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Title: RESOLUTION NO. 21-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A REQUEST TO ESTABLISH A CONDITIONAL USE PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AND THE COMPREHENSIVE PLAN, TO AUTHORIZE A CONVENIENCE MART (GASOLINE STATION WITH FOOD SALES), KNOWN AS "7-ELEVEN AT VIA DELRAY" AT 13555 SOUTH MILITARY TRAIL, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES (QUASI-JUDICIAL).

Sponsors: Development Services Department

Indexes:

Code sections:

Attachments: 1. Agenda Cover Report, 2. Resolution 21-20 - 7-Eleven Conditional Use (Gasoline Station w/Convenience Mart), 3. PZB Staff Report - 7-Eleven Conditional Use, 4. Location Map - 7-Eleven at Via Delray, 5. Legal Review - Res 21-20 - 7-Eleven at Via Delray

Date	Ver.	Action By	Action	Result
3/3/2020	1	City Commission	approved	Pass

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Department
THROUGH: George Gretsas, City Manager
DATE: March 3, 2020

RESOLUTION NO. 21-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A REQUEST TO ESTABLISH A CONDITIONAL USE PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AND THE COMPREHENSIVE PLAN, TO AUTHORIZE A CONVENIENCE MART (GASOLINE STATION WITH FOOD SALES), KNOWN AS "7-ELEVEN AT VIA DELRAY" AT 13555 SOUTH MILITARY TRAIL, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES (QUASI-JUDICIAL).

Recommended Action:

Review and consider Resolution No. 21-20, a request for Conditional Use approval for a gasoline station for a 7-Eleven located at 13555 South Military Trail.

Background:

The subject property is located at 13555 South Military Trail, on the southwest corner of South Military Trail and Via Delray Boulevard. The site presently consists of a gasoline station with 4 fuel pumps and 8 fueling stations under a 199 SF canopied area, a 700 SF convenience store (built in 1984), and a 720 SF car wash (built in 1995). The gas station received a "special exception" approval under Palm Beach County jurisdiction on February 24, 1983. The gasoline station has been

operating as a 24-hour facility since it opened in 1984; however, no documentation on the approval from the County is available and the gas station redevelopment represents an expansion of the existing use.

In 2019, the City Commission approved a request to annex the property into the city. The annexation (Ordinance No. 21-19), future land use map (FLUM) amendment (Ordinance No. 22-19), and rezoning (Ordinance 23-19), were approved on October 1, 2019. Upon annexation, a Conditional Use application was not required because the existing use was not expanding at that time. Concurrent with the request for Conditional Use approval, the applicant submitted a request for site plan approval for 8 fuel pumps with 16 fueling stations under a new 4,284 SF fuel canopy, a new 978 SF self-service car wash, and 4,739 SF convenience store.

Findings

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.” NOTE: The subject request was submitted prior to the adoption of the Always Delray Comprehensive Plan on February 4, 2020; therefore, the applicable Goals, Objectives, and Policies from the prior Comprehensive Plan have been provided and reviewed.

Required Findings: LDR Section 3.1.1

Prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the following four areas:

- Future Land Use Map
- Concurrency
- Consistency
- Compliance with the LDRs

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 subject property has a Future Land Use Map (FLUM) designation of GC, and a zoning designation of GC, which are consistent with each other. Per LDR Section 4.4.9(D)(8), “Gasoline stations or the dispensing of gasoline directly into vehicles” are allowed as a conditional use in the GC zoning district. Per LDR Section 4.3.3(VV), a conditional use permit is required when a 24-Hour or late-night business is proposed within a 300-foot straight line route from any residentially-zoned property. The resulting use of land a 24-hour gasoline station with a convenience mart is consistent with the land use designation, and compatibility is determined through the conditional use process.

Concurrency. *Concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CI-GOP-1 of the adopted Comprehensive Plan of the City of Delray Beach.*

The subject property was previously subject to Palm Beach County land use and zoning at the highest commercial intensity possible, and it was determined to have sufficient capacity. Compliance

with traffic, schools, utilities, and solid waste is described below:

Traffic. The proposed 7-Eleven will generate 882 Net New Daily trips, 61 Net new AM Peak Hour trips, and 61 Net New PM Peak Hour Trips. The applicant has received a Traffic Performance Standards (TPS) approval letter Palm Beach County. Two entrances are proposed:

- South Military Trail: 35 foot wide driveway approximately 210 feet south of the intersection with Via Delray Boulevard.
- Via Delray Boulevard: 35 foot wide driveway approximately 340 feet west of the intersection with Military Trail.

Schools. Commercial development is not subject to school concurrency evaluation. Furthermore, the applicant indicates that a deed restriction is in place for the property that prevents the site from becoming a residential development. Therefore, there will be no negative impact on the public school system.

Water. The City's Water Atlas and the survey indicate water is provided to the site by a 12" water main located within the Military Trail right-of-way.

Sewer. The survey indicates sanitary sewer service is provided. The City's Sewer Atlas indicates that sewer service is not provided to the site by the City. Under Future Land Use Policy B-3.1, the City is not required to provide services upon annexation in areas that receive these services from Palm Beach County. Therefore, the property can remain on Palm Beach County sanitary sewer service subsequent to the approved annexation; therefore, there is no impact on City sanitary sewer facilities.

Solid Waste. The Solid Waste Authority (SWA) is the waste collector for both the City and the County. Since the use as a gas station and convenience store is expanding, the demand for services will increase. Solid waste generation is calculated at a rate of 36.7 pounds per square foot per year for neighborhood convenience uses. The development proposal will increase solid waste generation from 25,690 pounds per year to 173,921 pounds. The applicant provided documentation that the service provider has been contacted, and the information will be evaluated as part of the site plan review.

Drainage. The applicant has provided 65% impervious surfaces on the site. Lot coverage by building, pavement, or hardscape cannot exceed 75% of the development - 25% minimum must be impervious). The site plan is currently under review, and the review process will ensure sufficiency of site drainage.

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.*

Goal A of the Future Land Use Element of the Comprehensive Plan says that "Land within the Planning Area shall be developed or redeveloped to sustain and enhance the existing quality of life, compliment and be compatible with existing land use and result in a mixed, but predominately residential community with a balanced economic base and encourage accessible affordable everyday services." A gas station and convenience retail in proximity to residential development provides everyday services to residents within the City of Delray Beach.

Compliance with the LDRs. General compliance with the LDRs is discussed below, followed by a discussion of compliance with the regulations specific to gasoline stations.

Required Findings: LDR Section 2.4.5(E)(5)

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.

The subject property has operated as a gasoline station and convenience mart since 1984, and the self-service car wash was built in 1995. The proposed redevelopment represents an improvement to the property. The property is surrounded by medical offices to the north, condominiums to the south and east, and a water retention area / townhomes to the west. The properties to the north are separated by Via Delray Boulevard, and the residential properties to the east are separated by Military Trail. The site redevelopment will be located primarily on the northeast portion of the property, further away from abutting properties. The site currently has significant vegetation on approximately three-fourths of the property that provides a buffer between the gas station and the properties to the west and south. The proposed landscaping removes invasive exotic species, either relocates or retains some of the existing trees on the south side of the property, and adds new perimeter and site landscaping throughout the site.

Gas stations are subject to the conditional use criteria in LDR Section 4.3.3(J). **LDR Section 4.3.3 (J), Special requirements for specific uses: Gasoline station**, classifies the proposal as a “Convenience Mart”, which is a “*a gasoline station which also sells foods and convenience items and does not accommodate repair or installation services and where the sale of food and convenience items is secondary to the use as a gasoline station.*” The General Development Standards specific to gasoline stations (convenience mart) from Section 4.3.3(J)(5) are provided below and illustrate compliance by the proposed redevelopment

Minimum Lot Area for Gas Station with Convenience Mart:

- 15,000 SF (Required)
- 155,803 SF (Provided)

Minimum Frontage

- 150 feet (Required)
- 384.84 (Provided)

Parking Requirements

- 21 Parking Spaces (Required)
- 24 Parking Spaces, including one ADA compliant spot (Provided)

The “Gasoline facility development standards” in Section 4.3.3(J)(6) are as follows:

- (a) *Gasoline dispensers, tanks, dispenser islands, and canopies shall not be located closer than fifteen feet (15') from any property line. When property directly abuts residentially zoned property, gasoline dispensers, tanks, dispenser islands and canopies, signs, or vents shall not be located closer than 40 feet from the property line abutting the residentially zoned property.*

The existing fuel tank, which will be retained, is 62.89 feet from the closest property line adjacent to Via Delray Boulevard on the north side of the property. The fuel pump canopy is 218 feet from the residential property to the west. The sign will be located on northeast corner of the property.

(b) All storage tanks shall be underground.

The existing underground fuel storage tank will be retained, and none will be added.

(c) Lift and repair facilities shall be located within a structure.

There are no lift and repair facilities associated with this request.

(d) Vending machines are to be located under roof and screened on three sides. Racks containing cans of lubricating oil may be displayed on service islands. Racks or pedestals used for the display of tires shall be located along any side (as opposed to front) of a structure.

No vending machines or outside displays are proposed.

The listing of a gasoline station as a conditional use in the GC zoning district requires that the City Commission make findings pursuant to LDR Section 2.4.5(E)(5) 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.

The City Commission must take into consideration if compliance with the required development standards specific to gasoline stations and convenience marts is sufficient so as to not have a significantly detrimental effect upon the stability of the neighborhood, or hinder development or redevelopment of nearby properties. The proposed lighting is required to consist of cut-off luminaires so as to not impact adjacent properties, and the landscape plan illustrates significant buffering from the residential areas. The improvement of the subject property will likely have a positive impact on this portion of the corridor and provide additional neighborhood amenities with the expanded convenience mart.

The Planning and Zoning Board Reviewed Resolution No. 21-20 at the January 27, 2020 meeting and unanimously recommended approval (7-0).

City Attorney Review:

Resolution No. 21-20 was approved to form and legal sufficiency on January 31, 2020.

Funding Source/Financial Impact:

N/A

Timing of Request:

The project cannot move through the site plan approval process until the conditional use is approved.