



Leon County Government

INTEROFFICE MEMORANDUM

TO: Honorable Chairman and Members of the Board of County Commissioners

FROM: Chasity H. O'Steen, County Attorney *CAO*
Gretchen Kelley Brantley, Assistant County Attorney *GKB*

DATE: July 1, 2026

SUBJECT: CAO Evaluation of Voluntary Annexation Petition - North Meridian/Cedar Hill Roads

This memorandum provides an evaluation, legal analysis, and recommendation regarding the Voluntary Annexation Petition for Cedar Hill Road and North Meridian Road (County assigned project #LDV26000016). The petition includes five parcels comprising approximately 1,741.9 acres in total located outside of the Urban Services Area ("USA").

The petition and supporting maps do not adequately demonstrate compliance with the independent statutory requirements of reasonable compactness and contiguity under sections 171.044 and 171.031, Florida Statutes (F.S.). Specifically, the submitted maps show an irregular annexation boundary that partially surrounds small, developed, unincorporated areas, that result in isolated remnants of property in the unincorporated area along parts of Gardner Road, Meridian Road, and Cedar Hill Road. In addition, the proposed annexation raises concerns about whether the proposed annexation boundary establishes substantial contiguity.

Notice to the County & Pre-Adoption

Advance notice is a key feature required in voluntary annexation petitions at the pre-adoption stage. Section 171.044(6), F.S., creates a statutory mandate that a municipality provides a county notice of a voluntary annexation petition in advance of adoption and "*not fewer than 10 days prior to publishing or posting the ordinance notice.*" Failure to provide such notice could be a sufficient basis on its own to invalidate an annexation. Current law does not prescribe a specific timeframe in which a voluntary annexation petition must be reviewed. Nor does it describe communication or coordination procedures during the pre-adoption stage between a municipality and a county.

Consistent with Policy 2.1.4 of the Intergovernmental Coordination Element of the *City of Tallahassee-Leon County 2050 Comprehensive Plan* (the Comp Plan), the City of Tallahassee (the City) and Leon County (the County) have agreed to supplement the statute with additional notice, timeframes, and communication procedures in executing *The Interlocal Agreement Between the City of Tallahassee and Leon County for Annexation Procedures* (the IAAP).

The IAAP provides for a more specific timeframe and supplemental notice to the County, including that the City will provide a copy of the petition to the County Administrator upon receipt and then subsequently provide a copy of the City Annexation Plan (containing information specified in the IAAP) and the petition to the County Administrator, the Director of DSEM, and the County Attorney at least 20 days prior to the City's first reading of the annexation ordinance. Additionally, where the statute is silent on local communication and

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coordination procedures at the pre-adoption stage, the IAAP establishes the framework for the County to communicate its objections to the City about whether a proposed annexation meets the requirements of Chapter 171, Part I, F.S. These procedures do not alter or add to the uniform substantive criteria of Chapter 171, but instead, outline the parties' agreement to voluntarily pause and engage in a "meet and confer" conference followed by mediation prior to adoption if the County identifies a legal basis to object to a voluntary annexation petition. At the pre-adoption stage, the County's role is best understood as review, comment, suggest changes, and (potentially) object, but not approval or veto.

Post-Adoption

Chapter 171, Part I, F.S., provides clear instructions for post-adoption challenges. At the post-adoption stage, section 171.081(2), F.S., ensures the County's conflict resolution and appellate rights are intact, permitting the County to initiate and proceed through the conflict resolution procedures in Chapter 164 within 30 days of the annexation ordinance's passage. If the dispute is not resolved following the conclusion of Chapter 164 conflict procedures, then within 30 days thereafter the County may file a petition in circuit court seeking review.

Requirements for Annexation

Section 171.044, F.S., authorizes the City's discretionary approval of a voluntary annexation after notice to the County, and where the unincorporated property owner's petition for annexation meets the statutory requirements of contiguity to the municipality and reasonable compactness. These requirements have been discussed in memos to the Board dated January 21, 2022, and October 10, 2023, and are attached to this memo followed by a copy of the IAAP.

Section 171.031(2), F.S., defines compactness as the concentration of a piece of property in a single area and expressly precludes any action creating enclaves, pockets, or finger areas in serpentine patterns. As to compactness, this memo details staff's concerns with the creation of enclaves and pockets.

Section 171.031(3), F.S., defines contiguous to mean that a substantial part of a boundary of the territory sought to be annexed is coterminous with a part of the boundary of the municipality. This memo describes staff's concerns about whether the coterminous portions of the petition's unified boundaries satisfy the statutory requirements.

Enclave Objection

"Enclave" is currently defined in s. 171.031(5), F.S., as any unincorporated improved or developed area that is either enclosed within and bounded on all sides by a single municipality, or enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows vehicular access to the unincorporated area only through the municipality.

To the extent that the 1980 *Florida Attorney General Opinion 80-84* suggested that the Chapter 171 enclave prohibition did not apply to enclaves of county land, that reasoning was rejected in *City of Sunrise v. Broward County*. There, the Fourth District Court of Appeal stated that annexation creating enclaves frustrates the purpose of Chapter 171 "regardless of whether such an enclave consists of incorporated or unincorporated property," because the statute is intended to assure geographically unified and compact municipalities. (473 So. 2d 1387, 1389 (Fla. 4th DCA 1985)).

The existence of a County-maintained road does not, by itself, resolve the enclave issue. The statutory question is not simply who maintains the road, but whether the remaining unincorporated area is functionally accessible

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only through municipal territory.

A 2004 Florida Attorney General informal opinion recognized this uncertainty, noting that an argument could logically be made that a road on one side of otherwise municipally bounded unincorporated property would not necessarily preclude enclave status, because “but for the road,” the property is entirely within the municipal geographic boundaries. The opinion ultimately advised that judicial or legislative clarification would be appropriate (Fla. Att’y Gen. Inf. Op. to Mr. Scott A. Gerken (Apr. 19, 2004)).

Accordingly, the City cannot defeat an enclave objection merely by labeling Meridian Road, Gardner Road, or Cedar Hill Road as County roads. The relevant inquiry is whether the proposed annexation leaves improved or developed unincorporated areas enclosed by the municipality, or enclosed by the municipality and a manmade obstacle, with vehicular access available only through municipal territory. If the only practical access to the pocket parcels requires travel through the annexed City area, the presence of a County-maintained road may not be treated as automatically eliminating the statutory enclave concern.

Even if the City establishes that County-road access prevents the remaining areas from satisfying the technical definition of an enclave, the same boundary configuration remains relevant to the compactness requirement because section 171.031(2), F.S., separately precludes pockets.

Pockets Objection

Reasonable compactness requires independent analysis of each component to meet the statutory requirement for voluntary annexation. Any action creating a pocket is prohibited.

In *City of Center Hill v. McBryde*, the Fifth District Court of Appeal applied the ordinary meaning of “pocket” as “a small isolated area or group,” with “small” and “isolated” understood relative to the overall scope and configuration of the annexation. The court explained that the purpose of the compactness requirement is to ensure that no vestiges of unincorporated property are left “in a sea of incorporated property.” (952 So. 2d 599, 603 (Fla. 5th DCA 2007)).

Applying that standard here, the proposed annexation leaves several isolated or pocket-like remnants of unincorporated property along the proposed municipal boundary. Compliance with Chapter 171 requires a proposed configuration that is reasonably compact as opposed to an annexation that leaves isolated unincorporated pockets.

Contiguity Objection

Contiguity remains a threshold element under section 171.044, F.S. Section 171.031(3), F.S., defines “contiguous” to require that a substantial part of a boundary of the territory sought to be annexed be coterminous with a part of the municipal boundary. The statute also provides that rights-of-way and similar divisions do not necessarily prevent annexation, but it expressly prohibits using local rights-of-way, utility easements, railroad rights-of-way, or similar entities in corridor fashion to gain contiguity.

Not all sides of a parcel are required to be coterminous to meet the requirements of contiguity. *City of Sanford v. Seminole County* explained that the statute requires only that a substantial part of “a” boundary touch municipal property, not a large percentage of the total perimeter. (538 So. 2d 113 (Fla. 5th DCA 1989)).

Here, because the petition includes five parcels, the County evaluates contiguity based on the unified petition’s

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entire boundary, not just how much of one parcel is coterminous as explained in *County of Volusia v. City of Deltona*, 925 So. 2d 340, 343-44 (Fla. 5th DCA 2006).

To satisfy the requirements of Chapter 171, Part I, F.S., it must be established that a shared boundary constitutes a substantial portion of the total perimeter of a combined, multi-parcel annexation. For the County to perform a thorough analysis and the City to create a complete record, the City should demonstrate the actual length and percentage of the coterminous boundary for the proposed annexation area.

Urban Services Area (“USA”) Considerations

The Comp Plan speaks to urban services within and outside the USA as well as extending the USA. The Comp Plan establishes that the County will support the City’s annexation efforts in the USA (Policy 2.1.2 [I] at page 185); that urban services may be provided outside of the USA where necessary to address critical environmental issues, critical public health issues, and/or other critical hazard vulnerabilities (Policy 2.2.4 [LM] at page 9); and that because urban services are not planned or programmed for areas within the Rural land use category, the Rural land use category shall not be applied to properties within the USA (Policy 2.8.2 [LM] at page 20, numbered paragraph 5.). The properties subject to this voluntary annexation petition alongside Meridian Road are not currently within the USA and are designated Rural by both the City and the County.

Recommended Next Steps

Staff recommend that the Board object to the proposed voluntary annexation petition of Parcels #24-02-20-401-000-0; 24-01-20-401-000-0; 24-11-20-002-000-0; 24-13-20-002-000-0; and 14-18-20-206-000-0 owned by Orchard Pond, LLC, and located north of Gardner Road and west of N. Meridian Road, because of noncompliance with the contiguity and reasonable compactness requirements of section 171.044, F.S.; authorize the County Attorney’s Office, in coordination with DSEM staff and Administration, to file a formal objection with the City; authorize the County Administrator and/ or his designees to meet and confer with the City; and, if unresolved, proceed to mediation in accordance with the IAAP.

Engaging in this process would allow the City and the County to review and discuss additional details, including:

1. A coterminous boundary calculation identifying the relevant boundary, the total boundary length, the coterminous length, and the resulting percentage;
2. A parcel-by-parcel analysis of every unincorporated parcel or area that will remain adjacent to, within, or partially surrounded by the proposed City boundary;
3. A map showing independent County road access for every excluded parcel, including whether the road segment is incorporated or unincorporated after annexation;
4. A road jurisdiction map distinguishing ownership, maintenance, and municipal jurisdiction;
5. A map describing all excluded parcels, County roads, road rights-of-way, water bodies, stormwater facilities, parks, trailheads, trails, and public facilities;
6. A service delivery analysis identifying which governmental entity will provide solid waste, water, sewer, stormwater, fire, law enforcement, EMS/911 response, road maintenance, code enforcement, and utility services to both the annexed area and any remaining unincorporated parcels, roads, parks, trails, stormwater facilities, or other public facilities;
7. An enclave analysis identifying whether each excluded area is improved or developed, whether it is bound by City limits, and whether access is only through the municipality; and

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8. A pocket analysis explaining why each excluded unincorporated area is not a small or isolated remnant.

Summary

The City has discretion whether to adopt a voluntary annexation ordinance, but that discretion exists within the limits of Chapter 171, Part I, F.S. Section 171.044, F.S., does not authorize annexation unless the property is contiguous and meets the requirements of reasonable compactness. Florida case law confirms that counties may challenge annexation ordinances under s. 171.081, F.S., and that courts may invalidate ordinances where the statutory requirements of Chapter 171 are not met. County pre-adoption review is therefore not an effort to veto annexation; rather, it is a mutually agreed-to effort to identify statutory defects early in the annexation process. Additionally, for the reasons outlined in this memorandum, staff recommend that the County include a reservation of rights under Chapters 171 and 164, and, specifically, s. 171.081, F.S., in its formal objection notice to the City, in the event the City adopts the annexation ordinance without resolving the enclave, pocket, and contiguity objections.