

Nassau County
Planning and Economic Opportunity
Department
96161 Nassau Place
Yulee, FL 32097
(904) 530-6300



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Date of Hearing: August 15, 2017

Public Hearing Number: R17-003

A. General Information

Applicant: Debbie Holland, owner

Request: Rezoning of approximately 1.03 acres from Commercial General (CG) to Commercial Intensive (CI)

Applicable Regulations: Policies FL.01.02(C), and FL.08.05 of the *2030 Nassau County Comprehensive Plan*; Articles 16 and 17, Land Development Code (LDC)

B. Site Information

Lot Size: +- 1.03 acres

Location: On the south side of Commercial Park Drive between Harts Road and US 17 South.
TP# 42-2N-27-438U-0006-0000

Directions: From the intersection of US17 and SR200/A1A in Yulee, travel 2.0 mi. south. Turn west on Commercial Park Drive and travel 750 feet. Property is directly to the south.

C. Existing Use

Subject Site: Vacant Land

Surrounding: North: Vacant Land
South: Vacant Land
East: Commercial (indoor gun range, auto parts)
West: Vacant Land
Residential (mobile home)

D. Existing Zoning

Subject Site: Commercial General (CG)
Surrounding: North: Commercial General (CG)
South: Commercial Intensive (CI)
East: Commercial Intensive (CI)
West: Open Rural (OR)

E. FLUM Designation

Subject Site: Commercial (COM)
Surrounding: North: Commercial (COM)
South: Medium Density Residential (MDR)
East: Commercial (COM)
West: Medium Density Residential (MDR)

F. Background

The proposed rezoning request includes approximately 1.03 acres located in a platted commercial subdivision (U.S. 17 Commercial Park, Plat Book 6, pp.259-260) located on the west side of US17, approximately 2.0 miles south of the intersection of US17 and SR200/A1A. The rezoning request is from Commercial General (CG) to Commercial Intensive (CI). The proposed rezoning will be consistent with the existing Future Land Use designation of Commercial (COM).

The Commercial Intensive (CI) zoning district proposed for this site is a high-intensity commercial district intended to provide for a wide variety of retail sales and service needs of County residents. It may also include the development of, professional, medical, financial and business or a variety of public or civic uses; and in certain cases wholesale trade, light manufacturing, or warehouse uses. Sexually oriented businesses are permitted in this district, subject to the provisions of Ordinance No. 2005-10 [section 26½-1 et seq.], and the distance requirements found in Article 33, Section 33.02 of the Land Development Code.

Areas in this district should have direct access to major transportation corridors suitable for efficiently carrying large volumes of traffic. Commercial Intensive District uses may be developed only in a nodal pattern, and must abut a roadway classified as a collector or higher on the adopted functional highway classification map of the adopted comprehensive plan (Note: the subject property is located in a platted commercial subdivision with a single common access to US 17, an arterial roadway).

G. Analysis

1. *Is the proposed change contrary to the established land use pattern?*

No. The subject property is located in a platted commercial subdivision (U.S. 17 Commercial Park, Plat Book 6, pp.259-260) with direct access to US 17, an arterial roadway that is part of an established commercial corridor. There are several properties adjacent to the subject property that are currently zoned Commercial Intensive (CI) and are occupied by commercial uses consistent with that district.

2. *Would the proposed change create an isolated district unrelated to adjacent and nearby districts?*

No. There are several properties adjacent to and in the vicinity of the subject property that are currently zoned Commercial Intensive (CI)

3. *Would the proposed change materially alter the population density pattern and thereby overload public facilities such as schools, utilities, streets, etc.?*

No. The subject rezoning request is from a commercial district (CG) to a more intensive commercial district (CI). Residential uses are not permitted in either district; therefore, population density is unaffected.

4. *Are existing district boundaries illogically drawn in relation to existing conditions on the property proposed for change?*

No. However, the existing CG zoning district or the proposed CI district would both be considered appropriate in the existing Commercial (COM) FLUM designation.

5. *Is the proposed change contrary to the long-range land use plans?*

No. The requested change would be in compliance with the current 2030 Future Land Use Map (FLUM) designation of Commercial.

6. *Do changed or changing conditions make the approval of the proposed zoning desirable?*

Yes. The continuing urbanization of the Yulee area necessitates the need for expanded commercial services to serve the growing population. Within an established commercial corridor like US17, intensive commercial uses may be desirable and appropriate if they conform to the standards of the County's Land Development Code.

7. *Will the proposed change adversely influence living conditions in the neighborhood?*

No. There are residential uses west of the property, however, most residential development is separated from the subject property by a 200 foot wide railroad right of way (CSX). The Land Development Code has provisions for buffering of residential properties from commercial properties. Any new commercial development on the subject property will be required to meet these buffers. With adequate site planning and review, the uses permitted in the CI district can be compatible with nearby residential uses.

8. *Will the proposed change create or excessively increase traffic congestion or otherwise affect public safety?*

No. The proposed Commercial Intensive (CI) district may allow uses that will increase traffic impacts beyond that of the current CG zoning district. Future development on the site will be subject to fees assessed as part of the County's adopted Mobility Plan (see Ord. 2014-16). Funds collected through the mobility fee will be applied to prioritized transportation improvement projects in an area that has a rational relationship to the location of the development. Traffic operational issues that may be created by the new development will also need to be resolved at the developer's expense if required by Engineering Services.

9. *Will the proposed change create drainage problems?*

No. All development will be required to meet all drainage standards as imposed by the Nassau County Roadway and Drainage Standards and the SJRWMD criteria.

10. *Will the proposed change be a deterrent to the improvement or development of adjacent property in accordance with existing regulations?*

No. The proposed zoning change would be consistent with the pattern of existing commercial development north, south, and east of the subject property. The proposed Commercial Intensive (CI) zoning district would not, in most circumstances, be incompatible with adjacent Commercial General (CG) uses that may locate north of the property.

11. *Will the proposed change affect property values in the adjacent area?*

The value of adjacent properties should not be adversely affected since similar zoning districts and uses are found adjacent to the subject property and, as stated

above, adequate site planning and review should allow most uses permitted in the CI district to be compatible with any nearby residential uses.

The commercial uses at this location should provide needed services to the surrounding neighborhoods, which may increase the value of surrounding property over time.

12. *Will the proposed change constitute a grant of special privilege to an individual owner as contrasted with the public welfare?*

No. The proposed CI district will be in keeping with the character of this area. The commercial development that may occur should provide needed services to the surrounding neighborhoods and may also result in job creation for the County. The change does not grant a special privilege as contrasted with the public welfare.

13. *Are there substantial reasons why the property cannot be used in accord with existing zoning? Is the proposed change out of scale with the needs of the neighborhood or the county?*

No. However, given its location in an existing commercial corridor adjacent to other intensive commercial districts and its proximity to the intersection of US 17, the proposed CI district is a suitable zoning district for this property.

14. *Are there other sites in this general location already zoned to permit the proposed use?*

Yes. There are other sites currently zoned CI directly adjacent to the subject property to the north and south.

15. *Is the width and area of the parcel sought to be rezoned adequate to accommodate the proposed use?*

Yes. The parcel is sufficiently sized to meet the minimum lot size requirements of the CI zoning district.

H. Staff Findings

1. The proposed rezoning is in compliance with the underlying Future Land Use Map (FLUM) designation of Commercial (COM).
2. The proposed rezoning application is compliant with the requirements of Sec. 5.02 of the County's Land Development Code, and meets the analysis criteria described in Part F. (1-15) of this report above.

3. The proposed rezoning application is compliant with the intent, locational and dimensional standards for the Commercial General (CG) zoning district found in Article 16 of the County's Land Development Code.
4. Future uses on the subject property will be required to provide adequate screening and buffering from any surrounding residential uses as a part of the site plan review process per Sec. 5.07 of the County's Land Development Code.

QUASI-JUDICIAL HEARING PROCEDURES

Florida Statutes and the Courts of Florida require that your rezoning application be heard as a Quasi-Judicial Hearing.

A Quasi-Judicial Hearing, by state and case law, is different than a regular hearing conducted by this Board. A Quasi-Judicial Hearing is less formal than a court hearing but similar in procedures and evidence issues.

In a Quasi-Judicial Hearing, the applicant has the burden of demonstrating by competent substantial evidence that his/her rezoning request meets requirements of the County Zoning Code, Comprehensive Plan and other applicable regulations.

The applicant is entitled to be represented by counsel.

The only material or relevant evidence is that which addresses the applicable codes and/or Comprehensive Plan. The hearing procedures will be:

1. Staff will be sworn and shall describe the applicant's request, provide staff's recommendation and present any witnesses in support of staff's recommendation. Staff shall have fifteen (15) minutes.
2. The applicant and others presenting evidence will be sworn and shall state their name, address and subject to which they will testify. The applicant or its agent/attorney may elect to waive their presentation and to rely on the application, recommendation, and staff comments, reserving the right to address the Board if any evidence is presented against the application. Evidence presented must specifically address the criteria in the Zoning Ordinance and or Comprehensive Plan. The applicant, or his/her attorney/representative, will have an opportunity to present evidence for the application and will have fifteen (15) minutes for its presentation. If the applicant has witnesses, the applicant will indicate the name of each witness and the subject to be addressed. The applicant's witnesses will each have five (5) minutes. The applicant may also call the Zoning Official or other staff member who are present as a witness and ask them questions. Again, the time limit for questions is five (5) minutes.
3. Those who present evidence against the application will be sworn in and will be provided five (5) minutes each to present evidence and witnesses that address the criteria. If a group opposes the application, they may also be represented by counsel and shall state that now. They may also call the applicant, Zoning Official or other staff members that are present as witnesses and ask them questions, subject to the five minute time limit. Anyone presenting repetitious evidence or evidence that does not address the criteria will be directed to stop and address the criteria.
4. The applicant or its attorney may then cross examine those presenting evidence against, subject to control by the chair and county attorney. Cross-examination shall be five (5) minutes for each witness.
5. Sharing or transferring time is not allowed. Persons presenting evidence will address the Board, at the podium, and if there are documents or photos they must be presented when the particular individual is testifying. No documents will be returned, as they become a part of the record. Cross examination, if any, will be to the point and controlled by the chairman with the assistance of the county attorney. As a Quasi-Judicial Hearing, numbers of individuals for or against a particular item will not be considered. The meeting is being taped; therefore there can be no applause or outbursts.

6. The Office of the County Attorney represents the Board and provides advice to the Board including advice as to the procedures and the admissibility of evidence.
7. The Board will afford members of the audience who have not presented evidence for or against three (3) minutes each to address any information provided. The members of the public will not be sworn in.
8. The applicant will be permitted to provide rebuttal if any (a maximum of ten (10) minutes).
9. Staff may have five (5) minutes to provide final comments to the Board.
10. The Board will then close the public hearing and will discuss the application and may ask questions of the applicant, staff or those presenting evidence against or witnesses for the application.
11. The strict rules of evidence applicable to a court proceeding will not be utilized; however, the Board, with the assistance of the attorney, may exclude evidence that is not relevant or material or is repetitious or defamatory. Again, the Quasi-Judicial procedures are required by law and all those participating need to be aware of the procedures. Anyone who fails to follow the procedures may be required to stop his/her presentation or relinquish their time.

To be fair to everyone and in order to follow the procedures, if you have any questions please call the County Attorney's Office at (904) 530-6100 or the County's Planning and Economic Opportunity Office at (904) 530-6300.