

RESOLUTION NO. 181-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE TO ALLOW AN ADULT GAMING CENTER LOCATED AT 14406 SOUTH MILITARY TRAIL, AS MORE PARTICULARLY DESCRIBED HEREIN, PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES AND THE COMPREHENSIVE PLAN OF THE CITY OF DELRAY BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Shoppes of Delray AP, LLC, (“Owner”) is the owner of a parcel of land measuring approximately 2.4 acres located at 14400 South Military Trail situated on the east side of South Military Trail between Lake Ida Road and West Atlantic Avenue, as more particularly described in Exhibit “A”; and

WHEREAS, 14406 South Military Trail (“Property”) is a +/- 2,363 square foot commercial space within the Shoppes of Delray shopping center; and

WHEREAS, Randy Williams (“Applicant”) designated Ricardo Oscheneek of Red and Blue Constructions, Inc. to act as his agent; and

WHEREAS, Applicant submitted a conditional use application (File No. 2022-231-USE) to allow an adult gaming center at the Property; and

WHEREAS, the Property is zoned General Commercial (“GC”); and

WHEREAS, pursuant to Section 4.4.9(D)(16) of the Land Development Regulations of the City of Delray Beach (“LDR”), adult gaming centers are permitted as a conditional use within the GC zoning district; and

WHEREAS, LDR Section 2.4.5(E)(5), requires the approving body to make findings establishing the conditional use will not:

- (a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located; nor
- (b) Hinder development or redevelopment of nearby properties; and

WHEREAS, LDR Section 4.3.3(AAA)(1) establishes development standards for Adult Gaming Centers, requiring all Adult Gaming Centers to adhere to the following:

- (1) An attendant must be provided on the premises during all hours of operation;

- (2) The hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., seven days a week;
- (3) No one under 18 years of age shall be allowed in the Adult Gaming Center;
- (4) The consumption and/or possession of alcohol shall be prohibited on the premises;
- (5) The license for each machine shall be attached thereto;
- (6) The use of gift certificates, gift cards, credit cards or other cash substitutes shall be prohibited;
- (7) Prizes shall be limited to \$.75 retail value per game played;
- (8) Any machine on the premises of the enterprise or business shall not violate the State's laws against slot machines and shall be in full compliance with Section 849.16, Florida Statutes;
- (9) The enterprise or business shall permit unlimited access to law/code enforcement officials to enter the premises and inspect any machine at any time to ensure that the provisions of this Ordinance are in compliance; and

WHEREAS, LDR Section 4.3.3(AAA)(2) establishes conditional use criteria for Adult Gaming Centers, requiring the application to state the following:

- (1) The name under which the enterprise or business is to be conducted;
- (2) The location at which the enterprise or business is to be carried on;
- (3) The name, address, and principal occupation of every person with an interest in the enterprise or business;
- (4) The number of machines to be exhibited;
- (5) The manufacturer, serial numbers, name of each machine, name of actual owner of each machine with address and phone numbers;
- (6) Whether the applicant has ever been engaged in operating a gaming center, of whatsoever type or nature, and when, where and how long in each place within five years preceding the date of application;
- (7) A conditional use shall not be approved if a person with an interest in the adult gaming center, or an employee of the adult gaming center, has been convicted of a violation of a Federal or State statute or any local ordinance pertaining to gambling or any other crime involving moral turpitude; and

WHEREAS, at its meeting on November 14, 2022, the Planning and Zoning Board voted _ to _ to recommend approval of the conditional use to the City Commission; and

WHEREAS, on _____, 2022, the City Commission considered the conditional use request and the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested conditional use will not have a significantly detrimental effect upon the stability of the neighborhood within which it will be located and will not hinder development or redevelopment of nearby properties.

Section 3. The City Commission makes positive findings that the conditional use criteria for Adult Gaming Centers have been met.

Section 4. The City Commission approves the conditional use request to allow an Adult Gaming Center at the Property.

Section 5. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Ricardo Oscheneek, Red and Blue Constructions, Inc.; 1401 South Federal Highway, Unit 104; Boca Raton, FL 33432.

Section 6. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 7. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2022.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

THE NORTH HALF (N ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST CORNER (NW ¼), EXCEPTING THEREFROM A STRIP OF LAND ONE-HUNDRED FEET (100') IN WIDTH EAST OF THE CENTERLINE OF MILITARY TRAIL, SECTION 13, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE EAST 305 FEET OF THE NORTH HALF OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, EXCEPT THE WEST FIFTEEN FEET (15') OF THE SOUTH FORTY-FOUR FEET (44') THEREOF.