



## Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Second Reading

**File created:** 6/16/2020      **In control:** City Commission

**On agenda:** 8/11/2020      **Final action:**

**Title:** ORDINANCE NO. 19-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE LAND USE MAP AMENDMENT FOR A PARCEL OF LAND, AND RE-DESIGNATING SAID LAND FROM TRANSITIONAL (TRN) TO GENERAL COMMERCIAL (GC), PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187; SAID LAND LOCATED AT 14145 SOUTH MILITARY TRAIL AT THE SOUTHWEST CORNER OF MILITARY TRAIL AND CONKLIN DRIVE, WHICH MEASURES APPROXIMATELY 0.99± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. O'Reilly Auto Parts-Ordinance No. 19-20, Land Use, 3. O'Reilly Auto Parts-PZB Staff Report, 4. O'Reilly Auto Parts-Land Use Maps, 5. Legal Review Ord 19-20 Amending FLUM for O'Reilly Auto Parts.pdf

Date	Ver.	Action By	Action	Result
8/11/2020	1	City Commission	approved on first reading	Pass

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

ORDINANCE NO. 19-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE LAND USE MAP AMENDMENT FOR A PARCEL OF LAND, AND RE-DESIGNATING SAID LAND FROM TRANSITIONAL (TRN) TO GENERAL COMMERCIAL (GC), PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187; SAID LAND LOCATED AT 14145 SOUTH MILITARY TRAIL AT THE SOUTHWEST CORNER OF MILITARY TRAIL AND CONKLIN DRIVE, WHICH MEASURES APPROXIMATELY 0.99± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; 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. 19-20, a City-initiated Land Use Map (LUM) amendment from Transitional (TRN) land use to General Commercial (GC) land use.

### **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, after annexation, the property was assigned a City 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 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 greater compatibility with GC zoning.

Pursuant to **LDR Section 2.4.5(A)**, Comprehensive Plan amendments must follow the procedures outlined in the Florida Statutes. The FLUM amendment is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

## 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. These findings relate to the Future Land Use Map (FLUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

**Land Use Map:** The current Land Use Designation is Transitional (TRN) and the proposed land use is General Commercial (GC). The Future Land Use Element, of the Comprehensive Plan, Table L-6, identifies which zoning districts are consistent with the Future Land Use Map designations. Pursuant to Table L-6, the proposed General Commercial FLUM designation and the proposed General Commercial (GC) Zoning District are consistent.

## Consistency

A finding of Consistency requires that the requested designation is consistent with Goals, Objectives, and Policies of the Comprehensive Plan adopted at the time of submittal. An amendment to the Comprehensive Plan (Always Delray) was adopted on February 4, 2020, but the application is subject to plan that was adopted at the time of submittal. The applicable Objectives and Policies from the plan effective at the time of submittal are provided below.

***Future Land Use Policy A-1.2: Zoning changes which would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exist along an arterial***

street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design. Strip commercial development, in this context, is characterized by several of the following design features: buildings are arranged in a linear (or strip) format on a narrow depth lot; parking is generally street frontage or on-street; uses are one store deep; no design integration among individual uses; typically no pedestrian access between adjacent developments; very little or no uniformity of signage on an individual development.

General Commercial zoning allows for a variety of building and development types that does not require nor strive to create strip commercial development. Given the property configuration of a narrow lot with the smaller side facing South Military Trail, design configuration is limited, and higher exposure to South Military Trail is likely most desirable. The submitted site plan illustrates vehicular access points from Conklin Drive, with a parking area between South Military Trail and the building, and an additional parking area towards the rear of the building. Review of the site plan may require site changes to increase the building's frontage along South Military Trail; the Land Development Regulations will require pedestrian access from the sidewalk to the building entrance.

Future Land Use Element Policy A-1.7: Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:

- ☐ *Demonstrated Need -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.*

The requested SAD zoning is not appropriate for the proposed use on the property and rezoning to General Commercial is requested; the LUM amendment is necessary to support the rezoning. The previously adopted comprehensive plan in effect at the time of application submittal that governs this submittal (prior to the adoption of Always Delray on February 4, 2020) allows SAD zoning in any land use category subject to consistency with the Comprehensive Plan. The Always Delray comprehensive plan, however, does not identify GC as a compatible or preferred zoning district in the TRN land use category; General Commercial land use is considered to have greater compatibility with GC zoning. As a means of supporting the long-range vision of the City, City staff asked the Applicant if they were amenable to rezoning to GC instead of SAD; the Applicant agreed to proceed with the rezoning to GC with the City initiating the corresponding land use plan amendment to accompany the rezoning.

- ☐ *Consistency -- The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan.*

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.” An auto parts store in proximity to residential development provides everyday services to residents within the City of Delray Beach, while appropriately locating the store along a major corridor for others, as well.

- ☐ *Concurrency -- Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

Compliance with traffic, schools, utilities, and solid waste is described below.

**Traffic.** The applicant submitted a traffic statement dated December 2019, based on the analysis of a 7,428 SF automobile parts store. The anticipated impact is 296 daily trips, with 14 AM Peak Hour Trips and 26 PM Peak Hour Trips. The traffic study indicates that the proposed development is anticipated to generate less than 1% of the adjacent roadway peak-hour peak-direction LOS in all links within the radius of development influence. The applicant received a Traffic Performance Standards (TPS) approval letter from Palm Beach County for the project.

**Schools.** Commercial development is not subject to school concurrency evaluation. Therefore, there will be no negative impact on the public school system.

**Water & Sewer.** The City's Water and Sewer Atlases indicate that water and sewer services is provided to the site. The site plan submitted as part of the Special Activities District rezoning request established a plan for water and sewer infrastructure.

**Solid Waste.** The Solid Waste Authority (SWA) is the waste collector for the City. The SWA has indicated that there is significant capacity for projects within the City through 2047.

**Drainage.** The City will review drainage plans upon receipt of a site plan application. At site plan submittal, the applicant will be required to provide a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3 (D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into City's sewer system. A letter from the Deputy Director of Public Utilities stating that the City's system has sufficient capacity to treat proposed flows will be issued upon review and approval of submitted site plans.

- ☐ *Compatibility -- The requested designation will be compatible with existing and future land uses of the surrounding area.*

The Comprehensive Plan says that Transitional land use (existing) “is applied to land which is developed, or is to be developed, for either residential or nonresidential uses [...]. In some instances this designation provides for a transition between less intensive residential use and commercial uses. In other instances, this designation allows the establishment of uses which are compatible with adjacent residential use.” General Commercial land use (proposed) similarly “is applied to land which is, or should be, developed for general commercial

purposes e.g. retail, office, services.” Both GC and TRN land uses are clustered along Military Trail. The adjacent FLUM designations are:

**North.** General Commercial (GC)

**South.** Medium Density (MD)

**East.** Medium Density (MD)

**West.** Medium Density (MD) - Advisory Land Use

The proposed automotive parts store is consistent with the proposed General Commercial FLUM designation, and consistent with the surrounding land use map designations.

- ☐ *Compliance -- Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.*

The applicant has submitted a request for site plan approval, and the proposed development will be subject to all applicable provisions and requirements for GC zoning in the Land Development Regulations.

Adjacent neighbors provided public comment at the Planning and Zoning Board hearing, raising concern about traffic changes and the rear setback (as GC requires 5 feet less than the current SAD). The Planning and Zoning Board voted 4 to 2 to recommend approval of the request at its June 15, 2020 meeting.

**City Attorney Review:**

Ordinance No. 19-20 was approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

NA

**Timing of Request:**

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