" 	<p>City Council Action:</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Approve with conditions</p> <p><input type="checkbox"/> Denial</p> <p><input type="checkbox"/> Continued to: _____</p>

I. Executive Summary

The proposed annexation involves two parcels, totaling approximately 6.22 acres, located within unincorporated Palm Beach County, and identified within the City's Future Annexation Area. These parcels are part of an existing Palm Beach County enclave adjacent to the City's boundaries and consequently, the proposed annexation will reduce the size of the existing enclave.

The applicants are proposing a voluntary annexation as provided for in Section 171.044, Florida Statutes. This annexation proposal was advertised in the Lake Worth Herald on December 28, 2023. The proposal was submitted to the County Administrator and to County Planning staff on December 29, 2023 via certified return receipt. Additionally, the proposal was submitted to IPARC on February 7, 2024 and on March 20, 2024 the County Planning staff provided the City with a letter of no objection. This voluntary annexation meets Florida State Statutes and Palm Beach County procedures for processing annexations. To date, Staff has not received any objections to the request.

II. Site Data:

Property Information:	See Exhibit A
Size:	6.22 total acres

III. Annexation/Zoning History:

This proposed annexation, currently part of unincorporated Palm Beach County, comprises of two (2) parcels totaling 6.22 acres. These parcels include both developed lands, featuring a single-family residence, and an access easement for the Lake Worth drainage District (LWDD) Canal 14 right-of-way for drainage purposes. The parcels are situated within the designated Future Annexation Area of the City and constitute part of several Palm Beach County enclaves within the City's jurisdictional boundaries.

The single-family parcel is currently developed with a 4,344 square foot residence constructed in 1970. The site has approval from Palm Beach County for the Wholesale Nursery through a Concurrency Reservation (CONR-2016-561) and a Special Permit (SPWN-2016-816), along with approval of the accessory use of Landscape Services (PCN-2015-2463). The property owners intend to continue with the approved principal and accessory uses on the site.

The second parcel serves as an existing access and maintenance area for the adjacent Canal 14 right-of-way, owned and maintained by the Lake Worth Drainage District (LWDD).

Future planning applications for the Wholesale Nursery and Landscape Services parcel, including Future Land Use Map Amendment and Rezoning are concurrently being considered and processed following the successful annexation into the city. The proposed annexation of these parcels represents a voluntary initiative by the applicants, in compliance with Section 171.044, Florida Statutes.

IV. Applicable Comprehensive Plan Provisions:

Annexation Element:

Objective 1, page ANX 19--	Addresses efficiency, concurrency and levels of service (LOS).
Objective 1, Policy c), page ANX 19--	Prohibits creating enclaves, or pocket areas which are not reasonably compact.
Objective 2, page ANX 19--	Encourages orderly annexation in the future annexation boundaries through coordination with adjacent municipalities and Palm Beach County.
Objective 4, page ANX 20--	Supports annexations which are deemed necessary to promote the orderly growth of the City and will not adversely impact the City's ability to fulfill other plans.
Objective 4, Policy a), page ANX 20--	Outlines six guidelines for annexations.

The proposed voluntary annexations are consistent with the Comprehensive Plan and the City's mapped Future Annexation Area.

V. Applicable City Code and Statutory Provisions:

Article III, Section 10 of the City Charter relating to annexation.

Sec. 16-8 of the City Code relating to zoning of annexed areas.

Chapter 171, Florida Statutes relating to voluntary annexation.

The proposed voluntary annexations are consistent with the City Code of Ordinances, comply with the Florida Statutes, and the City's procedures for annexation have been met.

VI. Staff Analysis:

Development Review Committee Comments:

The petition was informally reviewed by the Development Review Committee (DRC).

Planning and Engineering:	Incorporated into report
Building:	No objections
Public Works:	No objections
Fire Rescue:	No objections
PBSO District #16:	No objections

Background:

The sites proposed for annexation contains two (2) parcels, with one (1) parcel including a single-family home incorporating a Wholesale Nursey business through the Palm Beach County approval of a Concurrency Reservation (CONR-2016-561) and a Special Permit (SPWN-2016-816), and an

accessory Landscape Services business through the Palm Beach County approval of (PCN-2015-2463) and the other is a parcel adjacent to LWDD Canal 14 that provides for maintenance access to the adjacent drainage right-of-way. The sites are contiguous to the City's boundary on the east and south perimeter. City Future Land Use and Zoning Designations will be applied to the property which includes the Wholesale Nursery and Landscape Services business through the concurrent applications being processed for the (CPA-24-02) Future Land Use Map Amendment to transition from County Low Residential – 2 units per Acre to City Residential Low Density and for the (ZC-24-02) Rezoning to transition from County Agricultural Residence to City Agricultural Residence. The two sites will be annexed and continue to operate as currently developed. The Landscape Services activity is permitted and conducted in conformance with Palm Beach County's Unified Land Development Code (ULDC) at this time. However, this use is not specifically mentioned in the City of Greenacres Code of Ordinances and the City designates a use as a Prohibited Use if it is not specifically, or by reasonable implication permitted, or permissible by Special Exception, consequently, the Landscape Services activity will be deemed a legal non-conforming use by the City upon annexation. Conversely, any use or activity conducted contrary to Palm Beach County's ULDC at the effective date of annexation and not constituting a legal non-conforming use under the County ULDC, shall not be considered a legal non-conforming use by the City.

Palm Beach County's Unified Land Development Code (ULDC) defines a Wholesale Nursery as "The wholesale of horticultural specialties such as flowers, shrubs, sod, and trees, mulch, and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes."

Regarding the Wholesale Nursery, the City of Greenacres permits Commercial Nurseries under Section 16-257(1) with specific standards. Upon annexation, these standards will be applied to and govern the Wholesale Nursery Use on the property, with supplemental standards being retained from Palm Beach County's regulations to ensure the continuity of the harmony and compatibility with the surrounding residential areas. The decision to retain and apply certain County standards alongside those of the City of Greenacres is again aimed for the continuity of the harmony and compatibility with the neighboring residential as the nursery's initial approval and subsequent operations were in accordance with those County regulations. The standards that will apply to the Wholesale Nursery after annexation include the following:

- a. Sales limited to wholesale operations only to exporters, distributors, landscape contractors, and retailers.
- b. All nursery operations, including storage, to be set back a minimum of 25 feet; *the supplemental standards from Palm Beach County's ULDC Article 5.B.1.A.3 Outdoor*

Storage and Activities as outlined below will continue to be applicable to ensure continued compatibility with the neighboring residential. In instances where there exists a conflict between this standard and the supplemental standards outlined in Palm Beach County's ULDC Article 5.B.1.A.3 Outdoor Storage and Activities, the more restrictive requirement shall apply to ensure continued compatibility with neighboring residential areas.

1) Specifically, the standards for Outdoor Storage and Activities from Palm Beach County will be carried over from PBC ULDC Article 5.B.1.A.3 as a supplemental standard to continue to be applied to this specific use of this property upon Annexation as the City Code does not include standards to such extent. Outdoor bulk storage in residential zoning districts shall be setback a minimum of 50 feet or the district setback, whichever is greater.

PBC ULDC Article 5.B.1.A.3 Outdoor Storage and Activities

Outdoor storage of merchandise, inventory, vehicles and trailers used in operation of a business, equipment, refuse, or similar materials, and outdoor activities associated with a use operation in all zoning districts shall be subject to the following standards, unless stated otherwise, standards follow:

a. General

Outdoor Storage and Activities may only be allowed when incidental to the use located on the premises.

b. Location

Outdoor Storage and Activity areas shall not be located in any of the required setbacks. Bollards or other acceptable barricade to the Zoning Division shall be provided to delineate pile locations.

c. Height

Outdoor Storage material shall not exceed 15 feet in height or the height of the screening, whichever is less.

d. Screening

Outdoor Storage and Activity areas shall be completely screened from all property lines by landscaping, fences, walls, or buildings.

e. Industrial FLU Designation, Zoning Districts or Uses standards omitted for brevity and non-applicability.

f. Exceptions

The following uses or material are exempt from this:

1) Storage and sales of landscape plant material.

2) Temporary storage of material used for road construction on a lot directly adjacent to the roadway under construction.

g. Parking/Storage

The parking and storage of vehicles and trailers, used in operation of a business, shall be on an improved surface.

c. Shade houses permitted as accessory structures, meeting specific criteria.

d. All heavy equipment and truck operations limited to daytime operations only, without encroaching into easements, rights-of-way, or setbacks; *operations prohibited between 7 p.m. and 6 a.m., in accordance with current Palm Beach County approved standards.*

1) Specifically, the limitation with no operations between 7pm to 6am, aligning with current Palm Beach County standards will be carried over from PBC ULDC Article 4.B.6.14.i. Hours of Operation as a supplemental standard to continue to be applied to this specific use of the property upon Annexation as the City Code does not include any specific hours of operations. Art 4.B.6.14.i. Hours of Operation states “Operation of commercial vehicles over one-ton rated capacity or gross vehicle weight of 10,000 pounds, including load, from 7p.m. to 6a.m. is prohibited.”

e. No aerial application of chemicals permitted.

f. Notification of agricultural operations to South Florida Water Management District.

g. One residential dwelling unit permitted per agricultural operation for office use.

Palm Beach County’s Unified Land Development Code (ULDC) separately defines Landscape Services as “An establishment engaged in the maintenance or installation of landscaping. The typical On-Site Activities includes administrative office; customer and employee parking; and, storage or parking of landscape vehicles, chemicals, fertilizers, landscape materials, and equipment. The typical Off-Site Activities may include but are not limited to: lawn mowing; trimming of vegetation including

trees, shrubs, or hedges; irrigation; fertilizer application; leaf blowing; landscaping design; maintenance; or, installation.” The Landscape Services were allowed by Palm Beach County as an accessory use to a Retail and/or Wholesale Nursery on a minimum of three acres.

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, is contiguous on two sides to the City's municipal boundaries (east and south), and is reasonably compact. The parcel is concentrated in a single area. Therefore, the proposed annexation is consistent with this provision 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 two subject properties are each under single ownership, and the City has received the signature of the property owners 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 statutory requirement shall be satisfied within seven days following the 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 December 22, 2023, 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 Kevin Fisher, as instructed in the Palm Beach County overview documentation. Subsequently, the City met with County Planning staff on January 23, 2024 and County staff supplied a letter of no objection on March 20, 2024..

(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 subject property is located within an existing enclave as the property is only accessible by vehicular traffic through the City of Greenacres along Melaleuca Lane, and the annexation will reduce the size of 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: As required, a copy of the notice was 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.

LEVEL OF SERVICE ANALYSIS (LOS)

Water and Wastewater

The property currently falls within the service area of the Palm Beach County Water Utilities Department (PBCWUD) and receives potable water service. Sanitary Sewer is currently not provided for the area. Post-annexation, PBCWUD will continue to supply potable water service, with any future development required to connect to sewer services.

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. Upon annexation, the property will be served by the City's waste services contract with Waste Management.

Recreation

The City has established a level of service for parks and recreation facilities of three (3) acres per 1,000 residents. Based on the existing population estimate of 3.0 residents per single-family structure for the proposed annexation area, the City's existing park and recreation facilities are sufficient to accommodate this additional population and still maintain the level-of-service standards.

Drainage

The subject property is located within the boundaries of the Lake Worth Drainage District (LWDD), South Florida Water Management District (SFWMD) and Palm Beach County, which will not change after annexation. The drainage for the project can be provided for onsite with available outfall to the north and south of the site.

Roadway

Currently, the site is accessed from Melaleuca Lane via a shared easement along Gardner Lane across the five (5) single-family properties. Since the access is along a private access easement and not a city road, the annexation will not impact the annual roadway improvement expenses of the city. Future development of the site would require a Palm Beach County Traffic Performance Standards approval with approved access.

Public Safety

No issues were raised through the City’s Development Review Committee process. Both PBSO District #16 and the Greenacres Fire Department have indicated capacity is available to serve the proposed annexation area to maintain the Levels of Service for both Police and Fire services.

Traffic

The traffic impacts on the surrounding road network will not be adversely modified based on the annexation. This annexation would not result in any additional adverse traffic impacts to the City's roadways. Future development of the site would require a Palm Beach County Traffic Performance Standards approval with approved access.

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 consistent with the overall Goals, Objectives, and Policies of the Comprehensive Plan. More specifically, the annexation is consistent with Objective 4 that states "The City shall support annexations which are deemed necessary to promote the orderly growth of the City and will not adversely impact the City's ability to fulfill other established plans." Policy 4(a)(2) further requires that " The petitioned area must have "a unity of interests with the City" and be "a logical extension" of the City's boundaries. " The proposed site is conveniently located near municipal services and is already developed around all sides so no environmental resources will be impacted and discourages urban sprawl through infill areas within the City.

Annexation Findings of Fact:

The proposed annexation is consistent with the Goals, Objectives and Policies of the City's Comprehensive Plan. The parcels are contiguous to the City and within the boundaries of the Future Annexation Area in the Annexation Element of the Comprehensive Plan.

In addition, the following six guidelines, as specified in Objective 4(a) on page 20 and 21 of the Annexation Element within the Comprehensive Plan, must be addressed. The guidelines apply to both City-initiated and voluntary annexations.

Specific Criteria Findings:

In all annexation requests, the City shall be guided by the following:

- (1) **The area in question must meet statutory requirements pertaining to contiguity, compactness and irregular shape.**

Findings: The annexations are consistent with the provisions in Chapter 171, F.S., specifically the subject properties are not irregular in shape, reasonably compact, and immediately contiguous to the City's municipal boundaries. The subject areas are located within an existing enclave; thus, the proposed annexations will reduce the size of the existing enclave.

- (2) **The petitioned area must have "a unity of interests with the City" and be "a logical extension" of the City's boundaries.**

Findings: The subject property has "a unity of interests with the City" and is "a logical extension" of the City of Greenacres' boundaries. The property is identified as part of the Future Annexation Area in the City's Comprehensive Plan. The annexation of the parcels is a logical extension of the city limits and provides for the extension of the City's boundaries toward future annexation of the pocket area.

The development is compatible and consistent with other development in the City that desires the local support services such as recreation, parks, and local City Hall services. The interests of the existing and proposed community are congruent to the City's.

- (3) **The area shall have a growth potential sufficient to warrant the extension of services.**

Findings: The area has growth potential sufficient to warrant the extension of services. Development and redevelopment activity is taking place in the immediate vicinity and adjacent properties within the City are already receiving City services. Since the property proposed for annexation is contiguous to the City and within an existing unincorporated pocket, the City is able to extend the same level of service provided to residents within the City.

- (4) **The deficit of income against expense to the City shall not be unreasonable.**

Findings: The annexation of the subject property will not create an unreasonable expense or burden upon the City of Greenacres. Since the subject property is contiguous to developed parcels already in the City, and it is in an existing unincorporated pocket, its annexation will not adversely affect the City's overall level of service, nor will it substantially increase costs to the City to warrant the annexation unreasonable. The City will also be provided with revenue from the property taxes of the subject property and the reduction of an unincorporated pocket will improve service delivery efficiency.

- (5) **The advantages both to the City of Greenacres and to the petitioned area must outweigh the disadvantages.**

Findings: The advantages to both the City of Greenacres and the proposed annexation area outweigh any potential disadvantages. The City will benefit by annexing land that is currently identified in the future annexation area and implementing goals, objectives and policies of the Annexation Element of the Comprehensive Plan to eliminate pocket areas. Further, the annexation of the subject property will allow the City to improve the identity of the area as being part of Greenacres and improve service delivery efficiency between the City and Palm Beach County.

- (6) **The City of Greenacres must be willing and able to provide City services as well as ensure that services provided by Palm Beach County are furnished to the newly annexed area within a reasonable time.**

Findings: The City of Greenacres will be able to provide City services to the subject property without degrading any established levels of service, since the City is already providing governmental services to other developments in the immediate area of the subject parcels. Through zoning changes and site plan approval processes, any new development proposed for the properties must demonstrate that services can be provided at the established Level of Service.

Summary of Annexation Criteria:

The voluntary annexation meets all the guidelines specified in the City's Comprehensive Plan and Chapter 171 of the Florida Statutes for the annexation of property. It is a logical extension of the City's boundaries in locations identified as part of the City's future annexation area and will eliminate an existing enclave area.

VII. Staff Recommendation:

Approval of ANX-23-02 through the adoption of Ordinance 2023-23.

**PLANNING AND ZONING BOARD OF APPEALS
RECOMMENDATION – January 11, 2024**

The Planning Commission on a motion made by Commissioner Edmundson and seconded by Commissioner Hayes, voting five (5) to zero (0), ***recommended approval*** of Annexation ***ANX-23-02 (Denton Nursery)***, as presented by staff.

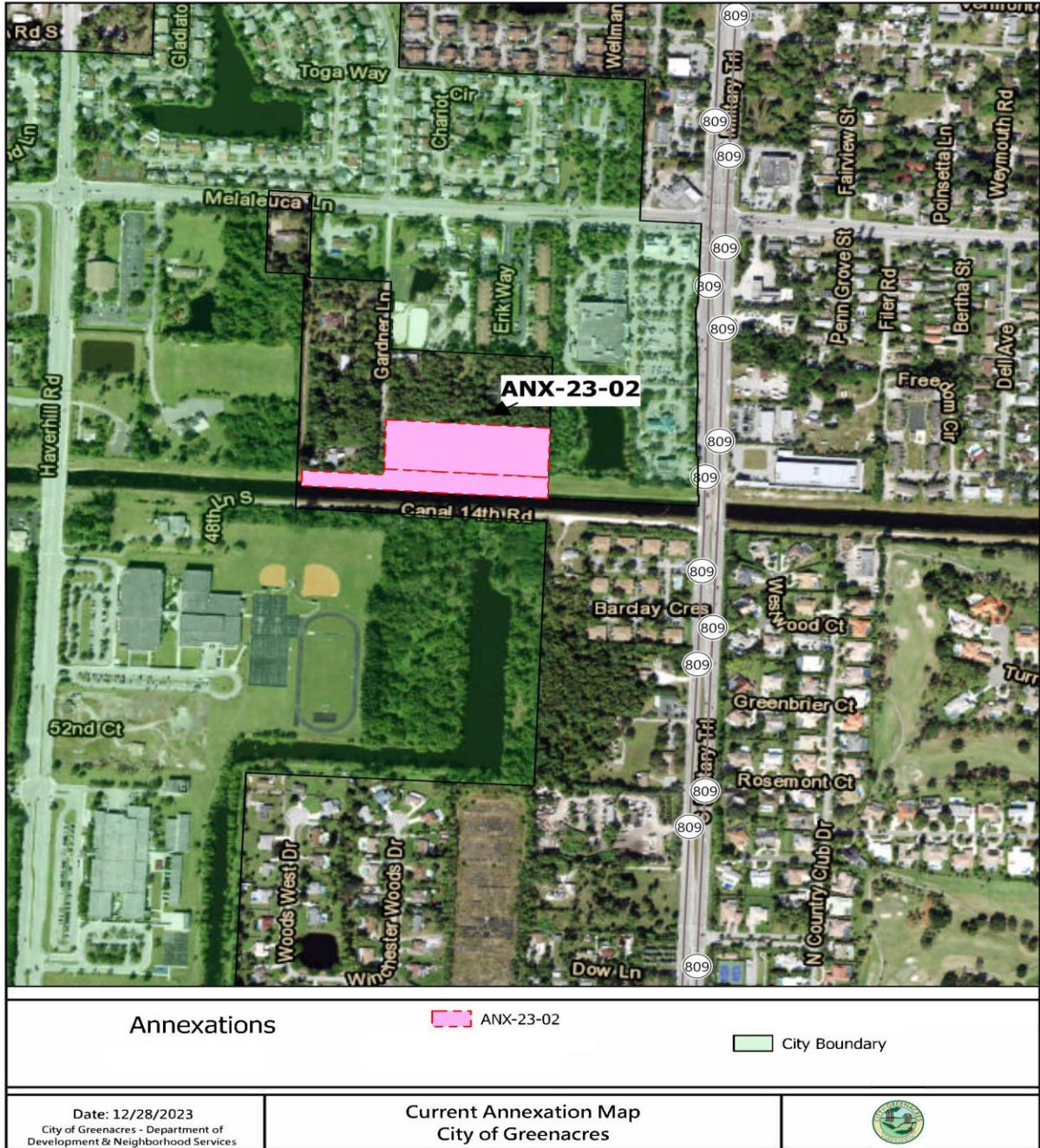
CITY COUNCIL ACTION 1st Reading – April 15, 2024

The City Council on a motion made by Deputy Mayor Dugo and seconded by Council Member Diaz, voting four (4) to zero (0), ***tabled ANX-23-02 (Denton Nursery)***, to date certain City Council meeting on May 6, 2024, as presented by staff.

CITY COUNCIL ACTION 1st Reading – May 6, 2024

CITY COUNCIL ACTION Adoption Hearing –

Exhibit A
 (Voluntary Annexation Map and Legal Description)



Legal Description

PCN: 00-42-44-25-00-000-7176

The South one-half of the Southwest one-quarter of the Southeast one-quarter of the Southwest one-quarter of Section 25, Township 44 South, Range 42 East, Palm Beach County, Florida.

Less the South 110 foot Lake Worth Drainage District L-14 Canal Right of Way per Deed Book 67, Page 561; Chancery Case 407 per Official Records Book 23602, Page 807, all of the Public records of Palm Beach County, Florida.

Said lands situate in the City of Lake Worth, Palm Beach County, Florida containing 156,786 square feet (3.599 acres) more or less.

PCN: 00-42-44-26-00-000-6760 (Partial)

Property that sits at LWDD L-14 Canal R/W (Less PT in E ¼ of W ½ of S ¼ & W ¼ of W ¼ of S ¼), West of Military Trail ROW and excluding that area East of Military Trail ROW

As further described by metes and bounds as: Commencing at the Southwest Corner of Section 25, Township 44 South, Range 42 East, THENCE South 86 degrees, 53 minutes, 43 seconds East for a distance of 988.73 feet to a Point of Beginning: Thence North 01 degree, 24 minutes, 15 seconds East a distance of 72.41 feet, THENCE South 86 degrees, 53 minutes, 43 seconds East a distance of 342.92 feet, THENCE North 01 degree, 24 minutes 15 seconds East a distance of 27.63 feet, THENCE South 86 degrees, 53 minutes, 43 seconds East a distance of 665.92 feet, THENCE South 01 degree 26 minutes 08 seconds West a distance of 100.04 feet, THENCE North 86 degrees, 53 minutes, 43 seconds West a distance of 1009.55 feet to the Point of Beginning.

AND:

The right-of-way adjacent thereto.

CONTAINING A TOTAL OF 6.22 ACRES MORE OR LESS.