



DEVELOPMENT REVIEW REPORT

The matter before the Planning and Zoning Board (Board), sitting as the Local Planning Agency (LPA), is a proposed Ordinance amending the Zoning District Map for a portion of the property located at 1010 NW 40th Avenue from a Commercial Entertainment (CE) Zoning District to a General Commercial (CG) Zoning District. The proposed Ordinance is before the Board/LPA as required by The City of Lauderhill's Land Development Regulations (LDR) Article IV., Part 2.0., and Article VI., Section 4 requires the Board/LPA to make a recommendation to the City Commission on Zoning District Map amendment applications. Staff recommends the Board forward the record to the City Commission with a recommendation to adopt an Ordinance of the Commission of the City of Lauderhill, Florida granting to Lauderhill Market Place LLC, a development order amending the Zoning District Map identified in The City of Lauderhill's Land Development Regulations (LDR) Article III., Zoning Districts, Part 2.0, District Regulations, Subsection 2.2.1., Adoption of Zoning District Map; changing from a Commercial Entertainment (CE) Zoning District to a General Commercial (CG) Zoning District for a 1.87+ acre parcel legally described as:

A portion of Parcel "A", CARISHOCA PLAT, according to the plat thereof, as recorded in Plat Book 178, pages 161, 162 and 163, of the public records of Broward County, Florida ,more fully described as follows:

Commencing at the most North, Northwest corner of said Parcel "A"; thence South 42°59'14" West, on the Northwest line of said Parcel "A", a distance of 71.39 feet; thence South 02°56'35" East, on the West line of said Parcel "A", a distance of 145.74 feet; thence South 00°23'11" West, on said West line, a distance of 5.88 feet; thence South 04°03'18" East, on said West line, a distance of 37.94 feet to the Point of Beginning; thence continuing South 04°03'18' East, on said West line, a distance of 171.98 feet; thence South 04°55'51" East, on said West line, a distance of 109.57 feet; thence North 88°36'43" East, a distance of 281.95 feet; thence North 01°27'24" West, a distance of 281.16 feet; thence South 88°36'43" West, a distance of 296.47 feet to the Point of Beginning.

authorized City Administration to purchase the former K-mart property (See **Attachment A**). The short-term economic development strategy was to induce the private sector into purchasing the property and re-developing it with a productive use. It was believed that this strategy would "jump start" the redevelopment of the North State Road 7 Corridor.

On July 12th, 2004, the City Commission adopted **Ordinance No. 040-06-147**, which authorized the sale of the former K-mart site (formerly known as McArthur Dairy site for any governmental purpose or development) to Amera of Broward Central, Inc. (See **Attachment B**). The land sale and development agreement provided for the construction of a Caribbean Showcase Community Village (a/k/a Carishoca). **Attachment C** is a site data table showing that Carishoca would have about 375,000 square feet of development while **Attachment D** is a conceptual master plan for the site. One of the conditions was for the City Commission to adopt Land Development Regulation amendments creating a "Special District Ordinance" (See **Attachment E**). Consistent with this condition, on September 12th, 2005 the City Commission adopted **Ordinance No. 050-08-172** which amended the Land Development Regulation by creating the Commercial Entertainment (CE) zoning district (See **Attachment F**) and adopted **Ordinance No. 050-08-180**, which changed the zoning district of the property from General Commercial to Commercial Entertainment (See **Attachment G**).

On March 25th, 2008, the County Commission approved the Carishoca Plat (See **Attachment H**) and on June 16th, 2009, the Carishoca Plat (See **Attachment I**) was recorded in the public records of Broward County, Florida, with the following note:

This plat is restricted to 322,000 square feet of commercial use and a 150 Room Hotel. No free standing banks or drive thru facilities are permitted within the commercial use and residential uses are not permitted within the hotel without the approval of the Board of County Commissioners who shall review and address these uses for increased impacts. On September 17th, 2012, Eagle FL SPE, LLC acquired the property and hired CBRE to market the property.

At the May 11th, 2015, Community Redevelopment Agency (CRA) meeting, Mr. Blair Hyatt, executive vice president of Konover South, made a short presentation to the City Commission for a development called Plaza of the Arts (See **Attachment J**) which included a conceptual site plan for the construction of a Walmart standalone retail building, two standalone retail buildings, and a gas station with four pumps (**See Attachment K-1**),. Included as well were two conceptual elevations (**See Attachment L**), a proposed fountain and entry sign, and three concept patio and art area drawings. Subsequently, Konover South submitted a revised site plan (See **Attachment K-2**) that eliminates the gas pumps and liquor store.

Blair Hyatt also mentioned that the real estate committee at Walmart Headquarters approved the proposed development and they could immediately begin the site approval process with the City of Lauderhill in order to rezone the shopping center portion to

General Commercial excluding the 4.5 acres to be donated to the City of Lauderdale. On June 1st, 2015, KSH Sunrise 441, LLC filed a Zoning District Map amendment to change approximately 5.33+ acres of the subject site from Commercial Entertainment (CE) to General Commercial (CG).

At the July 28, 2015 Planning and Zoning Board Meeting, Mr. Steve Whery presented, on behalf of KSH Sunrise 441, LLC, an application proposing the adoption of a Zoning District Map amendment from Commercial Entertainment (CE) to General Commercial (CG) for approximately 5.33+ acres of the subject site. See **Attachment M** for a copy of the July 28, 2015 Planning and Zoning Board meeting minutes.

After careful consideration, the Planning and Zoning Board passed a motion to deny the Zoning District Map amendment request from Commercial Entertainment (CE) to General Commercial (CG).

The item was originally scheduled to be heard at the August 31, 2015 City Commission Meeting for first reading when, Dennis Mele, KSH Sunrise 441, LLC's representative asked for deferral until the October 26, 2015 City Commission meeting as the applicant needed more time to meet with additional neighbors to discuss the proposal. The City Commission voted to Table the item until October 26, 2015 City Commission Meeting. See **Attachment N** for a copy of the October 26, 2015 City Commission Meeting minutes.

At the October 26, 2015 City Commission Meeting, Dennis Mele, KSH Sunrise 441, LLC's representative, presented a Zoning District Map amendment request from Commercial Entertainment (CE) to General Commercial (CG) for the 5.33+ acre of the subject site. After careful consideration, the City Commission voted to deny the Zoning District Map amendment request from Commercial Entertainment (CE) to General Commercial (CG). See **Attachment O** for a copy of Failed Ordinance No. 150-08-130.

On December 10, 2015 Lauderdale Marketplace LLC (the Applicant) acquired the property.

On January 22, 2019, the Applicant's representatives presented a site plan to City Staff for the development of a 14 acre parcel (the subject site) proposing a gas station, convenience store and commercial development.

City Staff drafted a Memorandum of Understanding (MOU) as a result of the January 22, 2019 meeting. The MOU was be subject to City Commission approval and would allow Lauderdale Marketplace LLC to move forward with the proposal. Staff scheduled to bring the MOU before the Community Redevelopment Agency (CRA) for the Feb 11, 2019 CRA meeting.

At the February 11, 2019 CRA meeting, Earl Hall, City Attorney, presented the MOU to the CRA Board members and was followed by a brief presentation of a conceptual site plan presented by Chris Collins (the Applicant's engineer). Yoram Izhak, Owner and Managing

Member of Lauderhill Marketplace LLC, elaborated as well on the MOU terms negotiated between City Staff and Lauderhill Marketplace LLC. listed below:

1. *Lauderhill Marketplace will file a petition to rezone 1.65 acres from Commercial Entertainment to General Commercial pursuant to the City of Lauderhill Land Development Code. The parcel that Marketplace desires to rezone is identified as the "RACETRAC OUT-PARCEL C" in the site plan attached hereto and incorporated by reference as Exhibit A.*
2. *The City does not make any representations, commitments or guarantees that the petition to rezone will be approved by the City Commission.*
3. *If the petition to rezone is approved, Lauderhill Marketplace intends to develop & 1.65 acres of the rezoned property with a gas station and convenience store as depicted on Exhibit A.*
4. *If approved for rezoning, the gas station and convenience store will be developed pursuant to the City's basic design guidelines and basic landscape requirements. Marketplace shall also landscape the entire perimeter of the 14 acre parcel consistent with the City's basic and minimum landscape requirements during construction of the gas station and convenience store. City shall have the right to upgrade the landscaping if it deems necessary or desirable at its own cost.*
5. *Lauderhill Marketplace will initially develop a portion of the remaining 6.85 acres adjacent to the gas station with a 20 thousand square feet commercial development consistent with the existing Commercial Entertainment Zoning, basic design guidelines and basic landscape requirements, with the right to develop an additional 20,000 square feet on such land.*
6. *Lauderhill Marketplace will sell a 1.51 acre parcel to the City of Lauderhill as outlined in green and identified as "HOTEL OUT-PARCEL A" on Exhibit A. The parties will negotiate a purchase price based on good faith appraisals. The City payment for the parcel will be held in escrow until Marketplace obtains the building permits and commences construction on the initial 20 thousand square feet commercial development. However, the City reserves the exclusive right to close at any prior time it so desires.*
7. *At such time as the rezoning for the gas station and convenience store is approved by the City Commission and all required building permits have been issued, Lauderhill Marketplace will donate approximately 4.2 acres (as identified as the "CITY PARCEL" and outlined in blue on Exhibit A) to the City of Lauderhill, at no cost. The four acres shall border and abut the location of the Lauderhill Performing Arts Center and its use shall be restricted to vehicular parking and a public park. As a condition for such donation the parties will enter in a cross access and cross*

parking agreement acceptable to the parties and the City shall agree to construct, at its cost, a roadway for vehicular access from the access road to the performing arts center through and across the City Parcel to and connecting with the Lauderhill Marketplace property, the location of which to be on east boundary of the City Parcel.

See **Attachment P** for a copy of completed MOU document.

On February 11, 2019 a Resolution (**No. 19R-02-28**) for a Memorandum of Agreement between the City of Lauderhill and Lauderhill Marketplace, LLC regarding the development of the property located at the northeast corner of State Road 7 and Sunrise Boulevard was approved with terms and conditions. Said Memorandum of Agreement included the Original MOU drafted by Staff as a supporting document and was subject to all terms mentioned above. Refer to **Attachment Q** for a copy of **Resolution No. 19R-02-28**.

At the February 25, 2019 City Commission meeting, a Resolution (**NO. 19R-02-39**) to approve the letter of intent between Lauderhill marketplace LLC and the City of Lauderhill was presented specifying terms and conditions for the City to purchase 1.7 acres of land located at N.W. 11th Place and North State Road 7. The City Commission voted to approved the letter of intent between Lauderhill marketplace LLC and the City of Lauderhill. Refer to **Attachment R** for copy of the proposed **Resolution NO. 19R-02-39**.

On June 4, 2019 Chris Collins submitted a Zoning District Map amendment application to the City of Lauderhill as required by the terms specified in the MOU approved on February 11, 2019 by the CRA to rezone 1.87 acres from Commercial Entertainment to General Commercial. See **Attachment S** for a copy of the Rezoning Application Letter.

II. PROPOSED ORDINANCE

Attachment T is a proposed Ordinance of the Commission of the City of Lauderhill, Florida granting to Lauderhill Marketplace LLC a development order amending the Zoning District Map identified in Land Development Regulations (LDR) Article III., Zoning Districts, Part 2.0, District Regulations, Subsection 2.2.1., Adoption of Zoning District Map; changing from a Commercial Entertainment (CE) Zoning District to a General Commercial (CG) Zoning District for a 1.87+ acre parcel legally described as:

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East, on said West line, a distance of 37.94 feet to the Point of Beginning; thence continuing South 04°03'18" East, on said West line, a distance of 171.98 feet; thence South 04°55'51" East, on said West line, a distance of 109.57 feet; thence North 88°36'43" East, a distance of 281.95 feet; thence North 01°26'24" West, a distance of 281.16 feet; thence South 88°36'43" West, a distance of 296.47 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Lauderhill, Broward County Florida and containing 87,457 square feet or 1.8700 acres more or less.

Attachment U is a copy of the amended Zoning District Map Application (19-Z-001) on file with the Planning and Zoning Section. If the Zoning District Map amendment is granted, Lauderhill Marketplace LLC will develop 1.87 acres of the rezoned property with a gas station and convenience store. In addition, Lauderhill Marketplace LLC will:

- Landscape the entire perimeter of the 14 acre parcel consistent with the City's basic and minimum landscape requirements during construction of the gas station and convenience store. City shall have the right to upgrade the landscaping if it deems necessary or desirable at its own cost
- Initially develop a portion of the remaining 6.85 acres adjacent to the gas station with a 20 thousand square feet commercial development consistent with the existing Commercial Entertainment Zoning, basic design guidelines and basic landscape requirements, with the right to develop an additional 20,000 square feet on such land.
- Sell a 1.51 acre parcel to the City of Lauderhill as outlined in green and identified as "HOTEL OUT-PARCEL A" on Exhibit A". The parties will negotiate a purchase price based on good faith appraisals. The City payment for the parcel will be held in escrow until Marketplace obtains the building permits and commences construction on the initial 20 thousand square feet commercial development. However, the City reserves the exclusive right to close at any prior time it so desires.
- Donate approximately 4.2 acres (as identified as the "CITY PARCEL" and outlined in blue on Exhibit A) to the City of Lauderhill, at no cost. The four acres shall border and abut the location of the Lauderhill Performing Arts Center and its use shall be restricted to vehicular parking and a public park. As a condition for such donation the parties will enter in a cross access and cross parking agreement acceptable to the parties and the City shall agree to construct, at its cost, a roadway for vehicular access from the access road to the performing arts center through and across the City Parcel to and connecting with the Lauderhill Marketplace property, the location of which to be on east boundary of the City Parcel should the rezoning be approved and all required building permits have been issued.

III. GENERAL DATA & ANALYSIS

Data means factual information used as a basis for reasoning, discussion or

calculation. Data must be based upon professionally reliable sources and the most recently available data should be used. Analysis involves an examination of the data, any assumptions, any employed methodologies, any applicable regulations, and deducing findings of facts and conclusions needed in order to make a recommendation.

The Division concludes the applicable Land Development Regulations (LDR) include: Article IV, Part 1.0 "Development Review Requirements", which generally addresses provisions on a pre-application conference for persons proposing to submit land development order applications, the review of land development order and permit applications for technical completeness, and the application review period; LDR Article IV, Part 2.0., Subsection 2.1., which addresses Zoning District Map amendment requirements; Section 2.6 on the size of the area, Section 2.4., on criteria, Section 2.9 on procedural requirements and Section 2.10 on public notice requirements; and Article III., Part 2.0., Sections 2.3 and 2.4 and Schedule B on permitted and special exception uses.

A. Pre-application conference. LDR Article IV, Part 1.0., Subsection 1.3.1 addresses the optional pre-application conference. It provides for the Applicant to meet with Division staff to discuss the development review process, the type of review required (whether major or minor), and to be informed of which other City staff members to confer with about the application.

The Division held numerous meetings with the Applicant and their representatives to discuss the proposed development. The Applicant and their representatives were advised that a Zoning District Map amendment with an approval by the City Commission were required to be able to develop the subject site with a gas station and convenience store use.

The Applicant and their representatives were also advised that they would additionally need to apply and obtain the following entitlements to be able to operate the proposed gas station convenience store use:

- Plat Amendment
- Zoning Text Amendment addressing hours of operation for the Convenience Store use (Special Exception)
- Special Exception and a Waiver regarding the Service Station minimum separation requirement
- Site Plan Approval
-

B. Zoning requirements. LDR Article III, Section 2.2, addresses assignment of zoning districts. Prior to 2005, the property was zoned General Commercial (CG) district. As noted elsewhere in this report, in 2005 the City Commission rezoned the property to the Commercial Entertainment (CE)

district. This application proposes to change a portion of the property, 1.87 acres, back to the CG zoning district.

C. Allowable land uses. LDR Article III, Sections 2.3., and 2.4., and Schedule B, respectively address permitted and special exception uses.

The application proposes to construct a one-story gas station with a convenience store. Staff notes that these uses would be prohibited in the CE zoning district. The CG zoning district, however, allows a gas station and convenience store use by process of special exception. Other land uses permitted in the CG zoning district include: restaurant bar, animal hospital, auction house, indoor automotive sales, consignment shop, data processing center, diagnostic laboratory testing facility, educational instructional, educational training, essential utilities and services, walk-up financial institutions, fitness center, mini golf course, government administration services, grocery store, house of religious worship, jewelry store, full service laundry and dry cleaning, libraries, museums, and cultural facilities, mental health facility, medical and dental offices, business and professional offices, medical with non-controlled substance practitioner, personal services, walk-up pharmacy, public safety facilities and services, sit down/low Turnover Restaurant, neighborhood-scale retail store, community-scale retail store, small engine repair, small appliance repair, specialty food stores, street and transportation corridors, supermarkets, swimming pool, antenna and equipment, and veterinary services.

D. LDR. LDR Article IV, Development Review Requirements, Part 2.0. , pertains to Zoning District Map and zoning regulation amendments. It requires a Zoning District Map or regulation amendment be in conformance with Section 2.2, on the size of the area, with six (6) factors identified in Section 2.4, with Section 2.6, on the minimum frontage and size requirements for Zoning Map or regulation amendments, the procedural requirements of Section 2.9., and the public notice requirements of Section 2.10.

1. *Area for rezoning.* LDR Article IV., Part 2.0., Section 2.2, requires the Board to consider whether the area described in the application should be enlarged in order to reflect the interests of the City and to correspond with the Comprehensive Plan. The Board shall study and recommend to the City Commission such enlargement, if any, as it may deem desirable.

TABLE A
FUTURE LAND USE DESIGNATION, ZONING DISTRICT
AND EXISTING USES

Direction	Future Land Use Map	Zoning District	Existing uses
Subject Site	Transit Oriented Corridor	Commercial Entertainment	Vacant Land
North	Transit Oriented Corridor	Commercial Entertainment	Vacant Land
East	Transit Oriented Corridor	Commercial Entertainment	Vacant Land
South	Transit Oriented Corridor	Commercial Entertainment	Vacant Land
West	Transit Oriented Corridor	Residential Townhouse (RT-15) at 15 dwelling units per gross acre	Townhouses/ State Road 7/ Right-of-Way/ City of Plantation

Sources: City Future Land Use Map Series, City Zoning District Map, State Road 7 Overlay Transect Zone Map, and Division site.

Based on Figure 1 and Table A, which displays the Future Land Use Map designation, Zoning District Map classification and existing uses on the site and surrounding area, staff concludes the area to be rezoned should not be enlarged. This is because in order to provide sufficient land for future commercial recreation and commercial entertainment uses, only the minimum amount of land necessary to accommodate the development should be rezoned.

2. *Amendment factors.* LDR Article IV, Part 2.0, Section 2.4, requires the Board and City Commission to consider and evaluate zoning changes in relation to all pertinent factors but with reference to six (6) specific factors. The proposed application is evaluated below against the six (6) identified factors.

a. The character of the district and its peculiar suitability for particular uses.

The Zoning District Map shows the subject site is zoned Commercial Entertainment (CE) district. Pursuant Article III

Section 3.2.5.A - *The primary purpose, character or intent of the Commercial Entertainment (CE) zoning district is to allow a mixture of commercial entertainment, commercial recreation and other complementary uses to be planned and developed as a whole (as a single operation or an approved series of operations) on one (1) or more parcels joined by and subject to a unity of control. This zoning district is intended to provide greater flexibility than a conventional zoning district. This specialized commercial zoning district also is intended to implement and further the following purposes:*

- i. To promote economic development, a "sense of place" and a family-oriented environment through a mixture of commercial entertainment, commercial recreation and other complementary uses and through the seamless integration of abutting public recreation and cultural arts facilities and uses;*
- ii. To allow for a diversification of uses, structures and open spaces when not in conflict with existing land uses on abutting properties;*
- iii. To reduce improvement costs through a more effective use of land and a smaller network of utilities and streets than is possible through the application of standards contained in conventional land development regulations;*
- iv. To provide the opportunity for application of innovative site planning concepts that results in the creation of an aesthetically pleasing environment for working and playing on properties of adequate size, shape and location;*
- v. To ensure that development will occur within the guidelines and intent of the city comprehensive plan; and*
- vi. To reduce the number of vehicle trips on the surrounding roadway network through a mixture of compatible and complementary land uses and public transit, pedestrian and bicycle enhancing Improvements.*

The proposed gas station is inconsistent with the character or intent of the zoning district and is also prohibited within the zoning district. In order to avoid inconsistency with the character of the district and to allow the proposed development on the site, an application for a Zoning District Map Amendment changing the zoning to General Commercial (CG) has been filed for 1.87 acres of the 13.93 acres. The remaining 12.06 acres will retain the CE zoning classification.

The Applicant argues that the proposed CG Zoning District would allow

for a more balanced commercial site that could serve day-to-day uses and be utilized by the surrounding community.

b. Conservation of the value of buildings and encouraging the most appropriate use of land and water throughout the City.

The subject site is not developed and, therefore, it neither conserves nor wastes the value of buildings.

The site is actively illegally used for overnight parking and accumulates trash from passing pedestrians and illegal dumping. The existing pavement has not been properly maintained and is deteriorating.

A Conceptual Master Site Plan, initiated by the City of Lauderdale Hill (**Attachment V**) for the entire 13.93 acre, was submitted as part of this application and includes the convenience store/gas station use confined to the 1.87 acres as requested by the applicant. Along with the convenience/gas station use, the Conceptual Master Site Plan also includes Commercial, Lodging and, Residential Uses as well as lush landscaping surrounding and within the 13.93-acre property.

The Conceptual Master Site Plan proposes an entryway sign into the City along with an Interactive Water Feature, further enhancing the aesthetics of this gateway road. Together these improvements will greatly enhance the subject site and the adjacent CBRP, LPAC, and Library as visitors and residents enter the City. The proposed use will serve both pedestrian patrons and well as vehicular patrons within and abutting the 13.93 acre Conceptual Master Planned Site.

Although the proposed convenience store/gas station use is not consistent with the recommendations of the SR7 Redevelopment Plan the site will be required to be designed in a manner consistent with the City's Charrette Plan to promote pedestrian connectivity at time of Site Plan Approval. The SR-7 Redevelopment Plan established seven (7) redevelopment districts within the community redevelopment area and the K-mart site was included within the Recreation and Entertainment district. See **Attachment W** for a copy of the City's Charrette Plan and SR7 Redevelopment Plan. The Plan noted the site is adjacent to two major destination points, the Swap Shop and the Central Broward Regional Park, and that the area's attraction as a destination makes it a prime location for a hotel. The proposed uses cannot be classified as either recreation or entertainment related uses and, therefore, is

inconsistent with the SR7 Redevelopment Plan.

The Applicant argues that the property is vacant and will be developed in accordance with all City, County, State, and architectural/developmental requirements at time of building permit. The proposed use is for a convenience store and gas station with twenty (20) fueling pumps. The Applicant suggest that the convenience store and gas station use is appropriate as it fits within the existing State Road 7 Corridor's Characteristics.

- c. **The applicable portions of the adopted City Comprehensive Plan and programs such as land use, trafficways, recreation, schools, neighborhoods, drainage and housing and so forth.**

The property has a Future Land Use designation of Transit Orientated Corridor as Shown below:



Element Policy 2.1.13, which addresses Transit Oriented Corridor (TOC) uses, is the most applicable portion of the Comprehensive Plan (See **Attachment X**). Sub-policy 2.1.13.1 has five applicable paragraphs.

- i. Pursuant SUBPOLICY 2.1.13.1.b, "Additional or expanded standalone automobile oriented uses such as: large surface parking lots, gas stations/auto repair/car washes; auto dealers; self/equipment storage; "big box"/warehouse; single-family detached dwelling units; carwashes; and drive-through facilities are discouraged and should be prohibited by the local government, or limited unless designed in a manner that is consistent with the design concepts of the City's Charrette Plan to encourage pedestrian and transit usage. The intent of this policy is to ensure future development is consistent with the pedestrian and transit oriented urban design concepts of the Charrette. It is not intended to produce future development that is designed exactly as presented in the Charrette."

The Conceptual Master Site Plan proposes a standalone convenience store/gas station with fueling pumps as part of an overall Mixed Use concept. Although Subpolicy 2.1.13.1.b discourages gas station uses, it provides flexibility as long as the Use is designed in a manner consistent with the City's Charrette Plan. As part of the entitlement process, the applicant must comply with all developmental requirements at time of site plan approval which will include a design that encourages both pedestrian and transit usage as required by the City's Charrette Plan.

- ii. Pursuant SUBPOLICY 2.1.13.1.c "Provide for pedestrian connectivity among the various uses, including connectivity to adjacent residential development and transit stations and stops, through minimization of curb cuts, provision of planting strips and street trees, addition of sidewalks at least eight feet wide where appropriate, minimum building height to public space ratios of at least 1:6, creation of greenways and promenades, and other means as appropriate or recommended in the Charrette Plan.

The Conceptual Master Site Plan is intended to depict the overall proposed uses onsite. The applicant will need to comply with all developmental

requirements at time of site plan approval addressing pedestrian connectivity as well as obtaining a Plat amendment in order to address vehicular access. Paragraph d provides "The SR 7/US 441 Transit Oriented Corridor shall incorporate public plazas, urban open space or green space/pocket park uses that are integrated within the Transit Oriented Corridor and that are consistent with the recommendations of the Charrette Plan.

- iii. Pursuant SUBPOLICY 2.1.13.1.e "The SR 7/US 441 Transit Oriented Corridor shall include design features that promote and enhance pedestrian mobility consistent with the Charrette Plan, including connectivity to transit stops and stations, based on the following characteristics:
 - a. Integrated transit stop with shelter, or station (within the TOC area).
 - b. Wide (5 feet shall be the minimum consistent with ADA requirements) pedestrian and bicycle paths that minimize conflicts with motorized traffic and are adequately landscaped, shaded and provide opportunities for shelter from the elements.
 - c. Buildings should front the street (zero or minimal setbacks are encouraged).
 - d. Vehicle parking strategies that encourage and support transit usage (such as parking that does not front the street, shared parking, parking structures, and/or reduced parking ratios).
 - e. Streets (internal and adjacent to the TOC) should be designed to discourage isolation and provide connectivity (such as streets in the grid pattern).

The Conceptual Master Site Plan provides structured parking as a part of the overall program. The applicant is required to comply with all developmental requirements addressing pedestrian connectivity at time of site plan approval.

- iv. Pursuant SUBPOLICY 2.1.13.1.d, "The SR 7/US 441 Transit Oriented Corridor shall incorporate public plazas, urban open space or green space/pocket park uses that are integrated within the Transit Oriented Corridor and that are consistent with the recommendations of the Charrette Plan."

The Conceptual Master Site Plan proposes landscaping inclusive of the subject site. The applicant will provide a site plan that incorporates greenspace areas consistent with the City's Charrette Plan at time of Site Plan Approval.

- v. Pursuant SUBPOLICY 2.1.13.1.f "The SR 7/US 441 Transit Oriented Corridor shall include internal pedestrian and transit amenities, consistent with the Charrette Plan, to serve the residents and employees (such as seating on benches or planter hedges, shade, light fixtures, trash receptacles, information kiosks, bicycle parking) or other amenities that could be incorporated into adjacent publicly accessible areas and plaza (such as clocks, fountains, sculpture, drinking fountains, banners, flags and food and refreshment vendor areas.'

The Conceptual Master Site Plan incorporates an Interactive Water Feature as part of the overall design. The applicant will provide plans at site plan approval to conform to all requirements consistent with the Charrette Plan, to serve the residents and employees.

The applicant argues that the land use of the property will remain the same and all proposed trafficways will be in accordance to all City, County and State Requirements at time of Site Plan approval.

d. The need of the City for land areas for specific purposes to serve population and economic activities.

The intent of the application is to ultimately allow for a convenience store/ gas station use on the subject property.

The Applicant argues that the location of the subject site is at a high traffic intersection ideal for the convenience store/ gas station use that will serve the population and economic actives for the surrounding area.

e. Whether there have been substantial changes in the character of development in or near an area under consideration for rezoning.

The Division concludes that since 2000 there have been substantial changes in the character of development in or near the subject site. To the east, the formerly underutilized AT&T antenna site has been rezoned to Regional Park (PR) district and has been redeveloped as a 110 acre regional park, with a 5,000 permanent seat stadium, a water play area, and other recreational facilities. The overall site also accommodates the City's 1,200 seat Performing Arts Center and 10,000 square foot neighborhood library. The former McArthur Dairy site has been rezoned to Residential Townhouses 15. Currently, the site is included within a Conceptual Master Site Plan initiated by the City of Lauderhill for a mixed-use development.

f. The facts and opinions presented to the Planning and Zoning Board through hearings. This Development Review Report includes data and analysis and written findings of fact and conclusions to support the Division's recommendation on the application and will be presented to the Board and entered into the record at its August 29th, 2019 regular public hearing.

g. Additional Considerations-

Objective 3.0 Policy 3.1. requires Traffic Impact Study for proposed developments in the vicinity of high crash locations including US 441/SR 7. As the property fronts US 441/SR 7, the applicant shall provide a Traffic Impact Study prior to the issuance of a Development Order.

h. Amendment procedures-

LDR Article IV., Part 2.0., Section 2.9., addresses the procedure for Zoning District Map or zoning regulation amendments. It requires the Board to make a recommendation to the City Commission at a duly noticed public hearing on changes to the Zoning District Map and zoning regulations and

for the Board to forward its recommendation to the City Commission.

The Division has placed the Zoning District Map amendment application on the Planning and Zoning Board regular public hearing agenda for the August 29th, 2019 meeting. At that duty noticed public hearing, the Board will consider the application, this Development Review Report, all other substantial relevant evidence presented at the hearing, make a recommendation, and forward to the City Commission their recommendation on the application and all supporting evidence.

i. Amendment Notice-

LDR Article IV., Part 2.0., Section 2.10., addresses public notice. Subsection 2.10.1. requires a change in zoning be published in a newspaper of general circulation in Broward County at least 10 days prior to the date of the hearing.

- i. Published notice. Subsection 2.10.1., requires a change in zoning be published in a newspaper of general circulation in Broward County at least 10 days prior to the date of the hearing. The Division has caused a legal notice of the Planning and Zoning Board public hearing and the City Commission public hearings to be published in the Sun-Sentinel, a newspaper of general circulation within the City and Broward County, on or before August 19th, 2019, or 10 days before the Board public hearing date. The application is included within the published legal notice for the public hearing. Proof of publication is on file with the Division and is included herein by reference. Thus, the Division concludes the application has been duly noticed consistent with the standards and requirements of LDR Article IV. , Part 2.0., Section 2.10.
- ii. Mailed notice. Subsection 2.10.3., requires mailed public notice. Specifically, it provides all owners and occupants of property within 300 feet of the premises for which the development order is requested shall be given notice of the hearing by mail. On or before August 19th, 2019, Staff provided the required mailed notice and a copy of

the notice and a list of those persons noticed is on file with Staff and incorporated herein by reference. Consequently, the application is in conformance with this requirement.

- iii. Posted notice. Subsection 2.10.3 also requires the property be posted. Specifically, it provides that at least ten (10) days prior to the hearing, a sign shall be posted upon the property facing and visible from the street. The sign must be a minimum of three (3) square feet in size. Moreover, a notarized affidavit must be provided to Staff stating that the sign was posted on the appropriate day, that the sign remained posted for the duration of the time required for the posting, and that a photograph of the sign in place is submitted. An affidavit has been provided stating the property will be posted during the required periods and staff will confirm prior to or at the hearing that a photograph has been provided showing the property is posted. Thus, the application is in conformance with this requirement.

IV. ATTACHMENTS

- 1. Attachment A- Resolution No. 02R-05-99**
- 2. Attachment B- Ordinance No. 040-06-147**
- 3. Attachment C- Carishoca Data Table**
- 4. Attachment D- Carishoca Conceptual Master Plan**
- 5. Attachment E- Agreement Condition**
- 6. Attachment F- Ordinance No. 050-08-172**
- 7. Attachment G- Ordinance No. 050-08-180**
- 8. Attachment H- Broward County Carishoca Plat Order**
- 9. Attachment I- Recorded Carishoca Plat**
- 10. Attachment J- May 11, 2015 CRA Minutes**
- 11. Attachment K-1- Original Conceptual Plaza of the Arts Site Plan**
- 12. Attachment K-2- Revised Conceptual Plaza of the Arts Site Plan**
- 13. Attachment L- Conceptual Plaza of the Arts Elevations**
- 14. Attachment M- July 28, 2015 Planning and Zoning Board meeting minutes**
- 15. Attachment N- October 26, 2015 City Commission Meeting minutes**
- 16. Attachment O- Failed Ordinance No. 150-08-130.**
- 17. Attachment P- Lauderhill Marketplace LLC MOU**
- 18. Attachment Q- Resolution No. 19R-02-28**
- 19. Attachment R- Proposed Resolution NO. 19R-02-39**
- 20. Attachment S- Lauderhill Marketplace LLC Rezoning Application Letter**
- 21. Attachment T- Proposed Lauderhill Marketplace LLC Rezoning Ordinance**
- 22. Attachment U- Zoning District Map Application (19-Z-001)**
- 23. Attachment V- Conceptual Master Site Plan- Lauderhill Market Place**
- 24. Attachment W- City's Charrette Plan and SR7 Redevelopment Plan**
- 25. Attachment X- Policy 2.1.13 Transit Oriented Corridor Uses**

V. FINDINGS AND CONCLUSIONS

Based upon the information contained in this Development Review Report, the following findings of fact and conclusions of law are offered:

- A. Application. On June 4, 2019 Chris Collins, on behalf of Lauderhill Marketplace LLC, submitted a Zoning District Map amendment (ZDMA) to change the zoning district on 1.87 acres of the total 13.93 acre site, from CE back to CG district. If the ZDMA is granted, Lauderhill Marketplace LLC will develop a convenience store/gas station. In addition, Lauderhill Marketplace, LLC will:
1. Landscape the entire perimeter of the 14 acre parcel consistent with the City's basic and minimum landscape requirements during construction of the gas station and convenience store. City shall have the right to upgrade the landscaping if it deems necessary or desirable at its own cost
 2. Initially develop a portion of the remaining 6.85 acres adjacent to the gas station with a 20 thousand square feet commercial development consistent with the existing Commercial Entertainment Zoning, basic design guidelines and basic landscape requirements, with the right to develop an additional 20,000 square feet on such land.
 3. Sell a 1.51 acre parcel to the City of Lauderhill as outlined in green and identified as "HOTEL OUT-PARCEL A" on Exhibit A. The parties will negotiate a purchase price based on good faith appraisals. The City payment for the parcel will be held in escrow until Marketplace obtains the building permits and commences construction on the initial 20 thousand square feet commercial development. However, the City reserves the exclusive right to close at any prior time it so desires.
 4. Donate approximately 4.2 acres (as identified as the "CITY PARCEL" and outlined in blue on Exhibit A) to the City of Lauderhill, at no cost. The four acres shall border and abut the location of the Lauderhill Performing Arts Center and its use shall be restricted to vehicular parking and a public park. As a condition for such donation the parties will enter in a cross access and cross parking agreement acceptable to the parties and the City shall agree to construct, at its cost, a roadway for vehicular access from the access road to the performing arts center through and across the City Parcel to and connecting with the Lauderhill Marketplace property, the location of which to be on east boundary of the City Parcel should the rezoning be approved and all required building permits have been issued.
- B. Subject matter jurisdiction. The Division finds the City's adopted Land Development Regulations (LDR) provide that the Planning and Zoning Division has jurisdiction to make a recommendation to the City Commission on Zoning District Map amendments. The LDR also grants the City Commission jurisdiction to make the final determination on Zoning District Map amendment applications.

The CDR further provides Zoning District Map amendment procedural and substantive standards and requirements that must be considered by the Board and City Commission when respectively recommending and making a final determination on a Zoning District Map amendment application.

- C. Zoning district consistency. The Commercial Entertainment (CE) zoning district is not consistent with the proposed land uses for the property, which is a convenience store/ gas station use, a Zoning District Map amendment has been filed to change 1.87 acres of the 13.93 acre site from CE to General Commercial (CG) district. That zoning district is consistent with the proposed land uses and allows the convenience store/ gas station use as a special exception use.
- D. Comprehensive Plan Consistency. The Future Land Use Map Series shows the site is designated Transit Oriented Corridor, a mixed-use designation applied along transit corridors. The proposed land uses could be made in conformance with Future Land Use Element Policy 2.1.13 provided the site plan is designed in a manner consistent with the Citizen's Master Plan.
- E. Applicable Land Development Regulations provisions. The Division finds that the LDR provisions governing the issuance of a Zoning District Map amendment development order include: Article IV., Development Review Requirements, Part 1.0., on a pre-application conference for persons proposing to submit land development order applications, the review of land development order and permit applications for technical completeness, and the application review period; LDR Article IV., Part 2.0., Subsection 2.2.1 which addresses Zoning District Map amendment requirements; Section 2.3 on the size of the area, Section 2.4., on criteria, Section 2.9 on procedural requirements and Section 2.10 on public notice requirements; and Article III., Part 2.0. , Sections 2.3 and 2.4 and Schedule B on permitted and special exception uses-
- F. Public notification. The Division has provided to all property owners within 300 feet of the subject property written notice of the Board and City Commission public hearings by regular mail. The City Clerk or Division has or will post notice of the public hearings at City Hall before the Board and City Commission hearings on the application. In addition, the Division has on file a picture showing the notice of the hearing has been posted on the property and an affidavit stating the property will remain posted through the application process.
- G. CL CRA Plan consistency. Although the proposed convenience store/gas station use is not consistent with the recommendations of the SR7 Redevelopment Plan the site will be required to be designed in a manner consistent with the City's Charrette Plan to promote pedestrian connectivity at time of Site Plan Approval.
- H. Additional Considerations- It is found that the approved the February 11, 2019 MOU will be revisited on a quarterly basis between the City of Lauderhill and

Lauderhill Marketplace LLC as to address and amend the Conditions of Approval pertaining purchasing/donated land negotiations for the former K-mart property.

It is also found that the Applicant must submit a Traffic Impact Study for Staff Review prior to Issuance of Development Order for Zoning Map Change.

VI. ALTERNATIVE ACTIONS

LDR Article IV, Part 1.0. , requires the City Commission to act upon the application and make one of the following determinations:

ALTERNATIVE A:

Staff recommends that the Planning and Zoning Board forward to the City Commission with a recommendation for adoption the zoning district map amendment changing 1.87 acres of the total 13.93 acres from CE to CG; 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 Alternative A is selected, then staff recommends the following findings and conclusions be adopted:

1. The application is consistent with LDR Article IV, Part 2.0., Section 2.4 on the character of the district and its peculiar suitability for particular uses. The zoning district that is peculiarly suitable for the proposed uses is the CG and not the CE zoning district. Although the LDR does not contain comprehensive zoning regulations for the General Commercial (CG) zoning district, and therefore does not have a section identifying the purpose, intent or character of the district, a convenience store/ gas station are allowable uses within the CG zoning district by process of special exception and therefore suitable.
2. The application is consistent with LDR Article IV, Part 2.0., Section 2.4 on encouraging the most appropriate use of land and water throughout the City. The ZDMA would result in development that work cohesively within the Conceptual Master Site Plan as a commercial use that serves the public.
3. The application is consistent with LDR Article IV, Part 2.0., Section 2.4 on the applicable portions of the Comprehensive Plan. The conceptual site plan is just a concept to show how the uses can be accommodated on-site. Connectivity to the CBRP and LPAC, and use location issues consistent with the Citizen's Master Plan, can be addressed during the site plan determination process.

4. The application is consistent with L-DR Article IV, Part 2.0., Section 2.4 on the need for land areas for specific purposes to serve the population and economic activities as a component of a Mixed-Use Conceptual Site Plan.

ALTERNATIVE B:

That the application is not in compliance with the LDR applicable standards and minimum requirements and that a development order is issued denying the application. If this alternative is selected, then staff recommends the following findings and conclusions be adopted:

1. The application is inconsistent with LDR Article IV, Part 2.0. , Section 2.4 on the character of the district and its peculiar suitability for particular uses. The Commercial Entertainment (CE) zoning district and the Zoning District Map amendment to General Commercial (CG) district is an attempt to circumvent the character of the CE by allowing land uses that otherwise would be prohibited.
2. The application is inconsistent with the SR-7 Community Redevelopment Plan. The property is located within the Recreation and Entertainment district and the proposed use is not recreation or entertainment related.
3. The application would reduce the area available for Commercial Entertainment zoning district related uses by approximately 13.5% from 13.93 to 12.06 acres.

ALTERNATIVE 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 noncompliance and that a development order be issued granting approval of the application with the said conditions.

ALTERNATIVE 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 a study is conducted to

provide the City Commission with information sufficient to form a basis on which to approve or deny the application.

VII. RECOMMENDED ACTION

A. Division recommendation. Staff recommends the Planning and Zoning Board enter into the record this Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted because the application is in compliance with the LDR applicable standards and minimum requirements and adopt the findings and conclusions of Alternative Action Items A, 1-4 identified in IV, Alternative Action.

B. Planning and Zoning Board recommendation. The proposed application was heard at the August 29th, 2019 Planning and Zoning Board meeting by the Board with recommendation against the adoption of the proposed Ordinance.

C. City Commission action. First reading of the proposed Ordinance is tentatively scheduled on the agenda for the September 12st, 2019 City Commission public hearing. If approved or approved with conditions on first reading, the adoption hearing on the proposed Ordinance is tentatively scheduled on the agenda for the September 26th 2019 City Commission public hearing.