



Agenda Abstract

BOARD OF COMMISSIONERS

Meeting Date: June 12, 2023
Department: Planning and Econ. Dev.
Agenda Section: Regular
Public hearing: Yes
Date of public hearing: April 20, 2023

PRESENTER/INFORMATION CONTACT

Shannan Campbell, Planning and Economic Development Manager

ITEM TO BE CONSIDERED

Subject: Annexation and General Use Rezoning: 220 & 300 US 70 E (PINS 987500537 & 9875104533); Entryway Special Use to General Commercial

Attachments:

1. Annexation and Rezoning Application materials and maps
2. General Commercial (GC) Permitted use list
3. Annexation Ordinance
4. Rezoning Consistency Statement
5. Rezoning Ordinance

Summary:

The request is for annexation and general use rezoning – meaning a range of uses are permitted by right and some require additional review. This is a legislative decision for the boards – meaning the members can take a wide range of information into consideration and testimony may be in writing and does not need to be sworn. The boards have broad discretion in determining whether or not to approve this request. No statements by the applicant as to potential use of the property are binding on the applicant or the town. For this reason, the town requires no development plans from applicants seeking rezoning to a general-purpose district. No conditions can be placed if the application is approved. The application is complete.

GENERAL STANDARDS/FINDINGS OF FACT:

Before amending this Ordinance or the Official Zoning Map, the town board must find, after conducting the process below, that the request is not inconsistent with the adopted Comprehensive Plan for the Town of Hillsborough.

Amending the Official Zoning Map (Rezoning) is a matter committed to the legislative discretion of the town board. In determining whether to adopt a proposed amendment, the town board shall consider and weigh the relevance of the following factors:

- (a) The extent to which the proposed amendment is consistent with all applicable town-adopted plans;
- (b) The extent to which there are changed conditions that require an amendment;
- (c) The extent to which the proposed amendment addresses a demonstrated community need;
- (d) The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zoning district for the land;

- (e) The extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;
- (f) The extent to which the proposed amendment would encourage premature development;
- (g) The extent to which the proposed amendment would result in strip or ribbon commercial development;
- (h) The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts;
- (i) The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and
- (j) The extent to which the proposed amendment would result in significantly adverse environmental impacts, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

April 20, 2023 Public Hearing Draft Minutes:

- A. Annexation and general use rezoning: Gatewood parcels – 220 and 300 U.S. 70 E. (PINS 987500537 and 9875104533); Entryway Special Use to General Commercial

Planning and Economic Development Manager Shannan Campbell introduced the item and explained that the original project had come through as a rezoning and masterplan through the Entryway Special Use zoning district process; however, due to COVID-19 and other mitigating factors, the owners had not been able to build out everything approved in that master plan. She indicated that the original plan included a restaurant, a brewery, meeting/event facility and more. She said that master plan has now expired. The applicant is now seeking a general rezoning to General Commercial to move forward with future commercial development. Campbell said this approach does not require the submittal of a site plan or master plan. She said the applicant is also requesting annexation in conjunction with the rezoning request. The applicant was listed as House at Gatewood/Ron and Jen Spada.

Jen Spada approached the podium and said she and her husband are applying for commercial zoning in order to renovate a building on the property into a new business.

Regarding the annexation, Johnston asked if it is typical for the annexation request to run concurrent with the rezoning request. Campbell replied in the affirmative. Planning Board Chair Frank Casadonte asked if the property is contiguous with the town. Campbell said it is. Johnston asked about the hours of operation. Spada said the business they run is more events-based right now, but they are open on some Fridays for restaurant service.

Casadonte asked if there were any public comments for this item. There were none. The public hearing remained open as the board moved on to the next item.

May 18, 2023 Planning Board Recommendation Draft Minutes:

- A. Annexation and General Use Rezoning: Gatewood Parcels-220 & 300 U.S. 70 East (PINs 987500537 and 9875104533); Entryway Special Use to General Commercial

Campbell explained that the Gatewood property, which currently has a restaurant, is zoned entryway special use (ESU). It once had a master plan that included a brewery, event venue, and trails, but that plan has expired. The owners must develop a new master plan with a conditional rezoning or apply for a general use rezoning if

they want to further develop the property. The owners are asking for a general use rezoning to general commercial. She said the request is consistent with the Future Land Use Plan. She noted that there is no plan of development associated with the request and no statements by the owner about intended use would be legally binding. The owner would be legally allowed to develop the uses listed as permitted in the Zoning District or other uses listed that require a special use permit, which would require another board review.

Johnston asked what would happen if the board denied the request for rezoning. Campbell said the owner could not develop. They would have to apply for another general use zoning district or develop another master plan in conjunction with a planned development conditional zoning district. Johnston asked if the board could suggest another zoning district. Campbell said no the request could not change at this point without going back to public hearing, the board can only recommend approval or denial of the owner's request.

At Johnston's request, Campbell showed the Future Land Use Plan Map, with retail services indicated in red. Johnston said that a general commercial zoning appeared consistent with the Future Land Use Plan.

Salvi said she opposed the rezoning, noting traffic congestion at the intersection of N.C. 86 and U.S. 70. She expressed concern about building height and density and wondered how many businesses or residences could fit on the property. Campbell noted that any development would have to undergo a site plan review and abide by Unified Development Ordinance restrictions on height (a maximum of 40 feet), parking, lighting, stormwater, and buffers.

Salvi raised concerns about the potentially high cost of providing water and sewer services. Johnston noted that water and sewer services could be denied by utilities based on what the owners proposed. Casadonte agreed, noting water and sewer services have not been able to be offered elsewhere in town depending on capacity at the time.

Johnston said the alternative to rezoning it as general commercial is for the board to deny the request and the applicant to return to ask for a more restrictive zoning or masterplan the site again. Campbell noted the owner could request zoning for the planned development district, which is a conditional zoning that would require more details about what they intend to build. Johnston pointed out the property already has a commercial structure and said the board must respond to the request by deciding if this zoning fits with the area.

Casadonte asked Salvi what she thought would be the proper zoning for the property. Salvi said she would recommend not changing the current zoning and waiting until the board knew what utilities could serve the site.

Iglesias noted the original intent for the parcel was commercial, and the expectation is that the board makes decisions in keeping with town's vision. Schultz said the board can't wait to make a decision until it hears from the Utilities Department about capacity. Giglia said that whatever the owners wanted to do with the property, they would still have to submit a site plan to staff and get approval for water and sewer services.

Polly summarized the discussion, saying the rezoning fits with the Future Land Use Map, the property is already commercial, and water and sewer are overseen by staff based on capacity and not something the board should weigh in on. Staff would ensure that the town would have capacity for any proposed development, she added.

Salvi noted Iglesias's comments regarding the town's vision plan. Schultz said that at the U.S. 70 corridor traffic study meetings it was reported that most of the increasing traffic in the corridor is due to commuters driving to Interstate 85, not visitors to local retail businesses.

Johnston referred to the list of permitted uses and asked if there was anything allowed in a general commercial zoning district that board members would object to. Polly noted that central commercial zoning is a little more

limiting than general commercial. Campbell explained that central commercial is the downtown zoning district. She said the other similar zoning is neighborhood business, which doesn't allow an event center, which is a current accessory use of the Gatewood property. Johnston said the board should deny the request only if there was a permitted use it objected to and not just because the board wanted it to be more restrictive.

Motion: Johnston moved that the board recommend approval of the general use rezoning for the Gatewood property to general commercial. Giglia seconded.

Vote: 6-1. Nay: Salvi

Financial impacts:

Low.

Staff recommendation and comments:

None.

Action requested:

Approve or deny the annexation and rezoning petition.