

**City of Lauderhill**

Special Exception Application No.20-SEU-002

Halle Properties, LLC.

**I. APPLICANT INFORMATION**

PETITIONER

Halle Properties, LLC / POC: Scott Fournier, Asst, V.P. of Real Estate Development

STATUS OF PETITIONER

V.P. of Real Estate Development

**II. BACKGROUND INFORMATION**

Requested Action

Request for a Special Exception Use General Development Order for an Automobile Repair Use within the General Commercial (CG) Zoning District.

Applicant Intent

The Applicant intends to open and operate a Automobile Repair Store (Discount Tire) at the property located at the South East corner of Northwest 82<sup>nd</sup> Avenue and West Commercial Boulevard. The activities associated with the Automobile Repair business will be limited to the selling and installation of automotive tires and wheels. Repairs will be limited to tire repair only. All work will be conducted indoors. See Attachment A for Application.

Applicable Land Development Regulations

Article IV, Part 4, Section 4.4. Approval for Special Exception Uses.

Article III, Section 2.3. Allowable land uses.

Article III, Section 5.7.1 (Outdoors) Sales, display, storage or repairs, including repair garages, new and used car agencies and lots, car wash.

Article IV, 4.3 B. Existing zoning provisions and uses.

**III. SITE INFORMATION**

Location/Legal Description

COMMERCIAL BOULEVARD SHOPPES NO 1 109-28 B LOT 24, 25, 26, LESS A POR DESC IN OR 44614/1658 FOR R/W, TOG WITH LOT 27, LESS A POR DESC IN OR 44614/1658 FOR R/W & LESS PT DESC OF THE OFFICIAL RECORDS OF BROWARD COUNTY AND COMMONLY KNOWN AS W COMMERCIAL BLVD, LAUDERHILL, FLORIDA.

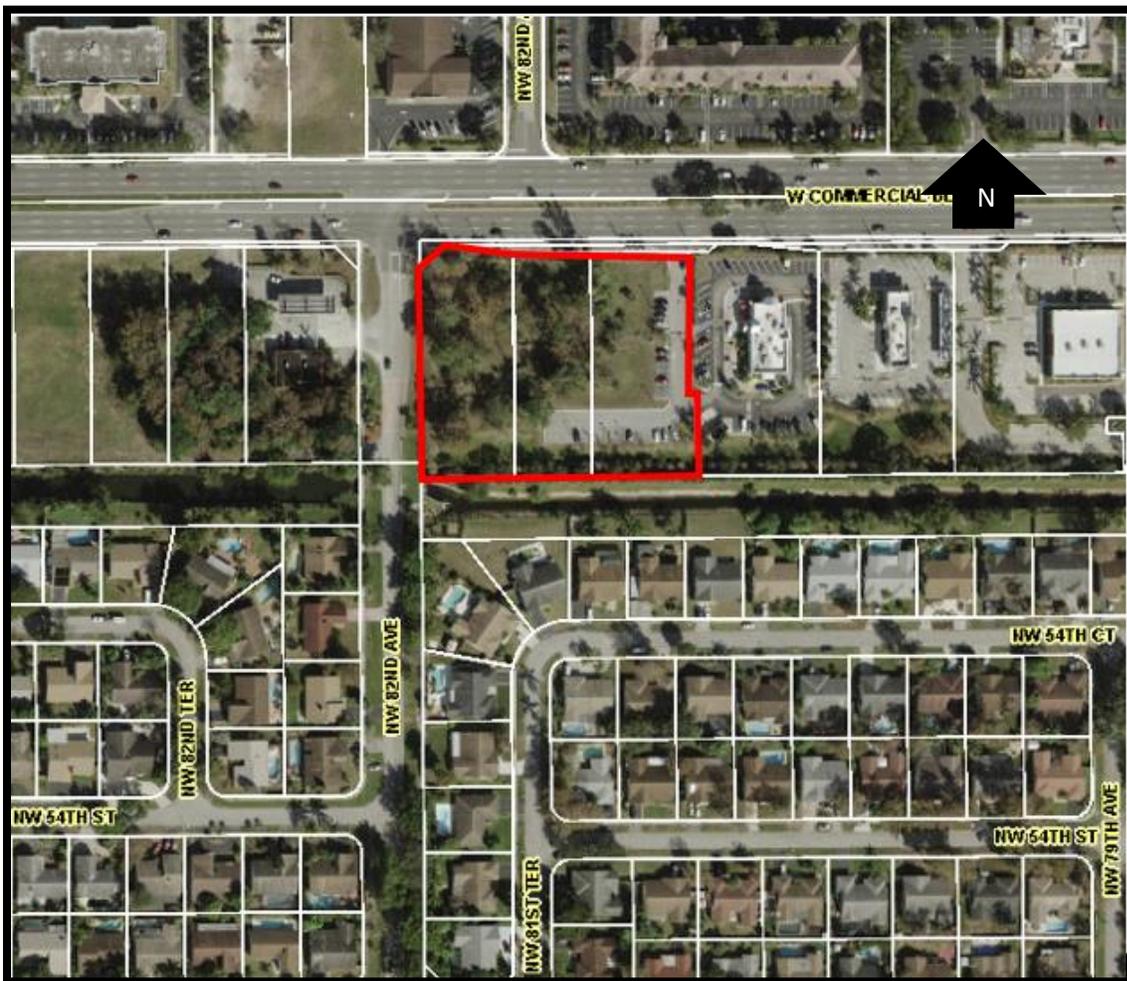
Folio Numbers

494116080240

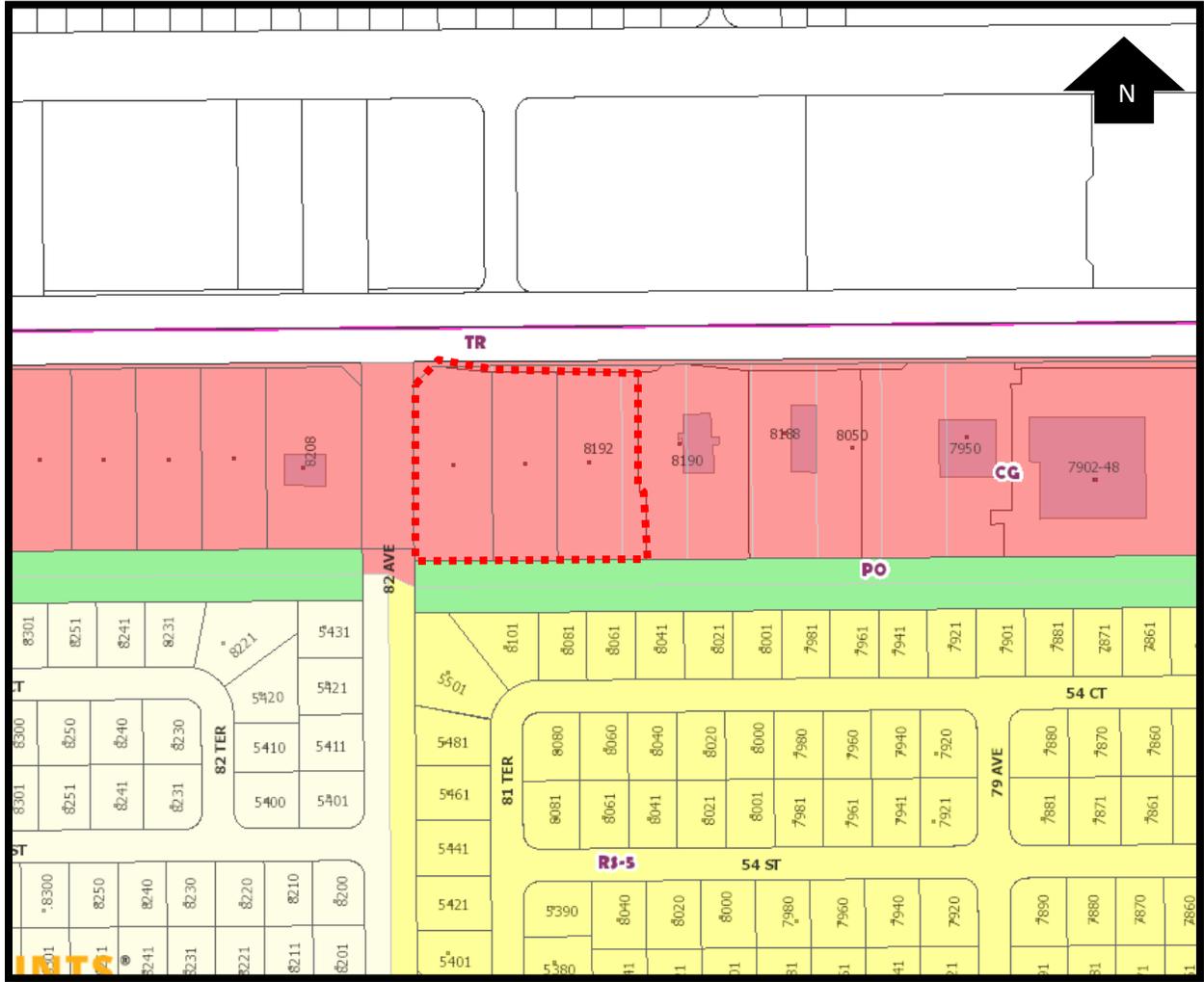
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Location Map



Land Use/Zoning:



Existing Land Use	Commercial
Future Land Use Designation	Commercial
Zoning Designation	General Commercial CG

Adjacent Designations:

	Existing Use	Future Designation	Zoning
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North	Commercial ( <b>City of Tamarac</b> )	Local Activity Center ( <b>City of Tamarac</b> )	MU-G - Mixed-Use General ( <b>City of Tamarac</b> )
South	Single Family Residences	Low (5) Residential	PO/ RS-5
East	Commercial	Commercial	CG
West	Commercial	Commercial	CG

**IV. ZONING HISTORY**

Existing Special Exceptions

None.

Violations

None.

Existing Variances

None

**V. PLANNING ANALYSIS**

As stipulated in the Land Development Regulations, Article IV, Section 4.6 Standards for Approval, the Planning and Development Division has reviewed the proposed request pursuant to the following special exception considerations:

1. The effect of such use on surrounding properties.
2. The suitability of the use in regards to its location, site characteristics, and intended purpose.
3. Access, traffic generation and road capacities.
4. Economic benefits or liabilities.
5. Demands on utilities, community facilities, and public services.
6. Compliance with the Comprehensive Land Use Plans for Broward County and/or the City of Lauderhill.

**1. The effect of such use on surrounding properties:**

The subject site is bounded to the North by the City of Tamarac’s MU-G - Mixed-Use General Zoning District, to the East and West by properties zoned General Commercial and to the South by properties zoned for Residential Single Family. Although the applicant claims that all work will be conducted indoors, there are concerns with possible noise pollution and outdoor storage of vehicles that will be detrimental to the Single Family Residences South of the Subject Site.

Staff concludes that as it pertains to the effect of the use on surrounding properties, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6.A, standards for approval of a special exception use as the Use will have a negative impact on the Single-Family Neighborhood located to the South of the Subject Site.

**2. The suitability of the use in regard to its location, site characteristics, and intended purpose:**

*Location/ Site Characteristics:*

The property is located along an arterial roadway and served by public transit. There is proposed ingress and egress from West Commercial Boulevard and ample room for internal circulation on site.

The proximity to single-family residential neighborhood is concerning due to the potential of noise pollution and outdoor storage of inventory/vehicles. There are also many large trees on site that will require a tree removal permit or mitigation.

The Planning and Zoning Division concludes that the project **does not comply** with the suitability of the use in regards to the location and site characteristics.

*Intended Purpose:*

The Applicant's intended purpose is to open and operate an Automobile Repair Store (Discount Tire), limited to tire installation/sales/repair, at the subject site.

Legal Interpretation

A legal interpretation letter (Attachment B) was issued to the applicant on January 30, 2019 (attached) confirming that the proposed use would be allowed by process of Special Exception within the CG Zoning District as the Automotive Repair land use classification permits "Preventative Maintenance". See Excerpt below from legal interpretation:

While the Proposed Use is permitted by Special Exception, as described above, further analysis is required under LDR, Section 5.7. As such, the Proposed Use is best characterized under these special requirements as *Automotive Indoor Maintenance*. LDR, Section 5.7.2 specifies, “the maintenance of motorized and ancillary vehicles is permitted, but the repair of motorized and ancillary vehicles is prohibited.”

It is important to note that *Automotive Indoor* regulations includes *Maintenance*, and the Proposed Use more closely aligns with *Automotive Repair*, as defined in LDR, Schedule A, which includes “general automotive repairs and preventive maintenance” and “tire changing and repairing.” Accordingly, the Proposed Use would be considered *Automotive Preventive Maintenance*, as Discount Tires limits its services solely to tire sales, installation, and replacement. This type of activity would not be considered and/or deemed an automotive “repair shop” under the LDR. As such, the use prohibition based on property depth and location, regulating *Automotive Outdoor* vehicular use and/or activities is inapplicable to the Proposed Use on the subject Property.

The letter Establishes that the proposed Automotive Repair Use is not subject to property depth or location requirements as Tire Installation/Repair is more in lined with *Automotive preventive maintenance* as included in the supplemental regulations pursuant to Article 3 Section 5.7.2:

*“5.7.2. (Indoors) Sales, display, storage or maintenance, excluding repair garages and car wash. The maintenance of motorized and ancillary vehicles is permitted but the repair of motorized and ancillary vehicles is prohibited.”*

#### Additional Consideration

After further review regarding the inclusion of “maintenance” within Article 3 Section 5.7.2, Staff has determined the following:

On June 9<sup>th</sup> 2003, the City Commission voted to adopt Ordinance No.030-05-152 (Attachment C) which established supplemental regulations for both “Automobile (Outdoor) Sales, display, storage or repairs, including repair garages, new and used car agencies and lots, car wash” and Automobile (Indoors) Sales, display, storage or maintenance, excluding repair garages and car wash”.

Within the supporting documentation presented to the City Commission, the staff report clarifies the intent of the “maintenance” component under the “Automobile (Indoors)” supplemental regulations as seen in excerpt below (See highlighted page 44 of Attachment C):

**Schedule B, Permitted and Special Exception Uses, by clarifying that automobile, truck, trailer, motorcycle, boat and recreation vehicle (outdoors) sales, display, storage and repair, including repair garages, new and used car agencies or lots, and car washes as a special exception use in the Community Business, Warehouse Commercial and Light Industrial zoning districts refers to the outdoor sales, display and storage. Second, the Department proposes to amend the Land Development Regulations, Schedule B, Permitted and Special Exception Uses, to allow automobile, truck, trailer, motorcycle, boat and recreation vehicle (indoors) sales, display, storage and maintenance, excluding repair garages and car washes as a permitted use in the Community Business, General Commercial, Warehouse Commercial and Light Industrial zoning districts. It is intended that all sales, storage and display of motor vehicles will occur indoors, although it is understood that a motor vehicle may be taken outdoors for "testing" before purchasing or leasing such motor vehicle. It also is intended to allow the maintenance of motor vehicles associated with the sales, display and storage of such vehicle, such as vacuuming, but to prohibit any repair, whether minor or major.**

As shown in excerpt above, the intent to allow maintenance of motor vehicles associated with the sales, display and storage of vehicles, was meant to up-keep sales vehicles and prohibit any repair, whether minor or major.

The Planning and Zoning Division concludes that as it pertains to the suitability of the use in regards to intended purpose, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6.B, standards for approval of a special exception use as it should be subject to the supplemental requirements as stipulated in Article 3 Section 5.7.1.E:

*"This land use is prohibited in the General Commercial zoning district if the land use is located on property that abuts property zoned RS-4, RS-5, RM-5, RM-8, RM-10, RM-18, and RM-22 zoning districts or that abuts a water body zoned PO district and if the land use is located on property with a depth equal to or less than three hundred fifty (350) feet. This land use also is prohibited in the General Commercial zoning district if the land use is located on property where the front or rear property lines are three hundred fifty (350) feet or less from property zoned RS-4, RS-5, RM-5, RM-8, RM-10, RM-18, and RM-22 districts. Notwithstanding the above, this land use may be allowed if:*

- 1. The premises were improved for a vehicular related use;*
- 2. A substantial portion of the improvements (i.e., at least the main building) still exist; and*
- 3. The existing improvements are substantially utilized in the operation of the land use."*

### **3. Access, traffic generation and road capacities:**

The Site Plan provides for adequate external and internal circulation. A traffic Study is not part of the requirements for an Automobile Repair Use located on W Commercial Blvd. As such, Staff concludes that as it pertains to access, traffic generation, and road capacities, this application is **is in conformance** with LDR ART IV, 4.0 Section 4.6.C, standards for approval of a special exception use.

- 4. Economic benefits or liabilities:** The proposed Auto Repair Business will employ the following positions:
- a. Manager at 72 k
  - b. Senior Assistant at 55 k
  - c. Marketing Position at 45 k
  - d. Workflow Position at 40 k
  - e. 5-8 Part-Time at 10.00-15.00 per hour

The new constructed building will bring in revenue to the City's Tax Role.

Staff concludes that as it pertains to economic benefits and liabilities, this application is in **conformance** with LDR ART IV, 4.0 Section 4.6.D, standards for approval of a special exception use.

**5. Demands on utilities, community facilities, and public services:**

The new construction of the building will create a demand on the City of Lauderhill's utilities, as the site is currently vacant.

The project will create a demand on community facilities, as there will be a newly constructed building that will require fire and police services.

The project will have minimal impact on public services, as the patrons for the proposed Automotive Repair Business will commute by personal vehicle.

Staff concludes that as it pertains to demands on utilities, community facilities, and public services, this application is in **conformance** with LDR ART IV, 4.0 Section 4.6.E, standards for approval of a special exception use as there is not foreseen adverse impact. If approved, the project will need to go through the Site Plan Approval process which will determine if additional developmental conditions are needed.

**6. Compliance with the Comprehensive Land Use Plans for Broward County and/or the City of Lauderhill:**

The subject site is designated Commercial on the City's Future Land Use Map Series (FLUMS) and the Future Broward County Land Use Plan Map. Policy 2.1.2 of The Comprehensive Plan speaks to the intent of the Commercial Future land Use Designation as shown below:

*POLICY 2.1.2 COMMERCIAL USES.*

*Provide for commercial land uses, at intensities which ensure compatibility with adjacent and surrounding land uses, especially the protection of adjacent residential uses.*

The proposed Automobile Repair Use is directly abutting a Single Family Residential Neighborhood to the South. The negative impacts of noise pollution and outdoor storage **do not comply** with the comprehensive land use plans for Broward County and/or the City of Lauderhill LDR ART IV, 4.0 Section 4.6.F, standards for approval of a special exception use as the abutting residential uses are not protected.

**7. Factors relating to safety, health, and general public welfare:**

Although there are no immediate concerns with the safety and health of the public for the proposed Automobile Repair Use, the proximity to the Single Family Residential District to the south is a concern due to the potential of noise pollution and outdoor storage of inventory/vehicles.

Staff concludes that as it pertains to factors relating to the general public welfare, this application is **not in conformance** with LDR ART IV, 4.0 Section 4.6.G, standards for approval of a special exception use as there are pending materials to be submitted to the City of Lauderhill.

***VII ALTERNATIVE/ACTION***

LDR Article IV., Development Review Requirements, Part 4.0., Special Exception Uses, Subsection 4.5.A., requires the City Commission to review the application and make its determination to:

- A. That the application is **in compliance** with the LDR applicable standards and minimum requirements or that vested rights exist with regard to any non-compliance and that a development order is issued granting approval of the application. If the City Commission selects this alternative, then the Department recommends the following conditions be imposed:
  - 1. This Special Exception Use development order for an Automobile Repair Use shall be specifically granted to Halle Properties, LLC, such development order cannot be assigned, leased, subleased, transferred or otherwise conveyed to another entity without further Special Exception approval from the City Commission. Further, this special exception use development order shall automatically expire and become null and void if any entity other than Halle Properties, LLC operates the use.

2. A Site Plan Approval is required for the New Construction of the proposed Automotive Repair Use provided by the applicant.
3. Outdoor Storage of merchandise/materials/vehicles shall be prohibited. Repair garages and car washes shall store all motorized and ancillary vehicles, parts, and materials inside the building wherein the business is licensed to operate.
4. Any and all work shall be entirely conducted within the confines of the building wherein the business is licensed to operate.
5. The Automotive Repair Use days and hours of operation respectively are Monday through Saturday from 8:00 A.M. to 6:00 P.M. as indicated on the application. Should the operators desire to extend the days or hours of operation, then an additional special exception use application will need to be filed with the Planning and Zoning Division and granted by the City Commission.
6. Any special exception approval granted by the City Commission shall expire one hundred eighty (180) days after the date of approval, unless a development permit or site plan approval, if appropriate, is applied for within the one hundred eighty-day period.
7. If a use which has been granted a special exception shall cease to operate for a continuous period of one (1) year, the special exception approval shall expire
8. The owner shall execute a trespass agreement for the police department to keep on file for enforcement.
9. If the City's Code Enforcement Board assesses a lien for landscaping, trash or other unsightly or unsafe conditions, this special exception use development order may be brought before the City Commission to be reconsidered, at which time the development order or the conditions of approval may be subject to modification, suspension or revocation.
10. If the City's Police Department or Code Department records more than three instances regarding noise, loitering, parking or criminal activity, either from observation by police officers or verified from complaints by three or more unrelated individuals, within any ninety (90) day period, the special exception use may be brought before the City Commission to be reconsidered, at which time the development order or the conditions of approval may be subject to modification, suspension or revocation.
11. Any violation of these conditions of approval may result in a public hearing before the City Commission and may result in the modification, suspension or revocation of this special exception use development order or its conditions or both. Further, consistent with LDR Article IV, Part 1.0., Section 1.8, this development order may be revoked, suspended or modified based on the grounds stated herein. In addition, this development order is subject to post-approval review consistent with LDR Article IV, Part 4.0., Section 4.11.

- B. That the application is **not in compliance** with the LDR applicable standards and minimum requirements and that a development order not be issued approving the application.

- C. That the application is not in compliance with the LDR applicable standards and minimum requirements but conditions have been determined to be reasonably necessary to ensure compliance with the LDR applicable standards and minimum requirements and that vested rights exist with regard to any non-compliance and that a development order is issued granting approval of the application with conditions as determined by the City Commission. If the City Commission selects this alternative, then the Department recommends the following conditions be imposed:
1. This Special Exception Use development order for an Automobile Repair Use shall be specifically granted to Halle Properties, LLC, such development order cannot be assigned, leased, subleased, transferred or otherwise conveyed to another entity without further Special Exception approval from the City Commission. Further, this special exception use development order shall automatically expire and become null and void if any entity other than Halle Properties, LLC operates the use.
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  3. Outdoor Storage of merchandise/materials/vehicles shall be prohibited. Repair garages and car washes shall store all motorized and ancillary vehicles, parts, and materials inside the building wherein the business is licensed to operate.
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  7. If a use which has been granted a special exception shall cease to operate for a continuous period of one (1) year, the special exception approval shall expire
  8. The owner shall execute a trespass agreement for the police department to keep on file for enforcement.
  9. If the City's Code Enforcement Board assesses a lien for landscaping, trash or other unsightly or unsafe conditions, this special exception use development order may be brought before the City Commission to be reconsidered, at which time the development order or the conditions of approval may be subject to modification, suspension or revocation.
  10. If the City's Police Department or Code Department records more than three instances regarding noise, loitering, parking or criminal activity, either from observation by police officers or verified from complaints by three or more unrelated individuals, within any ninety (90) day period, the special exception use may be brought before the City

Commission to be reconsidered, at which time the development order or the conditions of approval may be subject to modification, suspension or revocation.

11. Any violation of these conditions of approval may result in a public hearing before the City Commission and may result in the modification, suspension or revocation of this special exception use development order or its conditions or both. Further, consistent with LDR Article IV, Part 1.0., Section 1.8, this development order may be revoked, suspended or modified based on the grounds stated herein. In addition, this development order is subject to post-approval review consistent with LDR Article IV, Part 4.0., Section 4.11.

- D. That the application be tabled for up to six months because the City Commission finds that available information is insufficient on which to base either approval or denial of the application and that all outstanding items are to be provided to Staff in order to provide the City Commission with information sufficient to form a basis on which to approve or deny the application.

## ***VIII RECOMMENDED ACTION***

- A. City Commission Action. The City Commission is scheduled to consider the special exception use application at its duly noticed July 13, 2020 regular public hearing.
- B. Division recommendation. The Planning and Zoning Division recommends the City Commission **Do not adopt** a resolution granting to Halle Properties, LLC / POC: Scott Fournier, Asst, V.P. of Real Estate Development to allow an Automobile Repair Use within the General Commercial (CG) Zoning District.

## ***VI. ATTACHMENTS***

- A. Application submission
- B. Legal Interpretation Letter
- C. Ordinance No.030-05-152
- D. Site Plan

Prepared by:  
Chris Torres  
City Planner  
City of Lauderdale  
Date: 6/30/2020