



## Cover Memorandum/Staff Report

File #: 19-329

Agenda Date: 4/2/2019

Item #: 7.D.

**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** April 2, 2019

REQUEST FOR A CONDITIONAL USE TO ESTABLISH A CONVENIENCE MART (GASOLINE STATION WITH FOOD SALES) WITH 24-HOUR OPERATION AT 16211 S. MILITARY TRAIL (MURPHY OIL) (QUASI-JUDICIAL HEARING)

### **Recommended Action:**

Motion to approve the Conditional Use for a Convenience Mart (Gasoline Station with food sales) at 16211 S. Military Trail for Murphy Oil by adopting the findings of fact and law contained in the staff report and the finding that the request is consistent with Section 2.4.5(E)(5), Conditional Use Findings, Chapter 3, Performance Standards, and Section 4.3.3(J)-Gasoline Stations, of the Land Development Regulations, and is consistent with the Comprehensive Plan.

Motion to approve the Conditional Use request for a 24-hour operation at 16211 S. Military Trail for Murphy Oil by adopting the findings of fact and law contained in the staff report and the finding that the request is consistent with Section 2.4.5(E)(5), Conditional Use Findings, Chapter 3, Performance Standards, and Section 4.3.3(VV)-24-hour Operations, Conditional Use Findings, of the Land Development Regulations, and is consistent with the Comprehensive Plan.

### **Background:**

The subject property is located on the west side of South Military Trail within the Walmart Center Development, Tract C, as shown in Plat book 66, Page 41. The site is approximately 0.83 acres and contains a 210 sf convenience mart and a fuel canopy with 8 fuel stations (16 fuels dispensers). The site was originally developed in 1989 with a City Commission approval for a site and development plan for Walmart that included 114,760 sf retail building and two 0.8 acre out-parcels, one of these being the subject parcel.

Originally zoned as General Commercial (GC), the site was rezoned to Planned Commercial (PC) with the Citywide rezoning associated with the approval of the Land Development Regulations in 1990. The property has a Future Land Use Map (FLUM) designation of General Commercial (GC). PC has a minimum floor area requirement (structure size) of 6,000 sf. In September 2000, the Board of Adjustment approved a variance to reduce the minimum floor area for Tract C to 208 sf. In January 2001, a Conditional Use for a gas station was approved. In December 2007, a Conditional Use was requested and granted to Walmart for 24-hour operation. A Conditional Use was required as residentially zoned property is within 300 feet of the shopping center.

LDR Section 2.4.5(E)(7) allows an approved Conditional Use to be modified. The increase in the square footage of the convenience mart is considered an increase in intensity therefore, the existing

Conditional Use approval is required to be modified. In addition to the increase of the size of the convenience mart, the Applicant desires to operate 24 hours a day, seven days a week. Currently, the existing convenience mart has hours of operation from 5 a.m. to 1 a.m. LDR Section 4.3.3(VV) (3), 24 hour Businesses, contains additional regulations for new 24 hour Businesses, including the provision of a conditional use approval if the 24 hour operation is within 300-feet of a residentially zoned property which applies to this parcel.

The Applicant has submitted a Class V Site Development plan in conjunction with the Conditional Use requests. The proposed site improvements include the demolition of the existing convenience mart and fuel canopy and the construction of a new 1,400 sf convenience mart with 8 fueling stations (16 fueling positions). The existing connections to the shopping center will remain in their current locations.

Pursuant to Section 3.1.1 (Required Findings), prior to approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the Future Land Use Map, Concurrency, Consistency and Compliance with the Land Development Regulations. A positive finding was made with respect to LDR Section 3.1.1 as fully described in the attached staff report.

Pursuant to Section 2.4.5(E)(5) (Findings), in addition to provision of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- A. Have a significantly detrimental effect upon the stability of the neighborhood with which it will be located.
- B. Nor that it will hinder development or redevelopment of nearby properties.

A finding was made that the use will not have detrimental effect upon the stability of the neighborhood, nor will it hinder the development or redevelopment of nearby properties as fully described in the attached staff report.

Pursuant to Section 4.3.3(VV) (Findings), in addition to any findings required by Section 2.4.5(E) of the Land Development Regulations, and any other required findings, the following specific findings shall be made in order for any 24-Hour business to be approved for a conditional use:

- 1. That the use will be consistent with Housing Element A-11.3 of the Comprehensive Plan of the City of Delray Beach.
- 2. That the submitted security plan contains measures adequate to reasonably protect the safety of patrons, employees and nearby residents.
- 3. That the amount and type of proposed buffering is adequate to minimize the effects of noise impacts upon surrounding uses and nearby residential properties and to act as a visual buffer to the property from surrounding uses and nearby residential properties.

A finding was made that the 24-Hour operation will be consistent with Housing Element A-11.3, that the submitted security plan contains measures to reasonably protect the safety of patrons, employees and nearby residents and the amount of proposed buffer is adequate to minimize effects of noise impacts and act as a visual buffer to surrounding uses and nearby residential properties as

fully described in the attached staff report.

The Planning and Zoning Board reviewed the request at its meeting on February 25, 2019 where a recommendation to approve the modification of the conditional use was made by 7-0 and the recommendation to approve the request for a 24-hour operation was made by a 6-1 vote. The Board requested crosswalk striping from the parking area and the fueling area to the building. The Applicant has included the Board's request on the updated site plan.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Applicant cannot advance to the Site Plan Review and Approval Board until the Conditional Use for the increase of square footage of the Convenience Mart is approved.