

CITY COMMISSION AGENDA ITEM REPORT

DATE: August 23, 2023

SUBMITTED BY: Collette Tibby

ITEM TYPE: Ordinance

TEMP. ORDINANCE NUMBER: 2535

AGENDA SECTION: **QUASI-JUDICIAL HEARING(S)**

TITLE: TO2535 - An Ordinance of the City Commission of the City of Tamarac, Florida, amending the Official Zoning Map of the City of Tamarac referenced in Section 10-2.1(B) of Chapter 10 of the City of Tamarac Code of Ordinances to reflect the rezoning of certain real estate property fully described as Parcel "A," "Prospect Plaza" according to the Plat thereof, as recorded in Plat Book 136, Page 2 of the public records of Broward County, Florida, from the current RE (Residential Estate) zoning classification to R-3 (Multi-Family Residential) zoning classification, for the subject property located at 2099 West Prospect Road, in order to allocate one (1) flexibility unit to facilitate the allowance of a school use and provide consistency with the Land Development Code in accordance with the intent of the Comprehensive Plan of the City of Tamarac; (Case No. 5-Z-23 & 1-FLX-23); providing for amendment to the Official Zoning Map to reflect such change; providing for conflicts; providing for severability; and providing for an effective date.

RECOMMENDATION: The Director of Community Development recommends that the Mayor and City Commission approve the proposed rezoning, concurrent with the allocation of one (1) flexibility unit, at its August 23, 2023 meeting for first reading, and at its September 13, 2023 meeting for second reading with a condition of approval (see attached Temporary Ordinance No. 2535).

BACKGROUND: The property is currently comprised of two (2) one-story buildings connected by a covered walkway with associated parking, playground, and landscaping. Building "A" consists of nine thousand and eighty-five (9,085) square feet and Building "B" consists of nine thousand one hundred twenty (9,120) square feet totaling eighteen thousand two hundred five (18, 205) square feet combined.

The subject property is the former site of the Kathleen C. Wright Charter School that occupied the space from 2010-2013 and taught kindergarten through eighth grade. In 2014, the site was approved by the City to house CHAMPS Career Prep High School with an expected enrollment of four hundred (400) students. This school never actually opened at this location for various internal reasons.

On July 11, 2018, the City Commission approved a Special Exception to allow for the use of a public, non-profit school (Excelsior Charter of Broward) in a R-1C (Single-Family Residential) Zoning District with a condition of approval that required the special exception to only remain valid during the period of which the certificate of occupancy and business license remains active (see attached Board Order). On August 9, 2018, Excelsior Charter of Broward moved from 10066 West McNab Road within the Tamarac Marketplace Shopping Center to 2099 West Prospect Road to allow the existing school to expand.

Excelsior Charter of Broward had over two hundred (200) students in Grades K through 5 and desired to increase the enrollment to four hundred fifty (450) students for Grades K through 8 at the location of Special Exception approval. During the 2020-2021 school year, Excelsior Charter of Broward served one hundred fifty-seven (157) students and was unfortunately shuttered in 2022 due to financial issues stemming from the COVID-19 pandemic. The business license for Excelsior Charter of Broward was not renewed for 2022 and expired on September 30, 2022.

The subject property was also rezoned from R-1C (Single-Family Residential) Zoning District to RE (Residential Estate) Zoning District on July 11, 2018, as part of the City-wide rezoning that accompanied the approval of the City's new Land Development Regulations. The existing Excelsior Charter of Broward school became a non-conforming use due to schools being prohibited in the RE (Residential Estate) Zoning District. Section 10-1.9(B)(4), Nonconformities, Land Development Code states, "Abandonment of Use. If a nonconforming use of land ceases for more than 60 consecutive days, the nonconforming use may not be re-established except as permitted under §10-5.4(C), Establishment of Use."

The existing non-conforming use of the school in the RE (Residential Estate) Zoning District ceased for more than sixty (60) days after the business license for Excelsior Charter of Broward expired on September 30, 2022. Section

10-1.9(B)(3)(b), Nonconformities, Land Development Code further states, "In any residential district, a nonconforming use may be changed only to a use permitted in the district."

The proposed rezoning from RE (Residential Estate) to R-3 (Multi-Family Residential) allows for the proposed school use as a Special Exception in the R-3 (Multi-Family Residential). The allocation of one (1) flexibility unit is needed to provide the residential density to allow for the proposed R-3 (Multi-Family Residential) Zoning District requested without needing to amend the Broward County Land Use Plan and to remain consistent with the regulations outlined in the Administrative Rules Document: Broward Next. Accompanying this application is a request to change the future land use of the subject from "Low-Density Residential" to "Low Medium Residential" to facilitate the allowance of a school use.

Also, accompanying this application is a request for Special Exception to allow for a proposed School use in an R-3 (Multi-Family Residential) Zoning District. The Special Exception application will be forwarded to the City Commission for approval following the public hearings by the City Commission for the Small-Scale Land Use Plan Amendment, Rezoning, and Flexibility Unit requests on first reading.

ISSUE:

Keith Poliakoff, Esquire, designated agent for the property owner, Charter BC Tamarac Prospect, LLC, is requesting approval of a rezoning to the change the zoning designation of the subject property from MU-N (Mixed-Use Neighborhood) to R-3 (Multi-Family Residential) (see attached Justification for Rezoning).

In addition, Keith Poliakoff, Esquire, designated agent for the property owner, Charter BC Tamarac Prospect, LLC, is requesting the allocation of one (1) flexibility unit to facilitate the allowance of a School Use at the subject location in accordance with the Broward County and City of Tamarac Land Use Plans and to provide for consistency with the Broward County Land Use Plan (see attached Justification for Flex Allocation).

ATTACHMENTS:

- 1 - [Bethlehem_Junior_Academy_Rezoning-Flex_Memo_MM.doc](#)
- 2 - [Temporary Ordinance No 2535 MM.doc](#)
- 3 - [Justification for Rezoning.docx](#)

- 4 - Justification for Flex Allocation.pdf
- 5 - Location Map.pdf
- 6 - City of Tamarac Official Zoning Map.pdf