



# STAFF REPORT

## CITY OF GREEN COVE SPRINGS, FLORIDA

---

**TO:** City Council **MEETING DATE:** May 18, 2021  
**FROM:** Michael Daniels, AICP, Planning & Zoning Director  
**SUBJECT:** Review of an Annexation request for the Ayrshire Development for the Gustafson's Cattle, Inc. approximately 560.52 acres on CR 15 A, (a portion of parcel #: 016515-000-00)

### PROPERTY DESCRIPTION

**APPLICANT:** Ellen Avery-Smith, Esq. of Rogers Tower, PA **OWNER:** Gustafson's Cattle, Inc.

**PROPERTY LOCATION:** CR 15 A

**PARCEL NUMBER:** 016515-000-00

**FILE NUMBER:** 202001172

**CURRENT ZONING:** Agriculture (County) / Industrial Select (County)

**FUTURE LAND USE DESIGNATION:** Rural Fringe (County) / Industrial (County)

---

### SURROUNDING LAND USE

---

**NORTH:** **FLU:** Recreation  
**Z:** Recreation  
**Use:** Undeveloped

**SOUTH:** **FLU:** Industrial (County)  
**Z:** Heavy Industrial (County)  
**Use:** Industrial / Undeveloped

**EAST:** **FLU:** Industrial (County)  
**Z:** Heavy Industrial (County)  
**Use:** Industrial

**WEST:** **FLU:** Rural  
Residential/Commercial/Agriculture  
(County)  
**Z:** Agricultural Residential/Commercial  
(County)  
**Use:** Single Family Homes, Commercial,  
Undeveloped

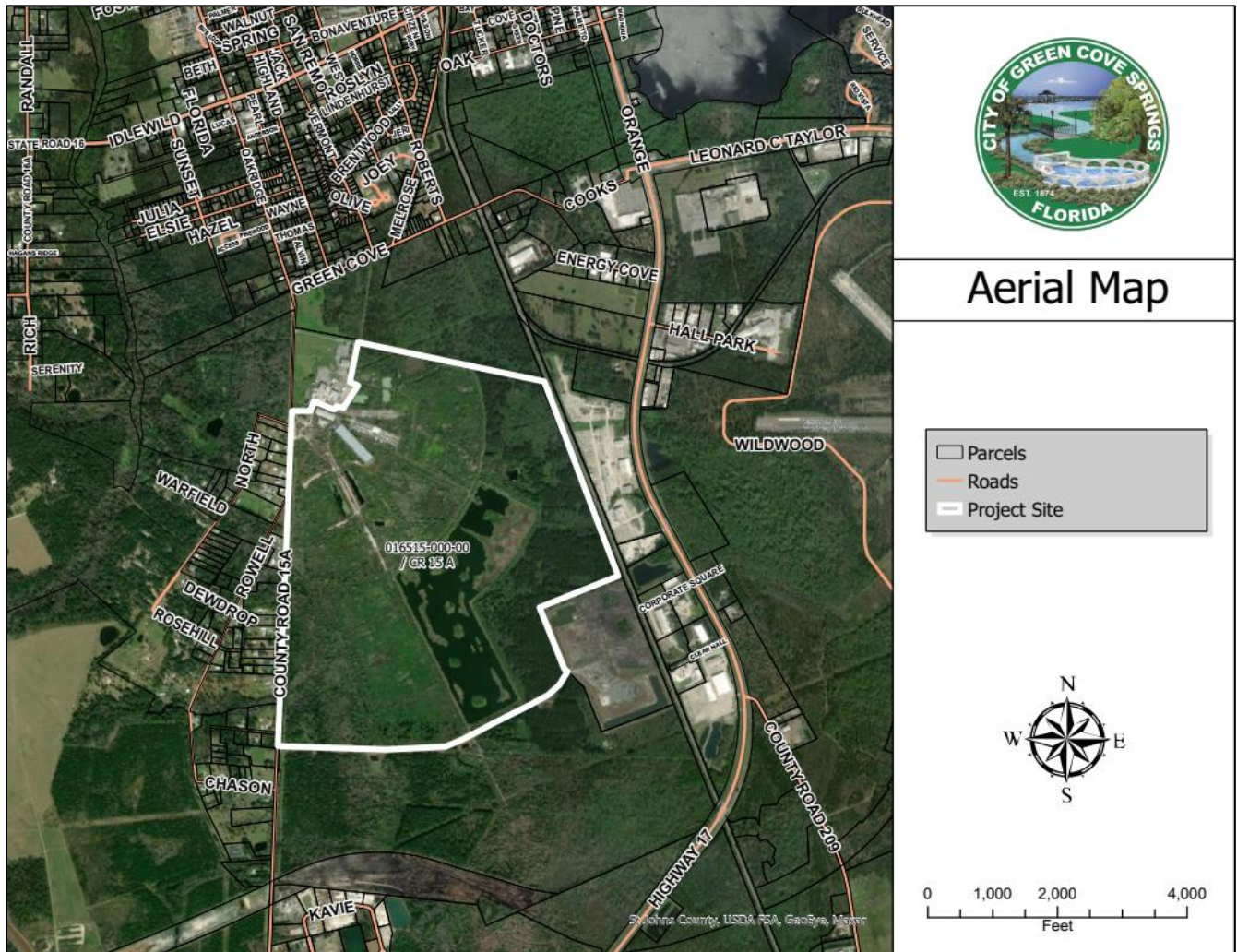
### BACKGROUND

**DEVELOPMENT DESCRIPTION:** The applicant, Ellen Avery Smith Esq, of Rogers Tower PA, has submitted an annexation request for 560.52 acres on behalf of her client, DR Horton, as part of their contractual agreement to purchase the property from the current property owner Gustafson's Cattle Inc.

The property is located on the east side of CR 15A, west of the railroad tracks, south of Green Cove Avenue and north of Jersey Avenue.

The site is located within the City's Electric Service Boundary and will be served by the City's electric and sanitation departments and by the Clay County Utility Authority (CCUA) for water and sewer.

The property is a portion of the land that was targeted by the City for Annexation as part of the 2016 Annexation Report that was reviewed by the Florida Department of Economic Opportunity and approved by the City Council.



**Statutory Requirements for Voluntary Annexation as set forth in State Statute FS 171.044**

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.

*The property owner, Gustafson's Cattle, Inc. submitted a revised annexation petition on March 23, 2021 for the subject property.*

(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 2 consecutive weeks in some newspaper in such city or town.

***Notice to Clay Today has been provided on April 29<sup>th</sup> and on May 6<sup>th</sup>.***

***In addition (not a statutory or city requirement), notice has been provided to all property owners within 300' of the subject property.***

(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 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.

(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.

***Pursuant to research by our legal consultant citing a 1978 Florida Attorney General Report (78-121) and additional legal case law research, in addition to the requirements set forth in FS 171.044, voluntary annexations are required to be contiguous and reasonably compact as defined by statute which are provided below:***

*“Contiguous” means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a publicly owned county park; a right-of-way for a highway, road, railroad, canal, or utility; or a body of water, watercourse, or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically. However, nothing herein shall be construed to allow local rights-of-way, utility easements, railroad rights-of-way, or like entities to be annexed in a corridor fashion to gain contiguity; and when any provision or provisions of special law or laws prohibit the annexation of territory that is separated from the annexing municipality by a body of water or watercourse, then that law shall prevent annexation under this act.*

***Approximately 80% of the northern boundary of the property proposed to be annexed is adjacent to the City.***

*“Compactness” means concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state shall be designed in such a manner as to ensure that the area will be reasonably compact.*

***Annexation of this property does not create an enclave, pockets, or finger areas in serpentine patterns.***

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

Pursuant to FS 171.031:

(13) “Enclave” means:

- (a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or
- (b) Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic

***The property’s northern boundary is adjacent to the City for approximately 3,000 feet and does not surround adjacent unincorporated property within the City limits.***

(6) Not fewer than 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.

*A letter and the ordinance notice were provided to the Clay County Board of County Commissioners and were mailed to the same on April 6, 2021. The certified mail receipt is provided in the packet.*

## STAFF RECOMMENDATION

### RECOMMENDED MOTION:

Motion to approve for form and legality the first reading of Ordinance O-02-2021, to annex the property described therein.