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January 3, 2024

Jim Barnes, Village Manager
Village of Wellington, Village Hall
12300 Forest Hill Blvd
Wellington FL 33414

RE: Proposed Annexation of Southern Blvd. Properties

Dear Mr. Barnes:

The Palm Beach County Board of County Commissioners (BCC) reviewed the Village of Wellington's (Village) proposed annexation described in the table below during a public hearing held on December 5, 2023, and voted 5-1 to object to it. Therefore, please accept this letter as the County's formal objection to the proposed annexation and include it in the record for the 1st and 2nd readings of the proposed annexation ordinance.

Name	Description
Wellington State Road 80 and Seminole Pratt Whitney Road 2024-73-001	Acre: 257.9 approx. Location: North side of State Rd 80, south of E Harlena Dr, east & west sides of Seminole Pratt Whitney Rd. 1st Reading: January 16, 2024 2nd Reading: February 13, 2024

As relayed to the Village's staff in our meeting on November 30, 2023, and reiterated at the BCC meeting on December 5, 2023, the County objects to the proposed annexation because it is inconsistent with Chapter 171, Florida Statutes. Specifically, the proposed annexation does not meet the requirements in Section 171.043, F.S. that it be contiguous to the annexing municipality, and that it be developed for urban purposes, which the Village does not dispute.

I. The proposed annexation area is not contiguous to the Village's boundaries.

Under Section 171.043(1), F.S., the proposed annexation area must be contiguous to the Village's boundaries. Section 171.031(3), F.S. defines "contiguous" as:

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, may 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 in this subsection may 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 of any special law prohibits 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 (emphasis added).

The proposed annexation, if it became effective, would create a portion of the Village that would not be a unified whole with the rest of the Village and its residents as required under the above definition of “Contiguous.” The proposed annexation area is separated from the Village by Southern Boulevard and the C-51 canal, and does not abut any of the Village’s boundaries. While this is not in itself a disqualifier, it prevents the inhabitants of the proposed annexation area from fully associating and trading with other Village residents. Specifically, to access the Village, the inhabitants of the proposed annexation area would have to leave the Village and travel over a mile on Southern Boulevard (a state road) to Binks Forest Drive to interact with the Village’s other inhabitants.

This situation is similar to the situation analyzed in Florida Attorney General Opinion 86-43. In that case, the proposed annexation area was separated from the annexing municipality by a body of water and did not abut any of its boundaries. The Attorney General found that this violated the definition of contiguous because it prevented the proposed annexation area from becoming a unified whole with the annexing municipality. The same can be said for the proposed annexation area here.



II. The proposed annexation area is not developed for urban purposes.

Section 171.043(2), F.S. requires all or part of the proposed annexation area to be developed for urban purposes and it states:

Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

- (a) It has a total resident population equal to at least two persons for each acre of land included within its boundaries;
- (b) It has a total resident population equal to at least one person for each acre of land included within its boundaries and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts are 1 acre or less in size; or
- (c) It is so developed that at least 60 percent of the total number of lots and tracts in the area at the time of annexation are used for urban purposes, and it is subdivided into lots and tracts so that at least 60 percent of the total acreage, not counting the acreage used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres or less in size.

Further, section 171.031(13) F.S. defines urban purposes as:

“Urban purposes” means that land is used intensively for residential, commercial, industrial, institutional, and governmental purposes, including any parcels of land retained in their natural state or kept free of development as dedicated greenbelt areas.

As shown by the attached data and analysis in Exhibit A, and as explained below, the proposed annexation area does not meet any of the requirements set forth in section 171.043(2), F.S. and is therefore not developed for urban purposes and cannot be annexed.



The proposed annexation area does not meet the requirement in section 171.043(2)(a), F.S. that it have “a total resident population equal to at least two persons for each acre of land included within its boundaries.” According to the 2020 census, 54 people reside in the area. Since the area is 257.9 acres, this means that it only has 0.21 persons for each acre of land, well below the 2 person per acre requirement.

The proposed annexation area does not meet the requirement in section 171.043(2)(b), F.S. that it have “a total resident population equal to at least one person for each acre of land included within its boundaries and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts are 1 acre or less in size.” The area, as previously shown, has less than one person per acre, and it does not have **any lots** that are 1 acre or less in size.

The proposed annexation area does not meet the requirement in section 171.043(2)(c), F.S. that it be “so developed that at least 60 percent of the total number of lots and tracts in the area at the time of annexation are used for urban purposes, and it is subdivided into lots and tracts so that at least 60 percent of the total acreage, not counting the acreage used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres or less in size.” Section 171.031(13), F.S. defines “urban purposes” as land that is “used intensively” for residential, commercial, industrial, institutional, or governmental purposes. Without conceding that none of the land in the proposed annexation area is being used intensively for residential, commercial, industrial, institutional, or governmental purposes, the County can identify only 6 of the 38 lots and tracts, or 16%, that are arguably being used for “urban purposes.” None of the lots are being “used intensively” for residential purposes since 1 dwelling unit per 5 acres is not an intensive residential use. That leaves 3 lots that are being used for civic assembly purposes, 1 tract that is being used as road right of way, and the 2 County owned lots that are being used for governmental purposes, namely drainage. As such, less than 60% of the total number of lots in the area are arguably being used for urban purposes. Additionally, if we remove these 6 nonresidential lots and tracts totaling 33.01 acres from the total 257.9 acres of the area we are left with 224.89 acres of which only 39.23 acres, or 17%, are subdivided into lots and tracts 5 acres or less in size which is well below the 60% requirement set forth in the statute. As such, the proposed annexation area does not meet any of the required criteria set forth in 171.043(2), F.S.

Finally, the Village, through its Village Manager – Jim Barnes, admitted that the proposed annexation area does not meet the requirements of 171.043(2), F.S. At the



BCC meeting on December 5, 2023, he told the BCC, in response to a direct question from Commissioner Weiss, that the Village does not dispute that the proposed annexation area does not meet any of the requirements set forth in section 171.043(2), F.S. The meeting may be viewed at the following link: [County Commissioners BCC Meeting Videos \(pbcgov.org\)](https://www.pbcgov.org/CountyCommissioners/BCCMeetingVideos). Mr. Barnes' statement begins at 2:46:15.

The County's various Departments are also currently reviewing this annexation and their comments will be transmitted to the Village in a separate letter. The County remains committed in our efforts to work cooperatively with municipalities towards annexation. The County, however, must object to this annexation due to issues outlined above and BCC direction. Furthermore, the County intends to pursue all legal remedies available, should the Village Council adopt the proposed annexation ordinance. Therefore, please include this letter in the record for both readings of the proposed annexation ordinance scheduled for January 16, 2024, and February 13, 2024 respectively.

Please contact me at 561-233-5467 or Khurshid Mohyuddin, Principal Planner, at 561-233-5351 if you have any additional questions.

Sincerely,

Kevin Fischer, AICP
Planning Director

cc: Board of County Commissioners
Verdenia C. Baker, County Administrator
Patrick W. Rutter, Deputy County Administrator
Whitney Carroll, Esq., AICP, Executive Director, PZ&B
Cindy Hoskin, JD, Deputy Director, PZ&B
Jeff Gagnon, AICP, Deputy Planning Director, PBC

Darren Leiser, Esq., Assistant County Attorney
Khurshid Mohyuddin, AICP, Principal Planner, PBC
Purvi Bhogaita, Director, PBC PREM
Isami Ayala-Collazo, Director, Facilities & Operations
Tim Stillings, AICP, Wellington Planning Director



Exhibit A - Data And Analysis

Parcel Information						
PARID	Acres	Residential Units	Existing Land Use	Future Land Use	Urban Purpose	5 Acres or Less
00404336000002020	4.93	0	Civic - Assembly	RR-5	Yes	Yes
00404336000002030	4.96	0	Vacant	INST	No	Yes
00404336000002040	4.98	0	Agriculture	RR-5	No	Yes
00404336000002050	4.86	0	Civic - Assembly	RR-5	Yes	Yes
00404336000002060	4.98	0	Agriculture	RR-5	No	Yes
00404336000002070	5.07	0	Agriculture	RR-5	No	No
00404336000002080	5.09	1	Agriculture	RR-5	No	No
00404336000002090	5.01	0	Vacant	RR-5	No	No
00404336000002100	5.01	1	Res. Single Family	RR-5	No	No
00404336000002110	5.01	0	Vacant	RR-5	No	No
00404336000002120	5.01	1	Agriculture	RR-5	No	No
00404336000002130	4.86	1	Res. Single Family	RR-5	No	Yes
00404336000002140	4.86	0	Vacant	RR-5	No	Yes
00404336000002150	5.01	0	Government Lands	RR-5	Yes	No
00404336000002160	5.01	0	Government Lands	RR-5	Yes	No
00404336000002170	5.01	1	Agriculture	RR-5	No	No
00404336000002180	5.01	0	Agriculture	RR-5	No	No
00404336000002190	5.09	0	Agriculture	RR-5	No	No
00404336000002200	5.08	1	Equestrian	RR-5	No	No
00404336000002210	5.02	1	Agriculture	RR-5	No	No
00404336000002220	5.01	0	Vacant	RR-5	No	No
00404336000002230	5.01	0	Vacant	RR-5	No	No
00404336000002240	5.01	0	Civic - Assembly	RR-5	Yes	No
00404336000002250	4.86	0	Agriculture	RR-5	No	Yes
00404336000002260	4.86	0	Vacant	RR-5	No	Yes
00404336000002270	5.01	1	Res. Single Family	RR-5	No	No
00404336000002280	5.01	1	Res. Single Family	RR-5	No	No
00404336000002290	5.01	0	Agriculture	RR-5	No	No
00404336000002300	5.01	1	Res. Single Family	RR-5	No	No
00404336000002310	5.10	1	Agriculture	RR-5	No	No
00404336000002320	5.12	1	Agriculture	RR-5	No	No
00404336000002330	5.03	1	Agriculture	RR-5	No	No
00404336000002340	5.04	0	Equestrian	RR-5	No	No
00404336000002350	5.05	1	Equestrian	RR-5	No	No
00404336000002360	5.03	1	Equestrian	RR-5	No	No
00404336000002370	4.86	0	Agriculture	RR-5	No	Yes
00404336000003020	64.48	1	Agriculture	CL/RR-5	No	No
00404336000007020	5.38	0	Vacant	CL/RR-5	No	No
Road ROW	8.19	0	Road ROW	N/A	Yes	No
Total	257.90					

Source: 2023 PBC Property Appraiser, PBC Planning, Zoning, Building Division

Census 2020: Population = 54 persons

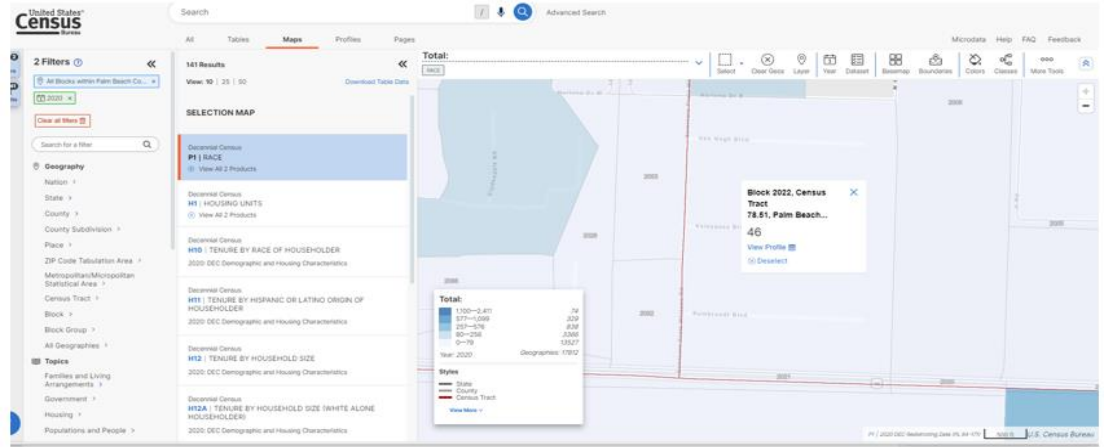
171.043 (2)

- (a) 54 persons/257.9 acres = .21 persons per acre (Does not meet criteria of greater than or equal to 2 persons per acre)
- (b) 54 persons/257.9 acres = .21 persons per acre (Does not meet criteria of greater than or equal to 1 person per acre)
 And (b) total number of lots at 1 acre or less = 0 (Does not meet criteria of at least 60% of lots at 1 acre or less)
- (c) 6/38 lots are used for Urban Purposes = 16%. (Does not meet criteria of greater than 60% Urban Purposes)
 And (c) 39.23 acres of lots less than 5 acres in size/224.89 acres not used for urban purposes = 17%
 (Does not meet criteria of greater than 60% of area on tracts of 5 acres or less)

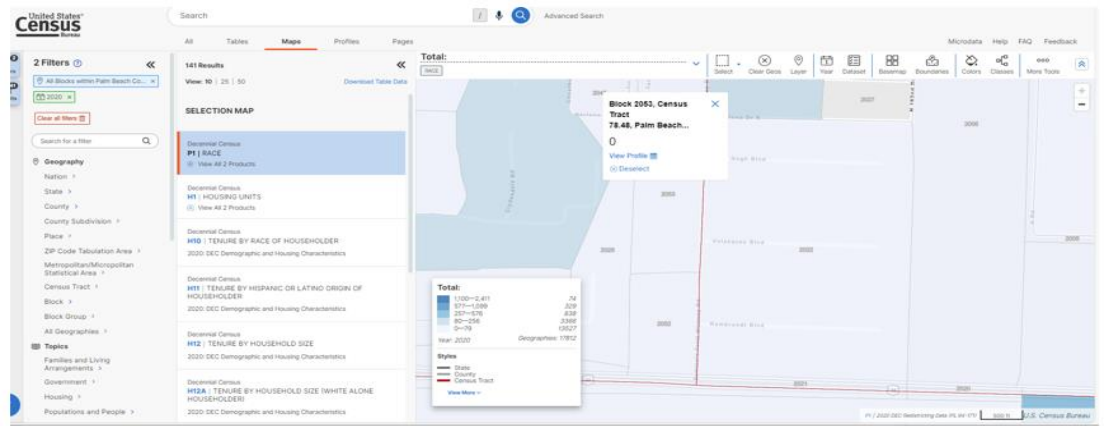


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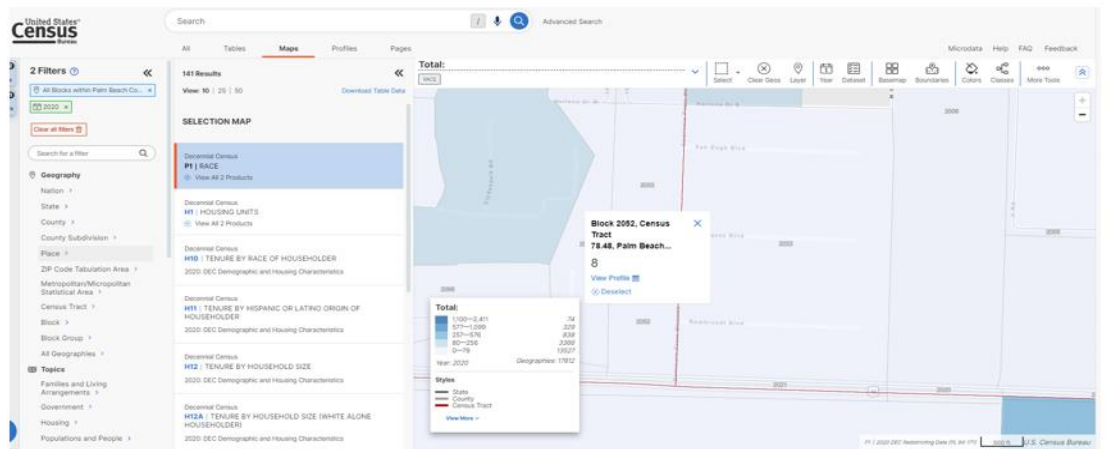
Tract 78.48, Block 2022 = 48



Tract 78.48, Block 2053 = 0



Tract 78.48, Block 2052 = 8





2020 Census Information



Update: 1/3/2024
Contact: P&Z Planning
E-mail: pz@pbc.com



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Note: Map is not official, for informational purposes only.

