



Cover Memorandum/Staff Report

File #: 20-438

Agenda Date: 8/11/2020

Item #: 9.B.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: August 11, 2020

ORDINANCE NO. 20-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING LAND ZONED SPECIAL ACTIVITIES DISTRICT (SAD) TO GENERAL COMMERCIAL (GC), FOR A PARCEL OF LAND AT 14145 SOUTH MILITARY TRAIL AT THE SOUTHWEST CORNER OF SOUTH MILITARY TRAIL AND CONKLIN DRIVE, WHICH MEASURES APPROXIMATELY 0.99± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (FIRST READING).

Recommended Action:

Review and consider at first reading Ordinance No. 20-20, a privately-initiated request for rezoning from Special Activities District (SAD) to General Commercial (GC).

Background:

The 0.99-acre vacant, undeveloped property located at 14145 South Military Trail is located at the southwest corner of South Military Trail and Conklin Drive. The property was annexed into the City of Delray Beach from Palm Beach County in 2006. Prior to annexation, the property had a future land use designation of Palm Beach County LR-3 (Low Density Residential - 3 du/acre) and a Palm Beach County zoning designation of CG/SE (Commercial General / Special Exception). In 2007, subsequent to annexation, the property was assigned a FLUM designation of Transitional (TRN) and SAD zoning designation as the Robotic Space Savers SAD.

In October 2018, on behalf of O'Reilly Automotive Stores, Inc. ("Applicant"), WGI ("Agent") submitted a request for rezoning from the Robotic Space Savers SAD to a new SAD in conjunction with a request for site plan approval for a 7,428 SF building to be used for the retail sale of automotive parts and accessories, with parking, landscaping, and site improvements. City staff determined that General Commercial (GC) zoning is more appropriate for the proposed development, and it is in the best interest of the City for the property to rezone to GC instead of SAD. Per LDR Section 4.4.25, "*The Special Activities District (SAD) is established in order to provide a zone district which is appropriate for projects which are not otherwise classified or categorized in other zone districts; or, which for some other good reason, cannot be properly accommodated in the other zone districts*". The proposed change to an automotive parts store does not meet the intention of SAD and can be accommodated by the GC zoning district.

The Comprehensive Plan in effect at the time of the application identified the SAD zoning district as compatible with the TRN land use designation, as does the recently adopted Always Delray

Comprehensive Plan. Always Delray does not, however, consider GC zoning to be preferred within the TRN land use designation. Therefore, the City initiated a land use map amendment from TRN to GC land use to ensure compatibility with GC zoning.

Pursuant to **LDR Section 2.4.5(D)(1)**, the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board. The submitted application complies with these requirements.

Findings | LDR Section 2.4.5(D)

LDR Section 2.4.5(D)(2) outlines the procedures for a zoning change, which includes the standard application items in Section 2.4.3. Valid reasons for approving a change in zoning, pursuant to **LDR Section 2.4.5(D)(2)** 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.

The request meets the second and third criteria. The proposed change in use renders the SAD zoning district inappropriate. The proposed use is allowed by right in GC zoning, and the proposed site plan can be accommodated by GC zoning. Additionally, GC zoning allows for the property to change operator or use without necessitating rezoning the property. This allows for redevelopment or reuse of the site to resume more quickly than it could with SAD zoning, should the Applicant cease operations at that site at any time in the future.

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 rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.*

Not applicable. The applicant is requesting GC zoning, and the Residential Neighborhood Categorization has not been applied.

- (B) Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95.*

Not applicable. This will be a general retail business.

- (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.

The subject property is not a strip commercial development and provides neighborhood-serving commercial services in a compact site.

- (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.*

Under the proposed General Commercial land use, General Commercial (GC) is considered a compatible zoning district. Furthermore, the proposed zoning is compatible with proposed site development. The existing uses and zoning surrounding the proposed development is as follows:

North

- Zoning: AC - Automotive Commercial
- Land Use: General Commercial (GC)
- Use: Auto repair and servicing

South

- Zoning: RL - Multiple Family residential (Low Density)
- Land Use: Medium Density (MD)
- Use: Condominium / community amenity

East

- Zoning: RM - Multiple Family Residential (Medium Density)
- Land Use: Medium Density (MD)
- Use: Condominium

West

- Zoning: Unincorporated Palm Beach County
- Land Use: Medium Density (MD), Advisory Land Use
- Use: Single family home

- (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.

Section 4.4.9 - General Commercial (GC) District

General Commercial (GC) *“provides basic regulations for small parcels which are best suited for general retail and office uses. [...] The GC designation is applied to small parcels, most of which are developed, where adherence to standard regulations is most appropriate. The GC designation is to be applied primarily along arterial and collector streets. Uses may be conducted singularly or in combination within the same structure.”*

The subject property is located on an arterial. Standard development regulations are appropriate for the parcel, which does not have any unique characteristics that necessitate the application of non-standard regulations. Any future site plan is subject to the standards in this section.

On June 15, 2020 the Planning and Zoning Board voted 4 to 2 to recommend approval.

City Attorney Review:

Ordinance No. 20-20 was approved to form and legal sufficiency.

Funding Source/Financial Impact:

NA

Timing of Request:

2nd reading and adoption hearing is anticipated for September 22, 2020.