

**CITY OF FORT MYERS  
BOARD OF ADJUSTMENTS  
MINUTES OF THE MAY 26, 2021, MEETING**

On May 26, 2021, at 1:30 p.m. the City of Fort Myers Board of Adjustments met in the City Council Chambers, Oscar M. Corbin, Jr. City Hall, 2200 Second Street, in the City of Fort Myers, Florida.

**ROLL CALL**

Chairwoman Kagan called the meeting to order at 1:44 p.m.

Members Present

Elizabeth Kagan  
Michael Ward  
Andrew Fitzgerald  
Steven Weisberg

Members Absent

Marvin Burges  
Solomon Mitchell Jr.  
Blake A. Bartholomew

Planning Staff Present

Nicole DeVaughn, Planning Manager  
Monique John, Administrative Assistant

Other Staff Present

Grant Alley, City Attorney  
Anthony Palermo, Assistant Director  
William Porter, City Engineer

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**PLEDGE OF ALLEGIANCE COMMENCED**

**Ex Parte communication on any agenda items:** None

Grant Alley, City Attorney, swore in all witnesses.

**ITEM NO. 1 PUBLIC HEARING: CONSIDER A CONDITIONAL USE FOR PROPERTY LOCATED AT 8341 DANI DR., ZONED COMMERCIAL GENERAL, TO ALLOW FOR A NEW TIRE STORE (VEHICLE SERVICE USE). (QUASI-JUDICIAL) (WARD 6)**

Nicole Devaughn, Planning and Zoning Manager, Planning and Zoning Department gave the staff presentation as follows:

**BEGIN STAFF REPORT**

**AGENDA ITEM #1: PUBLIC HEARING (Quasi-Judicial):** Consider a conditional use request to allow a 7,488 +/- square foot tire store at 8341 Dani Drive, zoned Commercial General (CG).

**Application Information**

<b>Owner:</b>	Plaza Street Fund 95 LLC
<b>Agent:</b>	Francis Dayao, H & T Consultants, Inc
<b>Address:</b>	8341 Dani Drive
<b>Location:</b>	South of Colonial Blvd., east of I-75, and west of Six Mile Cypress Pkwy
<b>Size:</b>	1.31 acres +/-
<b>Folio number:</b>	1050897
<b>Future Land Use:</b>	Corridor Commercial (C/C)
<b>Zoning :</b>	Commercial General (CG)
<b>Case Number:</b>	CU21-0004

**Request**

Francis Dayao, agent, for Plaza Street Fund 95, LLC owner, is requesting a conditional use to allow a 7,488 +/- square foot tire store at 8341 Dani Drive. Section 118.2.2.A.2 Permitted Uses lists “Vehicle service: minor and major repairs, modifications and maintenance” as a conditional use in the Commercial General (CG) zoning districts.

**Comprehensive Plan Compliance**

The Comprehensive Plan policies, action and standards that apply are for the conditional uses in commercial areas. The proposed car wash is consistent with the City’s Comprehensive Plan including Policy 1.6 and Policy 1.14 below.

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**Future Land Use Element:**

***Policy (1.6) Corridor Commercial (C/C)** contains areas located along, or in close proximity, to existing commercial centers and corridors. Many of these areas are included in redevelopment districts, as described in Action 3.2.3, and may have additional requirements. This district is intended to accommodate more intensive development; therefore, mixed use development incorporating neo-traditional and transit oriented development principles is encouraged. A maximum standard density established in the Land Development Regulations, not to exceed twenty-five dwelling units per acre (25 du/acre), with a maximum bonus density of up to sixty dwelling units per acre (60 du/acre) may be permitted through a process outlined in the City’s Land Development Regulations. Criteria for bonus densities include, but are not limited to, incorporating Leadership in Energy Efficient Design (LEED) standards, neo-traditional and transit oriented design principles, pedestrian connectivity, exceptional architectural design, and other considerations. No new single-family development shall be permitted. A Floor Area Ratio no higher than three (3 FAR) shall be used as an index of intensity for non-residential development in this land use category.*

***Policy (1.14)** Within each land use classification, the Land Development Regulations shall distinguish between permitted uses and conditional uses.*

**Public Notice**

A total of 6 public notice letters were sent to property owners within 300 feet of 8341 Dani Drive. The property was posted with a sign alerting the general public about the conditional use; and an ad ran in the News-Press at least 10 days prior to the meeting. A public notice was posted at City Hall and on the City’s website. No letters were returned and no comments or objections were received by email, mail or phone.

**Staff Findings**

Staff finds the request consistent with the Comprehensive Plan and Land Development Code; and staff recommends approval of the Conditional Use request with conditions below. Land Development Code, Section 93.3.8, outlines five (5) potential adverse impacts to be considered prior to approval by the Board of Adjustments. Staff’s review of each is as follows:

- 1. Impacts on the local economy, including government fiscal impact, employment, and property values.** There are no adverse impacts with the inclusion of a vehicle service (tire store) use within the Commercial General (CG) zoning district along Colonial Boulevard near Interstate 75.
- 2. Impacts on the natural environment, including air, water and noise pollution, noxious and desirable vegetation, wildlife, open space, and flood hazards.** The proposed tire store will have no adverse impacts on the above criteria.

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- 3. Impacts on historic, scenic, and cultural resources, including views and vistas, and loss of degradation of cultural and historic resources.** No adverse impacts. There are no historic or cultural resources in the area.
- 4. Impacts on public services, including water, sewer, surface water management, police, fire, parks and recreation, streets, public transportation, marinas and waterways, and bicycle and pedestrian facilities.** No adverse impacts. The City currently serves the parcel with City water, sewer and solid waste collection.
- 5. Impacts on housing and social conditions, including variety of housing unit types and prices and neighborhood quality.** No adverse impacts to neighborhood quality, as conditioned.

**Staff Recommendations & Conditions**

Recommend motion that there are no adverse impacts, as outlined in Section 98.3.8.D (1-5), associated with this request.

Find the request for conditional use to allow a 7,488 +/- square vehicle service business (tire center) at 8341 Dani Drive consistent with the Comprehensive Plan and Land Development Code and approve with the following conditions:

1. Approval of this conditional use is based on and must be generally consistent with the site plan prepared by H & T Consultant, Inc., dated Dec. 2020; landscape plan prepared by H & T Consultant, Inc., dated Feb. 2021; and sign plans by Walton, dated 02.05.21.
2. The tire store must obtain and maintain a Business Tax Receipt (BTR) for the use.
3. Construction of the new facility shall commence within one (1) year of the date of approval of this conditional use.

**END STAFF REPORT**

**PUBLIC INPUT:** None

**DISCUSSION:** None

**MOTION:** It was moved by Mr. Weisberg that the project as reviewed by the staff did not create any adverse impact based on the staff memo, seconded by Mr. Ward, and unanimously approved 4-0.

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It was moved by Mr. Weisberg that under section 98.3.8 in the Comprehensive Plan that the Board of Adjustments had the authority to make the decision on the requested agenda item, seconded by Mr. Fitzgerald and unanimously approved 4-0.

It was moved by Mr. Weisberg to find the request for a conditional use to allow a 7,488 +/- square feet vehicle service at 8341 Dani Drive consistent with the Comprehensive Plan and Land Development Code and approve with the following conditions:

1. Approval of this conditional use is based on and must be generally consistent with the site plan prepared by H & T Consultant, Inc., dated Dec. 2020; landscape plan prepared by H & T Consultant, Inc., dated Feb. 2021; and sign plans by Walton, dated 02.05.21.
2. The tire store must obtain and maintain a Business Tax Receipt (BTR) for the use.
3. Construction of the new facility shall commence within one (1) year of the date of approval of this conditional use.

Mr. Fitzgerald seconded the motion and it passed unanimously 4-0.

**OTHER BUSINESS:** None

There being no further business the meeting adjourned at 1:53 p.m.