



## Legislation Details (With Text)

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**On agenda:** 2/11/2020      **Final action:** 2/11/2020

**Title:** RESOLUTION NO. 38-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DETERMING THAT BASED ON A SIMILARITY OF USE REQUEST THE USE OF "GARAGES AND LOTS FOR THE PARKING AND STORAGE OF VEHICLES" IS SIMILAR TO OTHER CONDITIONAL USES ALLOWED IN THE COMMUNITY FACILITIES (CF) ZONING DISTRICT, PARTICULARLY TO THE USE LISTED AS A "PRIVATELY-OPERATED PARKING LOT" (QUASI-JUDICIAL).

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Appeal Review of Similarity of Use Action - Resolution 38-20, 3. Appeal Review of Similarity of Use Action - CF Zoned Properties Map, 4. Appeal Review of Similarity of Use Action - Request Letter, 5. Appeal Review of Similarity of Use Action - Planning and Zoning Report, 6. Appeal Review of Similarity of Use Action - Resolution Legal Review Approval

Date	Ver.	Action By	Action	Result
2/11/2020	1	City Commission	approved	Pass

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** George Gretsas, City Manager  
**DATE:** February 11, 2020

RESOLUTION NO. 38-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DETERMING THAT BASED ON A SIMILARITY OF USE REQUEST THE USE OF "GARAGES AND LOTS FOR THE PARKING AND STORAGE OF VEHICLES" IS SIMILAR TO OTHER CONDITIONAL USES ALLOWED IN THE COMMUNITY FACILITIES (CF) ZONING DISTRICT, PARTICULARLY TO THE USE LISTED AS A "PRIVATELY-OPERATED PARKING LOT" (QUASI-JUDICIAL).

### **Recommended Action:**

Review and consider Resolution No. 38-20 for a Similarity of Use request associated with properties zoned Community Facilities.

### **Background:**

At its meeting of January 16, 2020, the City Commission voted on a 5 to 0 vote to appeal the Planning and Zoning Board action pertaining to the Similarity of Use request (2020-021) for properties zoned Community Facilities (CF). At its meeting of December 16, 2020, the Planning and Zoning Board determined on a 5-1 vote (Juli Casale) that the use of "garages and lots for the parking and storage of vehicles" is similar to other Conditional Uses allowed in the Community Facilities (CF) zoning district, particularly to the use listed as a "privately-operated parking lot", by finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan.

### Request Description

Uses identified within the LDRs are allowed only as listed in each zoning district. Pursuant to LDR Section 4.3.2(C), Determination of Similarity of Use, when the use is of a specific nature and is listed as a specific use in another zoning district, the use may be established within the specific zoning district by action of the Planning and Zoning Board in authorizing it through a determination of similarity of use.

The Applicant, Greico Motors LLC, has requested a determination of similarity of use to operate a parking lot for private use to park an inventory of vehicles on a property within the CF zoning district. The storage of vehicles is not listed as an allowed use in the CF zoning district. The Applicant has identified similar characteristics between the intended use and a “privately-operated parking lot”, which is allowed as a Conditional Use in the CF zoning district. However, the intended operations are listed in the Land Development Regulations (LDR) as Conditional Use in the Mixed Industrial and Commercial (MIC) zoning district under the use “garages and lots for the parking and storage of vehicles”.

In the attached request letter, the following similarities are identified between the proposed use of “a parking for private use by the Applicant to park inventory vehicles” and the allowed use of a “public and privately-operated parking lot” within the CF zoning district:

- The use involves the parking of cars.
- Cars will be driven individually to the lot to be parked.
- A private operator will determine which cars can be parked on the lot.
- A gate will secure access to the lot when not in use.

In this case, since the intended use is allowed in the MIC zoning district, specifically listed in the LDRs as “garages and lots for the parking and storage of vehicles”, the specific use may be established within the requested zoning district (CF) by action of the Planning and Zoning Board, authorizing it through a determination of similarity of use.

### Review and Analysis

Pursuant to LDR Section 2.4.5(N)(5), Determination of Similarity of Use, prior to approving a determination of similarity of use request, the Planning and Zoning Board must find that the requested use is indeed similar to a use allowed in the referenced zoning districts and is in keeping with the stated purpose of the district.

The subject similarity of use request is to determine if “garages and lots for the parking and storage of vehicles” is similar to other conditional uses allowed in the CF zoning district, particularly to the use listed as a “privately-operated parking lot.” While the applicant’s request is specifically associated with the property located at 15 SE 10th Street, which was previously utilized by the Florida Power & Light Company (FPL) as a storage and warehouse site, the determination would be applicable to all properties zoned CF. Attached is a map of all the properties zoned CF within the municipal boundary of Delray Beach.

As part of the requested similarity of use, the Board should consider if the use meets the Purpose and Intent of the CF zoning district, which states that it “is a special purpose zone district primarily, but not exclusively, intended for locations at which facilities are provided to serve public, semi-public, and private purposes. Such purposes include governmental, religious, educational, health care, social service, and special facilities.” The CF zoning district lists “privately-operated parking lots” as a conditional use but is part of the “Special Services and Facilities” category. This category also includes stadiums and arenas, refuse transfer stations, resource recovery facilities, and power transfer stations.

In consideration of the MIC zoning district, LDR Section 4.4.19(D)(2), Conditional Uses and Structures Allowed, states that the use of “garages and lots for the parking and storage of vehicles” is allowed as a Conditional Use. However, any outside storage associated with such uses [including the use “garages and lots for the parking and storage of vehicles”] may not be located within 150 feet of any property line adjacent to an arterial roadway (excluding Interstate 95). The uses allowed within the MIC zoning district are intended to “enhance employment opportunities in the industrial, manufacturing and trade sectors, with supporting business and professional office functions,” pursuant to LDR Section 4.4.19(A) Purpose and Intent.

While the distinguished uses of a “public and privately-operated parking lot” and the use of “garages and lots for the parking and storage of vehicles” may have similar physical site conditions, these uses provide different services and benefits to the community. A public and/or privately-operated parking lot serves the community on a private or public capacity. Within Delray Beach, public and/or privately-operated parking lots located in the CF zoning district are typically utilized as overflow parking lots for private and public facilities, such as commercial establishments, parks, churches, and the beach area. Conversely, garages and lots for the parking and storage of vehicles are accessory uses that typically do not offer public access and are associated with principal uses that provide services off-site; the requested use is allowed on properties in the MIC zoning district due to the existing industrial fabric of the area and other allowed uses within this district (MIC) and abutting districts.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Land Development Regulations Section 2.4.7.(E), Appeals, requires the hearing to be held no more than 60 days after the meeting at which the decision to appeal was made (January 16, 2020).