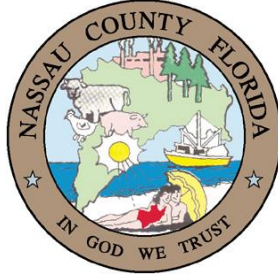


Nassau County
Planning and Economic Opportunity
Department
96161 Nassau Place
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Date of Hearing: October 3, 2017

Public Hearing Number: R17-007

A. General Information

Applicant: Dulcey Khelah, Agent

Owner: Richard Kela

Request: Rezoning of approximately 0.74 acre from Residential Mixed (RM) to Commercial General (CG)

Applicable Regulations: Articles 5, 10, and 16 of the *Land Development Code (LDC)* (Ord.99-17, as amended); FL.01.02(B&C), ED.05.02, FL.03.02, and FL.08.01 of the *2030 Nassau County Comprehensive Plan*

Related Application: CPA17-005 (Small-Scale Future Land Use Map amendment from MDR to COM)

B. Site Information

Lot Size: 0.74 acre

Location: On the northwest side of SR200/A1A between Annie Laura Street and Evelyn Street, tax parcel #'s 51-2N-25-4170-0010-0000, 51-2N-25-4170-0011-0000, 51-2N-25-4170-0012-0000 and 51-2N-25-4170-0022-0000

Directions: Head east on SR200/A1A from Callahan to the intersection of Annie Laura Street. Property is in the northeast quadrant of the intersection.

C. Existing Land Uses

Subject Site: Vacant Land

Surrounding: North: Residential (Single Family & Mobile Home)
South: Commercial (vehicle sales & service)
East: Residential (Single Family & Mobile Home)
Vacant Land
West: Commercial (vehicle sales & service)
Residential (Mobile Home)

D. Existing Zoning

Subject Site: Residential Mixed (RM)

Surrounding: North: Residential Mixed (RM)
South: Commercial Intensive (CI)
East: Residential Mixed (RM)
Commercial Neighborhood (CN)
West: Residential Mixed (RM)

E. FLUM Designation

Subject Site: Medium Density Residential (MDR)

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

F. Background

The proposed rezoning comprises four parcels totaling 0.74 acres. The property has approximately 210 feet of frontage on SR200/A1A. It is currently zoned Residential Mixed (RM).

According to Article 16 of the Land Development Code, The Commercial General (CG) zoning district proposed for this site is a moderate-intensity district intended to for general commercial uses which will meet the retail sales and service needs of County residents. This district is intended to encourage the concentration of general commercial uses and not the extension of strip commercial areas. The areas designated in this district shall abut a roadway classified as a collector or higher facility on the adopted functional highway classification map of the adopted comprehensive plan.

Common uses found in this district will include a variety of retail sales and service establishments.

The proposed CG zoning district will require a small-scale FLUM amendment on the property to Commercial (COM), for which the applicant has applied in conjunction with this application (CPA17-005).

G. Analysis

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

No. Although most of the present surrounding uses are residential, continuing urbanization of the SR200 corridor east of Callahan necessitates the need for commercial services or higher-density residential uses at this location. The Land Development Code has provisions for buffering of residential properties from commercial properties. New commercial development on the portion of this that remains zoned CG on the subject property will be required to meet these buffers.

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

No. Surrounding districts are primarily residential or rural, with some commercial and districts in proximity to the site that are appropriate to the area to be served. The proposed CG district will be in keeping with the character of this area.

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

No. The proposed CG district allows only non-residential uses. It will not alter population density. It should have no impacts to schools or parks and recreation and minimal impacts to other public facilities (see staff report for CPA17-005).

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

Yes. The low-density, residential nature of RM is less desirable given the size of the property and proximity to SR200/A1A. A more suitable zoning would be for non-residential uses, such as commercial.

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

No. The proposed rezoning would be compliance with the underlying Future Land Use Map if the companion FLUM amendment, CPA17-005, is approved, changing the designation of this property from Medium Density Residential (MDR) to Commercial (COM) (see staff report for CPA17-005).

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

Yes. The continuing urbanization of this transportation corridor necessitates the need for commercial services or higher-density residential uses, and makes previously existing rural/ low density residential uses less desirable along SR200.

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

No. The Land Development Code has provisions for buffering of residential properties from commercial properties. New commercial development on the subject property will be required to meet these buffers. With adequate site planning and review, most uses permitted in the CG 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 General (CG) district may allow uses that will increase traffic impacts beyond that of the current RM zoning district. The proposed rezoning to CG may increase the number of daily trips if commercial development occurs on the property. Future development on the site will be subject to fees assessed as part of the County's adopted Mobility Plan (see Ord. 2014-16). 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. Through the site plan review process, the existing use and any future development on the property will be required to meet all drainage standards as imposed by the Nassau County Roadway and Drainage Standards and any SJRWMD permitting requirements.

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

No. The relatively moderate intensity of uses permitted in the CG district and the buffering and design requirements of the current LDC should ensure that a permitted commercial use at this location will be a good neighbor to surrounding uses and should help to improve the area aesthetically.

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

The value of adjacent properties should not be adversely affected since, as stated above, adequate site planning and review should allow most uses permitted in the CG district to be compatible with nearby residential uses.

The commercial, office or institutional 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 CG district will be in keeping with the character of this area. The commercial, office or institutional 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?*

Yes. As stated previously, the low-density, residential nature of RM is less desirable given the size of the property and proximity to SR200/A1A. A more suitable zoning would be for non-residential uses.

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

Existing commercial uses are located west of this site and across SR200/A1A to the south. Zoning districts include Commercial Intensive (CI) to the south- a higher-intensity zoning district than the proposed CG district. A vacant Commercial Neighborhood (CN) district can be found just east of the site. This is a less intense district than the proposed CG district. Intensive commercial uses to the west are currently located in a non-conforming RM district.

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

Yes. The subject property is capable of meeting the minimum lot size and frontage standards for the CG zoning district found in Article 16 of the Land Development Code.

H. Staff Findings

1. The proposed rezoning would be compliance with Policy FL.01.02(C) and the underlying Future Land Use Map (FLUM) if the companion FLUM amendment, CPA17-005, is approved, changing the designation of this property from Medium Density Residential (MDR) to Commercial (COM) (see staff report for CPA17-005)
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 and on the portion of this parcel that remains zoned CG will be required to provide adequate screening and buffering from any surrounding incompatible 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.