



Cover Memorandum/Staff Report

File #: 21-215

Agenda Date: 4/6/2021

Item #: 7.A.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: April 6, 2021

RESOLUTION NO. 06-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, TO ALLOW THE OPERATION OF A GASOLINE STATION AT 10 SOUTH CONGRESS AVENUE, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI JUDICIAL).

RESOLUTION NO. 48-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER TO SECTION 4.4.12(F)(2) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING A REDUCTION TO THE MINIMUM FLOOR AREA REQUIRED FOR A FREE-STANDING STRUCTURE FOR A PROPOSED RACETRAC CONVENIENCE STORE WITH A FLOOR AREA OF 5,411 SQUARE FEET LOCATED AT 10 S. CONGRESS AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI JUDICIAL).

Recommended Action:

Review and consider Resolution Nos. 06-21 and 48-21.

Background:

The subject site is located at 10 S. Congress Avenue, on the southwest corner of West Atlantic Avenue and South Congress Avenue. The subject site is zoned Planned Commercial (PC) and is an outparcel tract in the Congress Square shopping center. The existing 13,305 sq. ft. Walgreens pharmacy is proposed to be demolished and replaced with the construction of a RaceTrac gasoline station with a 5,411 sq. ft. convenience store, 565 sq. ft. patio area, and a 8,622 sq. ft. fuel canopy with 10 fueling stations and 20 pumps.

LDR Section 4.4.12 (D)(1) allows gasoline stations as a conditional use.

LDR Section 4.4.12 (F)(2), requires "*Any free-standing structure shall have a minimum floor area of 6,000 square feet; shall be architecturally compatible with other structures, shall take access from the interior circulation system of the development and shall be able to meet all code requirements if it were to be situated on an outparcel.*" A waiver is requested to allow a 5,411 sq. ft. convenience store.

The project as submitted requires a conditional use approval (Res. No. 06-21) and a wavier to the minimum building size (Res. No. 48-21).

Conditional Use Analysis:

The proposed gasoline station shares the W. Atlantic Ave and Congress Avenue intersection with two other gas stations (Chevron and Shell) and is generally compatible with the surrounding mix of commercial, industrial, and retail uses in the shopping center and along the Congress Avenue corridor (zoned MROC). The PC zoned parcel has a compatible General Commercial (GC) land use. The closest residentially zoned property is R-1-AA, located to the northwest and more than 700 feet away, is the site of Atlantic Community High School.

The plans demonstrate compliance with the gasoline station regulations in LDR Section 4.3.3 (J)(1)-(6). Specifically, the proposed development exceeds the minimum 15,000 sq. ft. lot area required (69,026 sq. ft. provided), the minimum 150 feet frontage required (295 ft W. Atlantic Ave, 354 S. Congress Ave provided), and the minimum 24 parking spaces required (28 spaces provided). The locations of the underground storage tanks and the canopy exceed the minimum 15 feet setback required (16.48 feet provided for the tanks and 58.15 feet provided for the canopy).

The traffic impact assessment provided indicates that the proposed gas station will generate 1,110 new external daily trips per day. The Palm Beach County Department of Engineering and Public Works Traffic Division reviewed the impact assessment and indicated that the proposed project meets the traffic performance standards of Palm Beach County with the following conditions for site improvements:

- 1) A right turn lane is added at the north driveway approach onto South Congress Avenue; and
- 2) The left turn lane taper is extended along South Congress Avenue.

The required right-of-way improvements will be coordinated with Palm Beach County (South Congress Avenue) and the Florida Department of Transportation (West Atlantic Avenue).

Regarding compliance with the Always Delray Comprehensive Plan, the proposed redevelopment forwards Healthy Community objectives and policies by including a deli and fresh food options, which are not available at the surrounding gas stations. However, NDC Policy 2.3.7 should also be considered.

NDC Policy 2.3.7 - Implement the vision in the “Congress Avenue Delray Beach’s Next Great Street” report by protecting commercial and industrial land uses to maintain and enhance the jobs base; ensuring diverse housing options for varying income levels; attracting higher education institutes; encouraging sustainable redevelopment; and, establishing a balance of uses along the corridor.

The Congress Avenue plan recommends Transit Oriented Development (TOD) within ½ mile of the Tri-Rail station (445 S. Congress Avenue). TOD projects are compact, moderate to high density, mixed use developments with bicycle and pedestrian friendly connections, and access to multi-modal transportation hubs (bus, train, etc.). The Always Delray plan focuses TOD to the ¼-mile area surrounding the Tri-Rail station. This site is located beyond the ¼-mile area, but within the ½-mile area and is outside of the portion of the Congress Avenue corridor regulated by MROC zoning, which strives for mixed use development. While the proposed gas station is not considered a TOD use, it is not incompatible with the existing buildings and uses at the intersection or adjacent properties. Conversely, since the proposed gas station is near Interstate 95, it will likely increase vehicular traffic in the area by providing an additional fueling option close to the Atlantic Avenue highway exit. This locale is convenient for drivers but does not further TOD efforts.

Per LDR Section 2.4.5 (E)(5), 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 within which it would be located;
- b) Hinder development or redevelopment of nearby properties.

Required Findings LDR Section 3.1.1, compliance with the following:

- a) Land Use Map
- b) Concurrency
- c) Consistency with comprehensive plan

The attached Planning and Zoning Board Staff report contains the full analysis. It is also important to note, per LDR Section 2.4.4(C), the granting body may impose whatever conditions it deems necessary to ensure concurrency and consistency with the Comprehensive Plan and LDR.

On February 22, 2021, the Planning & Zoning Board voted 3-2 (Blankenship and Long dissenting) to recommend approval of the conditional use. The board recommendation included the provision of electric vehicle (EV) charging station infrastructure and additional landscaping to buffer the dumpster area. At the hearing, applicant verbally agreed to these suggestions, which will be reviewed as part of the site plan review by the SPRAB.

Waiver Analysis:

The code requires a minimum building size to encourage larger scale, high quality redevelopment. The site is part of an established shopping center that was developed in 1984, and as an outparcel is now under separate ownership. The waiver request would allow a building 589 sq. ft. smaller than the minimum 6,000 sq. ft. required. The applicant's justification statement provided (attached) indicates that the waiver request to reduce the building size would allow for outdoor seating, improved vehicular circulation and stacking distances, and wider parking spaces that are common to RaceTrac gas stations. Outdoor seating areas are required to provide parking in support of the use area. Taking both the proposed convenience store, café, and outdoor seating area into account yields a redevelopment of 5,976 sq. ft. It is important to note that if the waiver is not granted, the site appears large enough to accommodate a 6,000 sq. ft. building or combination of indoor and outdoor use area. The Four Corners area, located at the W. Atlantic Avenue and Military Trail intersection, requires a minimum building size of 4,000 sq. ft. Recent redevelopment at that intersection includes a Chik-Fil-A (5,086 sq. ft.) and Chili's restaurant (4,950 sq. ft.).

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the granting body shall make findings that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:
N/A

Timing of Request:
N/A