



## Legislation Text

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File #: 19-769, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Steve Tobias, Interim Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** August 20, 2019

ORDINANCE NO. 23-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING PORTIONS OF LAND PRESENTLY ZONED PALM BEACH COUNTY GENERAL COMMERCIAL (GC), TO CITY OF DELRAY BEACH GENERAL COMMERCIAL (GC); FOR A PARCEL OF LAND LOCATED ON THE WEST SIDE OF SOUTH MILITARY TRAIL, IMMEDIATELY SOUTH OF VIA DELRAY BOULEVARD, AND WHICH MEASURES APPROXIMATELY 3.57± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

**Recommended Action:**

Review and consider Ordinance No. 23-19 on first reading, a privately initiated request to rezone 3.57± acres from Palm Beach County General Commercial (GC) to City of Delray Beach General Commercial (GC), pursuant to the requirements in the Land Development Regulations.

The applicant has requested rezoning, concurrent with an application for annexation and Future Land Use Map amendment. Assignment of a City zoning district is required upon annexation.

The site currently has a 199 SF covered area with 4 fuel pumps with 8 fueling stations, a 700 SF convenience store (both built in 1984), and a 720 SF car wash (built in 1995). The applicant states the intention is to redevelop the site in a manner consistent with the 7-Eleven corporate model with a 4,500 SF convenience store, self-service car wash, and eight fuel pumps with 16 fueling stations in the summer of 2019. The applicant indicates in the submitted Justification Statement (attached) that features of the new 7-Eleven corporate model include enhanced architecture, lighting, landscaping, and additional site security, which will be evaluated in a future site plan submittal. The project described by the applicant will require a Class V site plan application and a Conditional Use approval.

The request is for General Commercial (GC) zoning. The Land Development Regulations (LDR) Section 4.4.9 "General Commercial (GC) District" describe the zoning district as follows: *"provides basic regulations for small parcels which are best suited for general retail and office uses. [...] The GC designation is applied to small parcels, most of which are developed, where adherence to standard regulations is most appropriate. The GC designation is to be applied primarily along arterial and collector streets. Uses may be conducted singularly or in combination within the same structure ."*

The parcel is located along South Military Trail, which is categorized as a Principal Arterial in the Comprehensive Plan.

Requests for rezoning must make the finding that there is a valid reason for a change in zoning. Pursuant to LDR Section 2.4.5(D)(2) of the Land Development Regulations, valid reasons are:

- That the zoning had previously been changed, or was originally established, in error;
- That there has been a change in circumstance which makes the current zoning inappropriate;
- That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

The application fulfills the last two criteria. The change of circumstance (annexation from Palm Beach County and land use map amendment) necessitates the adoption of City zoning. Additionally, concurrent with annexation, an initial zoning designation must be applied to the property consistent with the requested Future Land Use Map designation, and match the intensity of the proposed land use. The proposed zoning is comparable to the existing Palm Beach County zoning, and the existing development is compatible with the surrounding neighborhoods, providing neighborhood-serving amenities.

### **Standards for Rezoning Actions (LDR Section 3.2.2)**

Rezoning requests must meet five standards:

- (A) *The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied to those areas identified as "stable" and "stabilization" on the Residential Neighborhood Categorization Map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied. [Amd. Ord. 13-99 3/16/99]*

Not applicable. Because the subject property is located in unincorporated Palm Beach County, a category on the Residential Neighborhood Categorization Map has not been assigned. This property is requesting a commercial zoning district.

- (B) *Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95. [Amd. Ord. 13-99 3/16/99]*

Not applicable. The request is not for Automotive Commercial or to accommodate an auto dealership.

- (C) *Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design. [Amd. Ord. 13-99 3/16/99]*

The subject property is not a strip commercial development. The zoning change will continue to provide for neighborhood-serving commercial uses in a compact node.

- (D) *That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the*

*new use. [Amd. Ord. 13-99 3/16/99]*

Under the proposed General Commercial land use, the General Commercial (GC) zoning district is considered a compatible zoning designation. Furthermore, the proposed zoning is compatible with the existing use on the site. The current uses and zoning surrounding the subject parcel are as follows:

**North:**

- **Zoning.** Palm Beach County Specialized Commercial (CS)
- **Land Use** Palm Beach County Commercial High Office w/Underlying MR-5 (CH-0/5)
- **Use.** Medical office

**South:**

- **Zoning.** Palm Beach County Single Family (RS)
- **Land Use.** Palm Beach County Medium Density Residential (MR-5)
- **Use.** Condominiums

**East:**

- **Zoning.** City of Delray Beach Medium Density Residential (RM)
- **Land Use.** City of Delray Beach MD - Medium Density, 5-12 du/ac
- **Use.** Condominiums

**West:**

- **Zoning.** Palm Beach County Single Family (RS)
- **Land Use.** Palm Beach County Medium Density Residential (MR-5)
- **Use.** Townhomes / water retention

The surrounding properties contain a mix of residential types and medical office. Therefore, the zoning is compatible with the adjacent and nearby land uses and will continue to provide retail uses and services for the surrounding area.

*(E) Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development. [Amd. Ord. 13-99 3/16/99]*

Not applicable. The proposed development is not within the coastal planning area.

The Planning and Zoning Board Reviewed Ordinance No. 23-19 at the July 15, 2019, meeting and recommended approval (5-0).

**City Attorney Review:**

Ordinance No. 23-19 was approved to form and legal sufficiency on July 22, 2019.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

This request is concurrent with the consideration of Ordinance No. 21-19 and Ordinance No. 22-19.