



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

2419-2605 North Federal Highway, Ordinance No. 24-20

Meeting	File No.	Application Type
March 16, 2020	2020-108	Rezoning

Request

Provide a recommendation to the City Commission for a privately-initiated request for the rezoning of six parcels, totaling 3.85 acres (167,754 sf.), from General Commercial (GC) to Automotive Commercial (AC).

Background Information

A privately-initiated rezoning request was submitted by Dunay, Miskel & Beckman, LLP (Designated Agent) on behalf of Adoodledoo, LLC (Owner) and James O'Neil (Applicant). The proposal is a rezoning from General Commercial (GC) to Automotive Commercial (AC) for six parcels located at 2419, 2507, 2515, 2519, 2601, and 2605 North Federal Highway (Lots 31 through 35, Delray Beach Estates Subdivision), totaling 3.85 acres. The properties are located on the east side of North Federal Highway, approximately 900 feet south of Gulf Stream Boulevard. Federal Highway

On August 22, 1989, 3 of the subject parcels (Lot 33, Lot 34, and the East 80 ft. of Lot 35) were annexed into Delray Beach from unincorporated Palm Beach County with a GC zoning designation as part of the North Federal Highway annexations via Ordinance No. 43-89; Lot 35 less the East 80 ft. was annexed on the same date via Ordinance No. 49-89. On March 22, 1994, the remaining two lots (Lot 31, Lot 32) were also annexed into Delray Beach with a GC zoning designation as part of the North Federal Hwy. annexations via Ordinance Nos. 13-94 and 14-94.



Since annexation into Delray Beach, the subject properties have remained vacant; however, the parcels have recently been utilized as a construction staging area, which included storage of vehicle inventory, during the reconstruction and expansion of Gunther Volvo. A petition requesting a permit for the temporary use of the property as a parking lot for vehicle inventory storage was submitted recently and is under review (2020-071).

Review and Analysis

Pursuant to **LDR Section 2.4.5(D)(1), Change of Zoning District Designation: Rule**, the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board.

LDR Section 2.4.5(D)(2), Change of Zoning District Designation: Required Information, outlines the procedures for a zoning change, which includes the standard application items in LDR Section 2.4.3. In accordance with 2.4.3(E), a traffic study (or traffic statement if less than 200 average daily trips will be generated) must be prepared to address the development of property under reasonable intensity pursuant to the existing and proposed zoning. Based on the traffic statement (dated February 3, 2020) submitted by the applicant, the trips generated by the proposed rezoning change from GC to AC with the intent to build a Full-Service Automotive

Dealership would be 1,544 fewer daily vehicle trips. In addition, a statement of the reasons for which the change is being sought based on the valid reasons listed below must be provided:

- 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.**

The application is being processed under the last criteria as specified in the applicant's statement, which is provided as an attachment.

Per **LDR Section 2.4.5(D)(5) Findings**, the City Commission must make a finding that the rezoning fulfills at least one of the reasons listed above in addition to provisions of Chapter Three, as follows:

Article 3.1 Required Findings for Land Use and Land Development Applications

Pursuant to **LDR Section 3.1.1, Required Findings**, 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 (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

- (A) Future Land Use Map:** *The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.*

The current land use designation of the vacant property is GC and the proposed land use is AC. Table NDC-1, of the Neighborhoods, Districts and Corridors Element Always Delray Comprehensive Plan, identifies the implementing zoning districts for each the land use designation. Per the table, the existing GC land use designation is consistent with the proposed AC Zoning District.

- (B) Concurrency:** *Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

The proposed rezoning to AC will have impacts on the following adopted concurrency standards; findings with respect to Parks and Recreation and Schools are not applicable to commercial developments:

Water & Sewer: Water and sewer service is currently available to the subject property. The Delray Beach Water Treatment Plant and the South Central County Waste Water Treatment Plant both have adequate capacity to serve the City at build out. The properties are served by an existing 10" sewer main and a 12" water main along North Federal Highway.

Traffic: An analysis of the traffic impacts associated with the maximum development potential for both the existing and proposed zoning classification was prepared by KBP Consulting, Inc. (dated February 3, 2020). The comparative traffic statement utilizes as an example a Floor Area Ratio (FAR) of 1.0, a total building area of 167,754 sf. The statement indicates that the proposed rezoning from GC to AC will generate a net decrease in the daily vehicle trips of 1,544.

Drainage: The City will review drainage plans upon receipt of a site plan application. At site plan submittal, the applicant will be required to provide a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3 (D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into City's sewer system. A letter from the Public Utilities Department stating that the City's system has sufficient capacity to treat proposed flows will be issued upon review and approval of submitted site plans.

Solid Waste: The determination for solid waste impacts is calculated based on specific uses/ development proposal and building square footages. A comparative analysis will be conducted between the existing and proposed solid waste generation rates at the time a development proposal is submitted. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2046.

- (C) Consistency:** *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.*

A finding of Consistency requires that the requested designation is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan adopted at the time of submittal. The Always Delray Comprehensive Plan was adopted on February 4, 2020. The application was submitted on February 7, 2020, and therefore, it is subject to the recently adopted plan. The applicable Goals, Objectives and Policies from the Comprehensive Plan are further discussed and analyzed below:

Section 3.2.2 - Standards for Rezoning Actions

Rezoning requests must meet five standards, which are described below as they relate to the proposed rezoning under consideration.

- (A) The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to those areas identified as "stable" and "stabilization" on the Residential Neighborhood Categorization Map. Requests for rezoning to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.*

This standard is not applicable.

- (B) Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95. (Policy NDC 2.5.2: Prohibit rezoning of land located west of Interstate-95 to Automotive Commercial)*

The subject properties are located east of I-95, more precisely on the east side of North Federal Highway, north of 2200 North Federal Highway (now developed as Windsor, a multi-family residential apartment complex) and approximately 900 feet south of Gulf Stream Boulevard.

- (C) Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design. (Policy NDC 2.3.9: Continue to offer incentives to encourage strip commercial development to redevelop into mixed-use, high quality, multi-modal environments).*

The proposal involves the aggregation of six vacant parcels, totaling 500 ft. of frontage along N. Federal Hwy. (each lot with frontage along the corridor has a width of 100 ft.) and a mean depth of 335 ft. Irrespectively if the subject properties are developed separately or as a unified development, the front setback requirements applicable to the parcels are a minimum of 5 ft. and a maximum of 15 ft. These development standards for the area discourage the allocation of parking spaces and driveways along the front of the property, and therefore, inhibiting the development of a strip commercial development while encouraging a high-quality streetscape design and environment along the corridor.

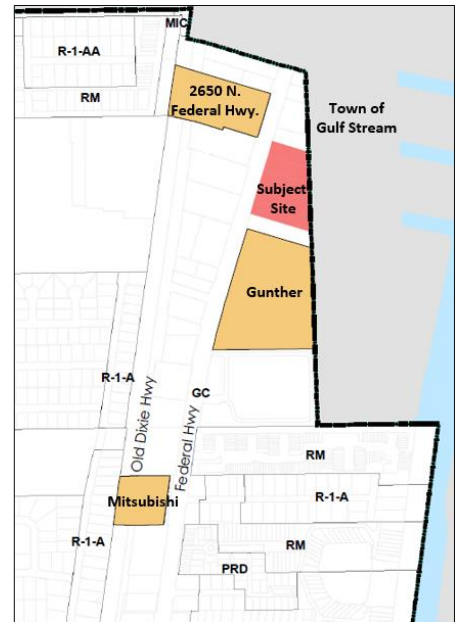
- (D) That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.*

The current zoning, designations, land use designations and uses adjacent to the subject properties are as follows:

	Zoning Designation	Land Use	Existing Use
North	GC	GC	General Retail (Pottery Store)
South	GC	GC	Nonconforming Use (Pawn Shop)
East	Single Family (Town of Gulf Stream)	Residential	Single Family Dwelling
West	GC	GC	Restaurant; Motel, Storage Facility

The subject property is surrounded by GC zoned properties to the north, south and west, and Single Family residential to the east. Although, the subject area is not located directly adjacent to AC zoned properties, there are three sites within the corridor, two of which are located in close proximity. The AC property directly to the south (Gunther), was approved in 1997 as an automotive dealership. The expansion and redevelopment of the existing use was recently approved in 2017.

The property to the northwest (2650 N. Federal Hwy), was annexed into the City in 1994 under the AC zoning designation and was occupied at the time by an automotive dealership. In 2018, the property was purchased by James O'Neill (Applicant), and it has been occupied as a lot for the storage of vehicles for automotive dealership without an active business license. The existing use of the property is not listed as an allowed principal use in the AC zoning district and is subject to code enforcement action. The 1.42 acre property labeled "Mitsubishi", is an automotive dealership and is located approximately 0.35 miles south of the subject properties.



North Federal Highway Redevelopment Plan

The North Federal Highway Redevelopment Plan, adopted in 1994 indicates that North Federal Highway should complement Atlantic Avenue by becoming a "workplace" with office buildings, and light-industrial uses. The Plan also indicates that Personal Services and Facility uses should be provided to meet the daily needs of workers in the area; businesses providing goods and services to the local neighborhood market as well as a larger community market were included. The existing GC zoning of the property is compatible with the envisioned uses along the corridor as the requirements and uses allowed under the GC zoning are intended for small parcels and to encourage small scale development such as retail, service and office uses.

The AC zoning district is intended to provide areas for the sale, lease and rental of automobiles. Full-service dealerships, with storage of vehicles, repair, paint and body shops as accessory uses to the principal use are allowed. Free-standing full-service and specialized vehicle repair shops are permitted as Conditional Uses within the AC zoning district.

The North Federal Highway Redevelopment Plan does not specifically evaluate the automobile dealerships existing within the Plan area and is silent on the expansion or benefits of automotive dealerships and auto-related uses in the area. In different sections of the Plan, it is identified that one of the weaknesses of the corridor is the presence of vacant properties as they have the potential to hinder the redevelopment and revitalization of a neighborhood.

Always Delray Comprehensive Plan

Neighborhoods, Districts, and Corridors Element

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.

A map identifying the locations listed above and prohibited areas is provided as an attachment.

The area where the subject properties are located, east side of North Federal Highway., north of 2200 North Federal Highway, is appropriate to accommodate automotive dealerships and auto-related uses on land with GC land use Designation and Zoned AC. Objective 2.5 is part of Goal NDC 2, which focuses on "... transforming underutilized and blighted areas into attractive and successful neighborhoods, districts and corridors." The subject properties are one of the few areas in the corridor that are not developed, and consequently, have been temporarily utilized by uses with blighting influences.

Economic Prosperity Element

Goal ECP 6: Provide the proper built environment, space development and strategic investments to protect and grow Delray Beach's economic base.

Policy ECP 6.3.6: Continue to provide specific and appropriate locations for the automotive dealership cluster.

The rezoning of the subject property would allow for a variety of auto-related uses. Given the size of the subject site and its proximity to other AC zoned properties, the development of the land into an automotive dealership would be allowed by right under the proposed rezoning to AC. With the recent redevelopment of the Gunther site, the history and ownership of the 2650 North Federal Highway site, and the intended use of the properties under rezoning consideration, this underutilized area of the North Federal Highway corridor has the potential to increase the Delray Beach's economic base and expand the existing cluster of automotive dealerships, as supported by the Comprehensive Plan.

(E) Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.

Not applicable. The proposed development is not within the coastal planning area.

Review By Others

Community Redevelopment Agency (CRA): The subject property is located within the Community Redevelopment Agency (CRA) boundary line; a notification of the request was provided to the CRA.

City Commission: The request requires two readings by the City Commission: consideration at first reading of the Ordinance is anticipated for April 21, 2020, and the second hearing date has not yet been determined.

Board Action Options

- Recommend approval of Ordinance No. 24-20, a privately-initiated rezoning of six parcels located at 2419, 2507, 2515, 2519, 2601, and 2605 North Federal Highway, from General Commercial (GC) to Automotive Commercial (AC), finding that the rezoning and approval thereof is consistent with the adopted Always Delray Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- Recommend **denial** Ordinance No. 24-20, a privately-initiated rezoning of six parcels located at 2419, 2507, 2515, 2519, 2601, and 2605 North Federal Highway from General Commercial (GC) to Automotive Commercial (AC), finding that the rezoning and approval thereof is not consistent with the adopted Always Delray Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.
- Continue With Direction.

Public and Courtesy Notices

X Courtesy Notices were mailed on March 6, 2020, to:

- Windsor at Delray (fka Delray Preserve)
- Kokomo Keys

X Notice to the following adjacent municipalities (located within one-quarter mile of the boundary of the adjacent unit of government) were sent on March 6, 2020:

- Town of Gulf Stream
- City of Boynton Beach
- Palm Beach County
- IPARC

--- Public Notices are not required for this request.

X Public Notice was posted at the property 7 calendar days prior to the meeting, on March 9, 2020.

X Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting, on March 6, 2020.

--- Public Notice was mailed to the adjacent property owners 20 days prior to the meeting.

X Public Notice was published in the Sun Sentinel on March 6, 2020, 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website 10 calendar days prior to the meeting, on March 6, 2020.

X Public Notice was posted in the main lobby at City Hall on March 6, 2020.

X Agenda was posted at least 5 working days prior to meeting, on March 6, 2020.

Appendix A

Appendix A provides a list of existing Automotive Commercial (AC) zoning regulations for the operation of an automobile dealership when adjacent to residentially zoned properties, such as but not limited to:

- The provision of a hedge or berm at least three feet high and trees planted at least 40 feet on center when outdoor display is separated from residential.
- The provision of a wall 6' high when outdoor display area is adjacent to residential zoning districts, whether or not separated by a street or alley.
- The outdoor display area shall not be closer than 10' from an adjacent separating street or alley and such setback area shall be landscaped with trees planted 25' on center inside the required wall.
- Repair facilities and paint and body shops shall be located at least 100 feet from any residentially-zoned lot. Service bay doors shall not be oriented toward any adjacent residentially-zoned property, except where currently existing, nor oriented toward any adjacent public street unless it can be demonstrated to the Site Plan Review and Appearance Board that it is not feasible to comply.
- Accessory fuel pump islands and automated wash facilities for vehicles shall not be located within 100 feet of any residentially-zoned property. Wash facilities shall be located within a completely enclosed building. Fuel pump islands, shall be located within an enclosed area so that they are not visible off premises.
- Except for automobiles, trucks, pickup trucks, vans, jeeps, motorcycle and recreation vehicles, no other outdoor sales or display of any materials, products, or goods shall be permitted. No industrial equipment shall be sold, leased, rented, or otherwise stored within the AC District. However, wherever reasonably possible as determined by the City, trucks other than pickup trucks, vans, and jeeps shall be displayed in areas which are separated from a street by an outdoor display area for other permitted vehicles, customer or employee parking areas, or buildings.
- No vehicle shall be parked with its hood or trunk open, nor elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.
- Other than information which is required by law to be posted on vehicles displayed on a sticker affixed to a side window, advertising, flags, pennants, streamers, balloons, signs or vehicle stock numbers shall not be displayed on any vehicle or equipment. Similar objects, gimmicks, or advertising designed to attract the public's attention shall not be displayed outdoors on any lot, building, vehicle, or equipment except as permitted by Section 4.6.7.
- Except for existing areas designated for off-loading, any areas designated for the off-loading of vehicles or for loading and deliveries shall be located to the rear of buildings and shall be located so as to contain noise on-site. These areas shall not be located closer than 100 feet from any residentially-zoned lot, and shall be appropriately designated, marked, and signed.
- Dealers are prohibited from using residential streets for the testing of vehicles after servicing and for the demonstration of vehicles.
- Exterior lighting fixtures shall not exceed 25 feet in height; shall be directed away from adjacent properties; shall be a sharp cutoff, luminary; shall confine light to the site only; and shall not exceed when measured at ten feet inside any property line, the following illumination:
 - 100 foot-candles within display areas
 - 40 foot-candles within all other areas
 - After 11:00 p.m., the illumination in display areas shall be reduced to 50 foot-candles.