



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Motorcycle Sales in the General Commercial Zoning District

Meeting	File No.	Application Type
October 18, 2021	2020-240-LDR	Land Development Regulations Amendment
Authorized Agent	Applicant	
Robert A. Eisen	James H. Batmasian	

#### Request

Provide a recommendation to the City Commission on Ordinance No. 36-21, a privately initiated amendment to the Land Development Regulations (LDR) to allow the sale and service of motorcycles with no outside display, outside storage, or outside service and including specific limitations as a conditional use within the General Commercial (GC) zoning district.

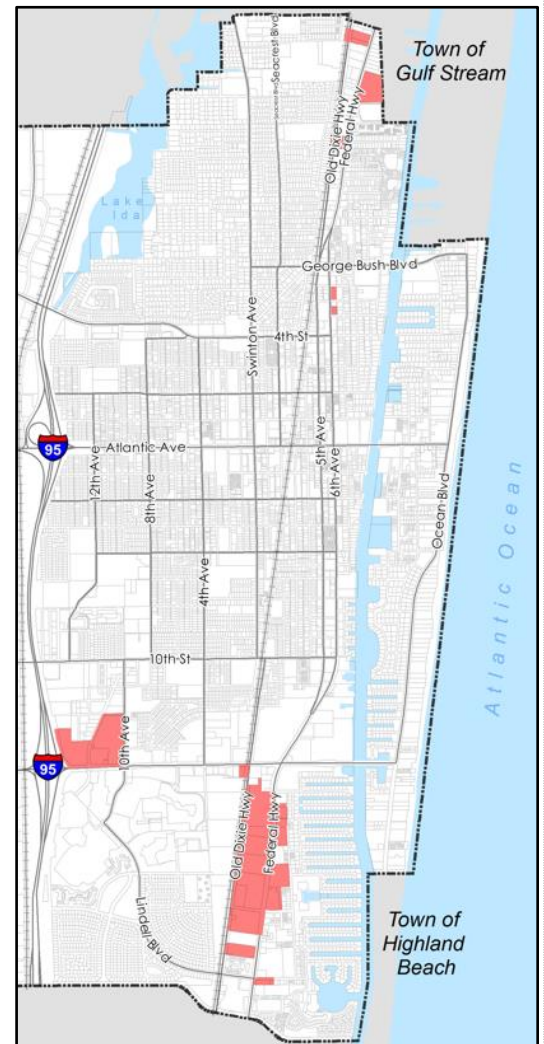
#### Background

This request was submitted prior to the adoption of Ordinance No. XX-21, which requires a City Commissioner sponsor for privately initiated amendments to the LDR.

The sale, lease, or rental of motorcycles as a permitted, by-right use is currently limited to the Automotive Commercial (AC) zoning district. The AC zoning district specifies requirements that assist in mitigating potential impacts from the dealerships to adjacent parcels, particularly those with a residential zoning district designation. Given the potential impacts on adjacent properties, the location of the AC zoning district is restricted through the Always Delray Comprehensive Plan. The Neighborhoods, Districts, and Corridors Element provides specific guidance by identifying the more appropriate locations for automotive dealerships and auto-related uses, primarily based along corridors in areas where there are limited residential uses and where dealerships have historically existed in the city. Appendix A provides the complete objective and associated policies, and the map to the right highlights the locations of the AC zoning district within the city.

The use of the AC zoning district is also limited in that it is only compatible with and identified as an "Implementing Zoning District" for the GC land use designation. The purpose of the GC land use designation is to "accommodate a wide range of non-residential and mixed-use development, and limited stand-alone residential development, along major corridors and in certain districts in the city." The development standards for the AC zoning district require a minimum lot area of 10,000 square feet (.44 acres), however, the minimum lot area specific to the sale of automobiles, trucks, recreational vehicles, and boats is 1.5 acres. The minimum lot size relative to the sale of motorcycles is not specified; a minimum lot area of 10,000 square feet would be required.

The GC zoning district, which is also limited to the GC land use designation, allows a wide range of commercial uses, including the sale and service of All Terrain Vehicles (ATV) and Personal Watercraft (waverunners and jet skis), with no outside display, outside storage, or outside service as a conditional use. In 2019, a private Similarity of Use request was made for the sale and service of scooters (mopeds) in the GC



Red color indicates parcels zoned AC

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#### Attachments:

- Ordinance No. 36-21
- Applicant Request Letter

zoning district. Similarity of Use requests are considered by the Planning and Zoning Board; the Board denied the request, finding that scooters are not similar to All Terrain Vehicles and Personal Watercraft. It is also important to note that driving ATVs and personal watercrafts are not allowed or possible on the public rights-of-way.

The GC zoning district provides area-specific accommodations for uses to ensure that they are located in the appropriate location, accommodating an existing use to not create a non-conformity, or to move forward the purpose and intent of the specific overlay district. With respect to the North Federal Highway Overlay District (along North Federal Highway from NE 14<sup>th</sup> Street to the north city-limit) additional conditional uses are allowed and are characterized as light industrial type uses and include:

- Fabrication and/or assembly of manufactured materials or parts for distribution or sale, such as sheet metal, sign shops, glass shops, electronics, cabinet and furniture making.
- The wholesaling, storage and distribution of products and materials.
- Self-service storage facilities.

On the contrary, the conditional uses in the Four Corners Overlay District (intersection of Military Trail and West Atlantic Avenue) are further restricted as not all the conditional uses for the GC zoning district are allowed.

In acknowledgement of the potential impact from the repair and testing of automobiles, Section 99.03, Loud and Unnecessary Noises Prohibited, of the City of Delray Beach Code of Ordinances, states that it is unlawful for *repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in a manner as to cause an unreasonably loud or excessive sound.*

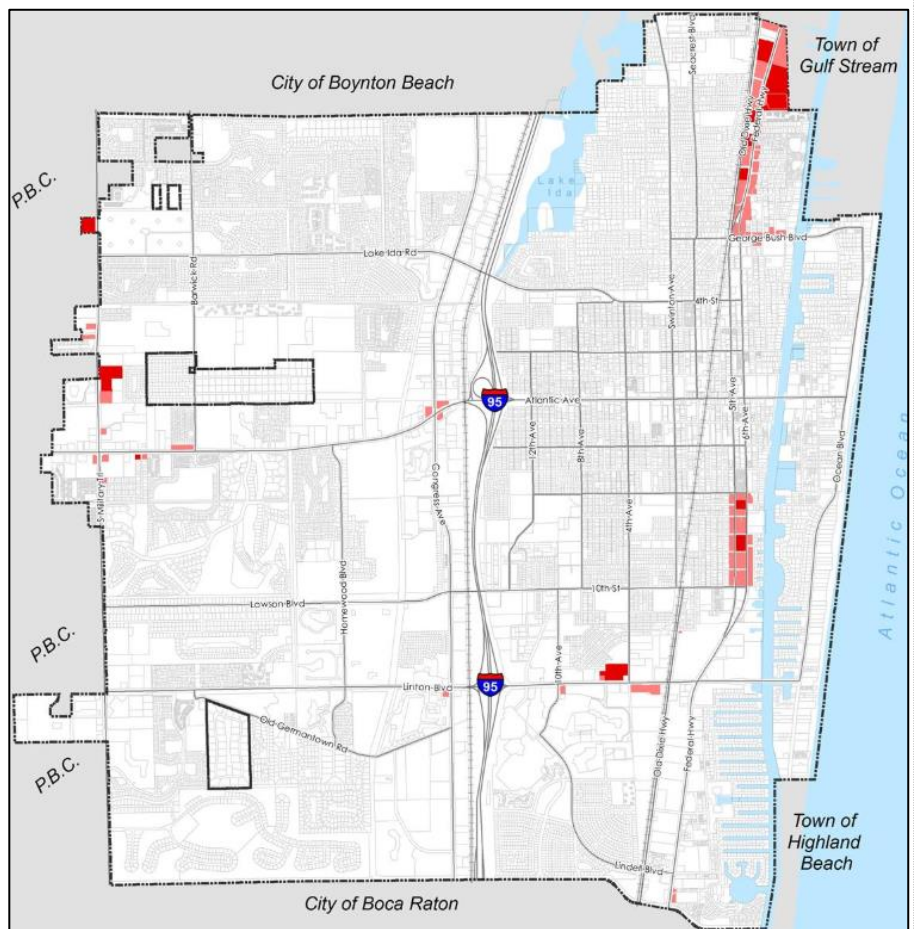
### Description of Proposal

The proposed amendment is to the GC zoning district (locations in red and pink on map) to allow the “*sale and service of motorcycles with no outside display, outside storage, or outside service*” as a conditional use subject to additional regulations. The amendment specifies that relief cannot be sought for the additional regulations, as follows:

- Maximum lot size: 1.5 acres.
- Engine size: maximum 1,250 cubic centimeters.
- Test rides: prohibited on-site and on residential streets and in residential neighborhoods.
- Repairs: prohibited on-site.
- Outdoor Inventory: Prohibited to be parked, stores, or displayed outside.
- Auxiliary Uses/Activities: Prohibited outdoors.

The parcels on the map identified in pink are those that measure 1.5 acres or less.

The submitted narrative (attached) indicates that listing the use as a “*conditional use rather than a permitted use is requested so that any location seeking motorcycle sales will be subject to the site-specific scrutiny of the conditional use process.*” While the request is applicable to all GC zoned parcels throughout the city, the request letter primarily focuses on a specific parcel located at 2411 North Federal Highway, which is within the North Federal Highway Overlay District.



It is important to note that while there are certain GC uses allowed in the Central Business District (CBD) and the Planned Commercial District (PC), the CBD does not specify that conditional uses from the GC zoning district are allowed. Further, the draft ordinance also ensures that the subject conditional use will not be applicable to the PC zoning district, which allows all conditional uses from the GC zoning district. In addition, the area currently zoned GC that is located along SE 5<sup>th</sup> and 6<sup>th</sup> Avenues, from SE 4<sup>th</sup> Street to SE 10<sup>th</sup> Street, is in the process of being rezoned to CBD, as the South Pairs Neighborhood Sub-district.

## Review and Analysis

Pursuant to **LDR Section 2.4.5(M)(1)**, *amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.*

The proposed amendment is privately initiated, and requested by Robert A. Eisen, on behalf of James H. Batmasian.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, *in addition to LDR Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies (GOPs) of the Comprehensive Plan.* The following GOPs of the adopted Comprehensive Plan are applicable to the proposed amendment:

**Policy NDC 1.1.14** *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

**Objective NDC 2.5 Automotive Dealerships** *Recognize that automotive dealers and auto-related uses are local legacy industries with unique impacts that require appropriate and strategic locations.*

**Policy NDC 2.5.3** *Prohibit new or the expansion of existing automotive dealerships on land located: within the Commercial Core land use designation; or on the east side of southbound North/South Federal Highway between George Bush Boulevard and SE 10th Street; or, on the east side of North Federal Highway, between George Bush Boulevard and the north property line of 2200 North Federal Highway; or, on properties fronting George Bush Boulevard, east of North Federal Highway; or, on properties located west of Interstate-95*

**Policy NDC 3.4.2** *Use the development review process to determine development, redevelopment, and adaptive reuse is consistent with and complementary to adjacent development, regardless of the implementing zoning designations for each land use designation.*

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

The proposal is to add motorcycle sales to the allowed conditional uses within the GC zoning district with specific limitations that are different from the limitations stipulated in the AC zoning district, where the sale of motorcycles is allowed as a permitted use. Currently, the only ability to establish a business for motorcycle sales would be to locate on an AC zoned property, or be approved for a rezoning for property not currently zoned AC.

These limitations intend to mitigate impact; however, it is unclear how much these limits will actually accomplish. Limiting the size of the parcels to 1.5 acres controls the overall size of the dealership; however, a dealer on an acre (43,560 sf) could still have a large inventory of motorcycles on site. The GC zoning map (included under "Description of Proposal" and provided as an attachment) identifies the large amount of parcels that are zoned GC and measure 1.5 acres or less, many of which are adjacent to residential zoning districts and established neighborhoods.

The proposed maximum engine size encompasses the most common types of motorcycles on the market, both foreign and domestic. While engine size is one variable related to sound, exhaust equipment, fuel type, and mufflers all contribute to level of sound emitted from a motorcycle. For example, a 500 cc Ducati Monster is designed to emit a very loud engine sound, while a 1000cc touring bike is designed for more quiet comfort for traveling longer distances. This proposed regulation does not ensure compatibility with surrounding properties, especially residential.

Limiting test drives is an attempt to prevent neighborhood streets from being de facto extensions of the dealerships. However, it is unrealistic to suggest that every customer that purchases a motorcycle would do so without test driving. Limiting test drives has proven



difficult to enforce, as street legal vehicles are allowed to operate on public roadways, determining ownership/drivers is not feasible once vehicles leave the dealer's property, and the violation occurs sporadically and is, therefore, difficult to address.

It is important to note, if approved, this LDR Amendment would allow motorcycle sales as a conditional use on the same GC parcels that scooter (moped) sales were determined not to be appropriate as a conditional use.

The GC parcels in the southern part of South Federal Highway are within the South Federal Highway Redevelopment Plan Area. A significant goal of the Plan is to provide adequate buffering and setback provisions to ensure that the commercial uses within the plan area are not incompatible with the surrounding residential areas as the area redevelops. In the areas east of South Federal Highway, the Plan states, "*Redevelopment in this area should consist of general retail and service uses and not additional automotive commercial uses.*"

### Conditional Use Review

The proposed LDR amendment will require that motorcycle sales be processed as a conditional use, which requires that certain findings be made to establish the use. Pursuant to **LDR Section 2.4.5(E)(5), Establishment of a Conditional Use: Findings**, *in addition to provisions 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 within which it will be located;*
- (b) *Hinder development or redevelopment of nearby properties.*

In reviewing a request, the City Commission will not only consider the impact on the surroundings per the findings, but will also be able to impose conditions on the request *to ensure the compatibility of the use with nearby existing and proposed uses*, pursuant to LDR Section 2.4.5(E).

### Considerations

The Board should consider the following in reviewing the subject request:

- Do the additional limitations provide sufficient protection from the potential impacts of the use on adjacent properties, particularly those that are residentially zoned?
- If allowed, should there be a distance requirement from residentially zoned properties, similar to late-night and 24-hour uses?
- Is the addition of motorcycle sales to the GC zoning district a way of circumventing the rezoning process to AC?
- Should the locations be limited to specific areas of the city, as the location of automobile dealerships are limited?

### Review By Others

The proposed LDR Amendments were reported to the Community Redevelopment Agency (CRA) in October 2021.

First and second reading at **City Commission** is anticipated at two upcoming public meetings with the second meeting as a public hearing.

### Alternative Actions

- A. Recommend **approval** to the City Commission of Ordinance No. 36-21, a privately initiated amendment to the Land Development Regulations (LDR) to allow the sale and service of motorcycles with no outside display, outside storage, or outside service and including specific limitations as a conditional use within the General Commercial zoning district, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval, as amended**, to the City Commission of Ordinance No. 36-21, a privately initiated amendment to the Land Development Regulations (LDR) to allow the sale and service of motorcycles with no outside display, outside storage, or outside service and including specific limitations as a conditional use within the General Commercial zoning district, by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 36-21, a privately initiated amendment to the Land Development Regulations (LDR) to allow the sale and service of motorcycles with no outside display, outside storage, or outside service and including specific limitations as a conditional use within the General Commercial zoning district, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

### Public and Courtesy Notices

X Courtesy Notices were provided to the following via email, at least 5 working days prior to the meeting:

- Delray Beach Chamber of Commerce
- Neighborhood Association Representatives

N/A Public Notices are not required for this request.

## Appendix A

### Always Delray Comprehensive Plan, Objective NDC 2.5, Automobile Dealerships



#### GOAL NDC 2

#### QUALITY OF LIFE AND URBAN FORM

##### Policy NDC 2.4.2

Continue to provide mechanisms in the Land Development Regulations to encourage and provide opportunities for infill and redevelopment within a quarter mile of commuter rail stations and along transit corridors that encourages ridership.

[Policy MBL 2.4.5](#)

[Policy CSR 1.3.2](#)

##### Policy NDC 2.4.3

Support the provision of transit-oriented workforce housing with incentives, such as increased density, smaller unit sizes, and reduced parking requirements in areas located within one-quarter mile of commuter rail stations and along main transit corridors, minimizing impacts to surrounding neighborhoods by providing compatible transitions through the application of Land Development Regulations.

[Policy MBL 3.6.2](#)

##### Policy NDC 2.4.4

Work with Palm Beach County and other local partners to create an infill/redevelopment plan for the station area surrounding the Delray Beach Tri-Rail Station to maximize both ridership and return on investments.

##### Policy NDC 2.4.5

Develop station design plans and site improvement plans for the Tri-Rail Coastal Link Station in downtown, considering the recommendations of Delray Beach Tri-Rail Coastal Link Station Master Plan. [Complete by 2025]

[Policy MBL 2.3.3](#)

[Policy CSR 1.3.3](#)

[Policy PFE 6.1.6](#)

#### Objective 2.5 Automobile Dealerships

Recognize that automotive dealers and auto-related uses are local legacy industries with unique impacts that require appropriate and strategic locations.

##### 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.

[Policy ECP 6.3.6](#)

##### Policy NDC 2.5.2

Prohibit rezoning of land located west of Interstate-95 to Automotive Commercial.

##### Policy NDC 2.5.3

Prohibit new or the expansion of existing automotive dealerships on land located:

- within the Commercial Core land use designation; or
- on the east side of southbound North/South Federal Highway between George Bush Boulevard and SE 10th Street; or,
- on the east side of North Federal Highway, between George Bush Boulevard and the north property line of 2200 North Federal Highway; or,
- on properties fronting George Bush Boulevard, east of North Federal Highway; or,
- on properties located west of Interstate-95.

##### Policy NDC 2.5.4

Direct auto-related uses that involve the servicing and repair of vehicles, other than as part of a full service dealership, to land with an Industrial or Commerce land use designation.