



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

landdevelopmentweb@palmabayflorida.org

Prepared by

Tania Ramos, Senior Planner

CASE NUMBER

CU23-00003

PLANNING & ZONING BOARD HEARING DATE

November 1, 2023

PROPERTY OWNER & APPLICANT

Sunrise Plaza Enterprise, Inc. (Richard Franzblau, Esq., Rep.)

PROPERTY LOCATION/ADDRESS

A portion of Tract I, Port Malabar Unit 44, Section 22, Township 28, Range 36, Brevard County, Florida. Located at the southwest corner of Glencove Avenue NW and Emerson Drive NW; Tax Account 2857966

SUMMARY OF REQUEST

A Conditional Use to allow retail automotive gas/fuel sales in the Neighborhood Commercial District, in accordance with Section 185.042(D)(1) of the Palm Bay Code of Ordinances.

Current Zoning

NC, Neighborhood Commercial District

Current Land Use

COM, Commercial

Site Improvements

Vacant Land

Site Acreage

Approximately 3 acres

SURROUNDING ZONING & USE OF LAND

North

NC, Neighborhood Commercial District; Vacant Land

East

RS-2, Single-Family Residential District; Single-Family Residences

South

RS-2, Single-Family Residential District; Single-Family Residences

West

NC, Neighborhood Commercial District; Vacant Land

COMPREHENSIVE PLAN

COMPATIBILITY

Yes, Commercial Use

BACKGROUND:

The subject property is a three (3) acre parcel located at the southwest corner of Glencove Avenue NW and Emerson Drive NW. The applicant has provided a conceptual plan with a proposed 3000 square foot gas station, along with restaurant and retail/office space.

The applicant intends on keeping the property undivided. The conditional use request is specifically to allow retail automotive gas/fuel sales to be developed on vacant land.

ANALYSIS:

Section 185.042(D)(1) of the Code of Ordinances establishes retail automotive gas/fuel sales as a conditional use in the Neighborhood Commercial District and provides specific requirements to be met before permitting this use. An administrative site plan review will be required to ensure compliance with all applicable codes.

Retail automotive gas/fuel sales establishments shall be located on arterial roadways, at a signalized intersection of a major collector road, or on corner lots at the intersection of collector streets or a higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. No more than two (2) corner lots at any intersection shall be used for retail gasoline or automotive fuel sales. The proposed project is located on Emerson Drive NW, between Jupiter Boulevard NW and St. Johns Heritage Parkway. This section of Emerson Drive is classified as a major collector, urban roadway in the City of Palm Bay 2045 Comprehensive Plan, and the intersection with Glencove Avenue NW is a signalized intersection. The proposed project will be the first retail automotive gas/fuel sales establishment development at this intersection. No other retail automotive gas/fuel sales establishments are in the vicinity.

A minimum street frontage of one hundred and fifty (150) feet on each abutting street is required. In addition, no driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification. The conceptual plan shows approximately two hundred thirty-four (234) feet of frontage along Emerson Drive NW, and approximately four hundred forty-four (444) feet of frontage along Glencove Avenue NW. It appears the site is large enough to meet the frontage and driveway spacing requirements. The dimensions to confirm these requirements have been met will be required during the administrative site plan review.

Gasoline, fuel pumps, storage tanks and other service island equipment are required to be at least twenty (20) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially zoned land. No gasoline fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well. There is residentially zoned land across Glencove Avenue NW

to the east, and adjacent to the subject property to the south. The dimensions to confirm these requirements have been met will be required during the administrative site plan review.

Underground storage is required for all receptacles for combustible materials in excess of two hundred (200) gallons. Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ [176.01](#) et seq. of the code of ordinances. Underground tanks have not been noted on the conceptual plan, but this will also be reviewed in detail during the administrative site plan review.

CODE REQUIREMENTS:

To be granted conditional use approval, requests are evaluated upon items (A) through (H) of the General Requirements and Conditions of Section 185.087 of the Code of Ordinances. A review of these items is as follows:

Item (A): Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergencies.

Ingress and egress are proposed on both Glencove Avenue NW and Emerson Drive NW. However, no driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification. The conceptual plan provided shows the proposed development appears able to meet these requirements, however dimensions will be needed to confirm the requirements are met during the administrative site plan review. An additional information will be necessary during the administrative review to show that larger vehicles can navigate the site in case of fire or other emergencies. For pedestrian safety, Public Works has indicated that on-site to off-site sidewalks connections are required for all buildings. The off-site sidewalks along Glencove Avenue NW and Emerson Drive NW are already in place.

Item (B): Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

Section 185.140(G)(10) of the Code of Ordinances establishes parking requirements for food stores at one (1) space for each two hundred (200) square feet of gross floor area. The proposed retail automotive gas/fuel sales establishment is 3,000 square feet, which will require fifteen (15) parking spaces. The conceptual plan shows that there is adequate space to meet the parking requirements for a variety of uses on the site. A specific breakdown of uses and parking requirements will be reviewed during the administrative site plan review.

Section 185.141(D)(1) requires buildings or structures containing retail, food store, or similar retail or service uses which have an aggregate gross floor area of over five thousand (5,000) square feet, but not over twenty-five thousand (25,000) square feet to provide one (1) off-

street loading space of at least fourteen (14) feet wide, forty-five (45) feet long, and having fourteen (14) feet of vertical clearance. These spaces have not been shown on the conceptual plan, but the site will be required to meet all requirements during the administrative site plan review.

Item (C): Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

The Utilities Department stated they have no objections to the proposed project. Any necessary upgrades will be required to be designed, permitted, installed, and inspected at the developer's cost.

Item (D): Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

The conceptual plan shows a dry retention pond along the portion of Glencove Avenue NW in front of the proposed retail automotive gas/fuel sales, which will create additional distance between this use and the single-family residential area across the street. The project will be required to meet all landscaping requirements during the administrative site plan review.

Item (E): Signs, if any, and proposed exterior lighting will be so designed and arranged to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.

Proposed sign locations are not shown on the conceptual plan. Signage, lighting, and photometric plans will be required for administrative site plan review. It shall be noted that City codes require any lighting to be shielded and/or directed downward to avoid creating a nuisance to adjacent properties.

Item (F): Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

On the conceptual plan, the site data incorrectly indicates a 20-foot rear yard setback. That will need to be increased to 25 feet. The project will be required to meet all setback and landscaping requirements during the administrative site plan review.

Item (G): The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

The proposed project is located at a signalized intersection of a major collector roadway and will be the first site used for the purpose of retail automotive gas/fuel sales at this intersection.

It is bordered by vacant commercial land to the north and west. Public Works has indicated they will require a traffic study during the administrative site plan review.

Item (H): Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, a reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

The Board and Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings.

STAFF FINDINGS:

Case CU23-00003 meets the minimum requirements for approval of a conditional use.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



AERIAL LOCATION MAP CASE: CU23-00003

Subject Property

Southwest corner of Emerson Drive NW and Glencove Avenue NW



