



Cover Memorandum/Staff Report

File #: 22-1586

Agenda Date: 11/15/2022

Item #: 8.B.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Department
THROUGH: Terrence R. Moore, ICMA-CM
DATE: November 15, 2022

ORDINANCE NO. 21-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING SEVEN PARCELS OF LAND MEASURING APPROXIMATELY 4.3882 ACRES LOCATED ON THE EAST SIDE OF NORTH FEDERAL HIGHWAY, NORTH OF DELMAR WAY AND SOUTH OF GULFSTREAM BOULEVARD, WITH ADDRESSES OF 2419, 2507, 2515, 2519, 2601, 2605, AND 2613 NORTH FEDERAL HIGHWAY, FROM GENERAL COMMERCIAL TO AUTOMOTIVE COMMERCIAL AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE "CITY OF DELRAY BEACH, ZONING MAP, JULY 6, 2021"; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL/SECOND READING)

Recommended Action:

Review and consider Ordinance No. 21-22, a privately initiated rezoning request from General Commercial (GC) to Automotive Commercial (AC) for seven parcels, totaling +/- 4.3882 acres, located on the east side of North Federal Highway between Delmar Way and Gulfstream Boulevard.

Background:

The subject request is for a rezoning from GC to AC. The surrounding properties to the north, south, and west are comprised of GC and AC zoning. Directly abutting the properties to the east are single family residences zoned Residential Single Family - Place Au Soleil District (RS-P) within the Town of Gulf Stream. Lots 31-35 are currently vacant, while Lot 30 is developed with an 887 square foot commercial building licensed for an outdoor furniture and pottery business.

If the rezoning request is approved, the property owner has identified an intention to construct a full-service automotive dealership. Pursuant to LDR Section 4.4.10(B), full service automotive dealerships are permitted by right in the AC zoning district. At this time, no site plans have been submitted.

Pursuant to LDR Section 2.4.5(D)(2), Change of zoning district designation: Required Information, valid reasons for approving a change in zoning are:

- *That the zoning had previously been changed, or was originally established, in error;*
- *That there has been a change in circumstance which makes the current zoning inappropriate;*
- *That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

Pursuant to LDR Section 3.1.1, Required Findings, *prior to the approval of development applications, certain findings must be made. These findings relate to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations.* The Standards for Rezoning Actions, 3.2.2. (D) applies, *"Rezoning of land shall result in allowing land uses deemed compatible with adjacent and nearby land uses both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use."*

It is important to note, the LDR specifies, *"a finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict."*

Policy NDC 2.5.1 allows automotive dealerships in limited areas of the city that also have the appropriate land use and zoning designations. It is important to note, this Policy in and of itself does not obligate the City to change the zoning, as the criteria for changing zoning designations captured in LDR Section 2.4.5(D)(2) above.

Policy NDC 2.5.1: Accommodate automotive dealerships and auto-related uses on land with a General Commercial land use designation, zoned Automotive Commercial, and located:

- north of George Bush Boulevard, between North Federal and Dixie Highways,
- on the east side of North Federal Highway north of 2200 North Federal Highway, south of Linton Boulevard, between South Federal and Dixie Highways,
- south of Linton Boulevard, between South Federal and Dixie Highways,
- on the north side of West Linton Boulevard, between Interstate 95 and SW 10th Avenue, or;
- along Wallace Drive

The attached Planning and Zoning Board staff report provides a full analysis of the request.

Based on the comparison chart on page 7 of the staff report, one of the most significant differences between the AC and GC zoning district regulations is the acreage requirement for the development of a full-service automotive dealership. The AC zoning district requires a minimum of 1.5 acres to establish a full-service automotive dealership, while the GC zoning district accommodates both small and large-scale development. Incompatibilities with the adjacent residential use may be mitigated through the additional requirements in the AC zoning district, establishing additional setbacks, buffer requirements, and restrictions on business operations when a commercial parcel abuts residential zoning.

The AC zoning district provides additional regulations for specific uses to minimize negative impacts on neighboring properties, with particular attention placed on the protection of adjacent residentially zoned properties. The additional regulations are outlined on pages 5-6 of the staff report and addresses minimum lot dimensions, outdoor display, vehicle testing areas, parking locations, advertising, off-loading, and exterior lighting.

Objective 2.5 of the Comprehensive Plan recognizes the automotive dealers and uses are a local legacy industry with unique impacts that require appropriate and strategic locations.

Ultimately, the main considerations for rezoning to Automotive Commercial relate to compatibility. The AC uses are compatible with the commercial and service uses that exist and are anticipated along the commercial corridor. However, the potential impact of the rezoning on the abutting single-family residences to the east has to be considered and whether the site plan review and approval process is sufficient to resolve any impacts from the use to the homes through the application of the LDRs and site design.

On June 20, 2022, the Planning and Zoning Board voted 6-1 (Ms. Howell dissenting) to recommend approval of the rezoning request.

The City Commission voted 5-0 to approve Ordinance No. 21-22 on first reading at its meeting on July 19, 2022.

The City Commission voted 3-2 to deny Ordinance No. 21-22 on second reading at its meeting on August 16, 2022.

The City Commission conducted a repeat first reading, and voted 5-0 to approve Ordinance No. 21-22 at its meeting on October 25, 2022.

City Attorney Review:

Ordinance No. 21-22 was approved to form and legal sufficiency.

Funding Source/Financial Impact:

Not applicable.

Timing of Request:

Ordinance No. 21-22 will become effective immediately upon adoption.