



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Concrete Products Manufacturing and Distribution

| Meeting           | File No.              | Application Type                              |
|-------------------|-----------------------|---|
| February 23, 2026 | PZ-000230-2025        | Amendment to the Land Development Regulations |
| Property Owner    | Applicant             | Authorized Agent                              |
| Not applicable.   | Calabash Gunite, Inc. | Neil Schiller, Esq.<br>Government Law Group   |

### Request

Consider and provide a recommendation on Ordinance No. 20-26, a City-initiated amendment to Section 4.4.19, "Mixed Industrial and Commercial (MIC) District" of the Land Development Regulations (LDR) to establish gunite and other concrete products manufacturing and distribution as a conditional use and to adopt regulations governing the use, and to Section 4.4.20, "Industrial (I) District" to modify the identified types of concrete products for consistency with Section 4.4.19.

### Background Information

The subject amendment to the LDR is related to an application by a business operating at 135 N. Congress Avenue for a Determination of Similarity of Use (File 2024-232). The application requested that the operation of a gunite yard be considered similar to *Manufacturing and Wholesale of products using ceramic and plaster material*, which is a permitted use in the MIC zoning district, rather than being classified as *Concrete Products Manufacturing* (a prohibited use in the MIC zoning district, inasmuch as any use not specifically allowed is considered prohibited).

Concrete products manufacturing and gunite uses are described as follows:

- Concrete Products Manufacturing

Concrete is defined as a material that is "a mixture of paste and aggregates. The paste, composed of cement and water, coats the surface of the fine (sand) and coarse aggregates (rocks) and binds them together into a rock-like mass" (The National Ready Mixed Concrete Association (NRMCA). Concrete is a pourable and moldable material that is customarily used in many construction applications. Concrete is sometimes manufactured into fabricated products including concrete masonry units (CMU), blended dry material known as dry-mix that becomes pourable and moldable when mixed with water, or concrete pre-mixed with water known as ready-mix. CMU blocks, dry-mix concrete, and ready-mix concrete are considered final products that are manufactured through the combination of raw materials through a process that results in the creation of a different product.

Concrete products manufacturing customarily includes certain site elements such as outdoor storage of raw material, silo structures, and the frequent use of large vehicles to load, mix, and maneuver the raw materials so that they can be combined as needed. Concrete products manufacturing has the potential to impart negative side-effects onto adjacent properties by way of air pollution created through the agitation of dry materials, as well as noise and visual nuisances because of the nature of the use, and because production of these products customarily occurs outdoors. As such, facilities that deal with concrete processing and other similar materials often require permits and licensure from State agencies to confirm compliance with certain pollution mitigation measures.

- Gunite

Gunite is a sub-category of concrete, customarily used in pool construction, with many similar characteristics to concrete, including how it is processed and batched. Whereas both traditional concrete and gunite are comprised of a formula of dry cement and sand, concrete contains larger aggregates than gunite, which exclusively uses small aggregate particles in the mix. Also, whereas concrete is

traditionally mixed with water prior to installation on-site, gunite is typically transported in a dry state, pumped through a hose using air pressure, and mixed with water at the hose point during the act of being sprayed. Volumetric concrete mixers compartmentalize the individual materials and batch mix the materials on site prior to application in the desired ratio or formula.



The operation of a gunite yard comprises the outdoor storage of raw materials including sand in large piles, storage of cement in a cement silo, storage of construction equipment and vehicles used in the moving and distribution of the material, frequent unloading of the raw material from supply trucks, and loading of the raw material into volumetric mixers that is then batched and distributed off-site for use in construction applications – all of which occurs outside of a building (images at left and below).



Planning and Zoning Board approved the Similarity of Use Determination on October 21, 2024. However, City Commission appealed the determination at its February 4, 2025 meeting and determined that a gunite yard is not similar to the *Manufacturing and Wholesale of products using ceramic and plaster material* use, further directing Staff to prepare an amendment to the LDR to add the gunite yard use as a conditional use in the MIC district, to provide the unauthorized gunite yard at 135 N. Congress Avenue with a path for the subject property to come into compliance.

MIC is one of the implementing zoning districts for CMR land use. The MIC District was *created to provide for a mix of industrial, commercial, and office use in a single zoning district. The uses allowed are intended to enhance employment opportunities in the industrial, manufacturing and trade sectors, with supporting business and professional office functions. Retail uses are appropriate on a limited basis, and only as a secondary use within the district. Residential uses are only allowed within the I-95/CSX Railroad Corridor Overlay District.* MIC zoning is located in two sectors of the city; the northwest quadrant along North Congress Avenue and the southeast quadrant between SW 10<sup>th</sup> Street and West Linton Boulevard (map excerpts below).



While City Staff was drafting the amendment, an application was submitted by the operator of the gunite yard on September 30, 2025. Inasmuch as the requisite fee to process an application was not provided, the application continues to be processed as a city-initiated amendment.

### Project Description

#### LDR Section 4.4.19, Mixed Industrial (MIC) District

- **Subsection (D), “Conditional uses and structures permitted”**

The following new conditional use is proposed:

- Concrete products manufacturing and distribution, including concrete block, dry mix, gunite, and redimix concrete, in addition to the distribution of materials used in the processing of concrete products, such as sand, cement, and stone aggregates, with the following limitations:
  - The use is limited to properties located north of Atlantic Avenue.
  - The use shall not be located within a radius of 1,000 feet of another concrete manufacturing and distribution business, measured from property line to property line.

Currently, the *Concrete Products Manufacturing* use is a Conditional Use in the Industrial (I) zoning district; Industrial is the district intended to accommodate the most intense industrial uses permissible within the City, such as Concrete Products Manufacturing. Alternately, the MIC district is intended to accommodate industrial uses of a lighter intensity with supporting business and office functions that are compatible and harmonious in scale and intensity with adjacent commercial uses. As such, significant regulations are proposed for the concrete products manufacturing and distribution in MIC zoning, to mitigate any potential negative impacts of this more intense use. As a privately initiated request, the applicant is entitled to request regulations that suit their business operations. The proposed regulations of the proposed concrete products manufacturing and distribution use in Subsection (F) and Subsection (H) of the MIC District are summarized below.

- **Subsection (F), “Development Standards”**

- Regulations from LDR Section 4.6.4, “Special District Boundary Treatment” specific to the MIC zoning district are relocated to Subsection (G). If an MIC zoned parcel abuts a residentially zoned parcel without any division or separator between them (such as a street, railway, waterway, park, or other public open space, but excluding an alley), a 30 foot front setback with a minimum 15 foot landscape buffer, and a 50 foot side and rear setback with a minimum landscape buffer of 15 feet is required.

Specific to the concrete products and manufacturing use, the following requirements are proposed:

- Properties with frontage on Congress Avenue or West Atlantic Avenue shall provide a special landscape setback a minimum of 30 feet or ten percent of the average depth of the property, whichever is greater.
- Outdoor storage of materials shall not exceed 15 feet in height.
- Outdoor storage of materials shall provide the following minimum setbacks and landscape buffer:
  - Special Landscape Setback areas: 30 feet minimum.
  - Side Street: 25 minimum.
  - Side and Rear: 20 feet minimum.
- Required landscape buffers shall adhere to the following minimum landscape requirements:
  - A combination of a hedge, wall, and berm, at a 3:1 ratio, for a total height of 6 feet.
  - A row of trees on each side of the required wall, offset, and planted 25 feet on center.
- **Subsection (H), “Special Regulations”**

Modifications are made to the language for existing regulations for clarity. The following changes are proposed relative to the concrete products manufacturing and distribution use:

- Concrete products manufacturing and / or distribution is also regulated as follows:
  - Proof of compliance with all applicable requirements of the Florida Department of Environmental Protection is required.
  - The outdoor use shall be completely screened from all property lines by landscaping, fences, walls, or buildings pursuant to the terms of the conditional use approval and compliance with the district regulations.
  - A building with a floor area of at least 2,000 square feet must be located on the lot frontage adjacent to the street with higher classification.
  - The maximum lot area is two acres.

#### **LDR Section 4.4.20, “Industrial (I) District”**

A modification is also proposed to Subsection (D), “Conditional uses and structures permitted” in the Industrial zoning district, to improve clarity related to the wide range of concrete products that are allowed, and for consistency with the language proposed in MIC.

- (3) [EDIT] Concrete products manufacturing and distribution, including concrete block, dry mix, gunite, and redimix concrete, as well as the distribution of materials used in the processing of concrete products, such as sand, cement, and stone aggregates.

The supplemental and special regulations proposed in MIC are not proposed in Industrial (I) because the inherent character of Industrial (I) zoning is more intensive, and protections for the surrounding property in excess of those already required (largely as landscape regulations) are not needed.

#### **LDR Section 4.6.4, “Special District Boundary Treatment”**

Subsection (D), “MIC zoning adjacent to residential zoning” is relocated to Subsection (H) in the MIC zoning district because the majority of this subsection contains regulations applicable to multiple zoning districts, whereas this subsection is very specific.

## Review and Analysis

### LDR Section 1.1.6, Amendments

*The text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

### LDR Section 2.4.7(A), Amendments to the Land Development Regulations

*Amendments to the LDR may be initiated by the City Commission, Planning and Zoning Board, or City Administration, or by a member of the public.*

The proposed amendment was directed by City Commission in response to the similarity of use determination request, but the request before the board is a privately initiated amendment.

### LDR Section 2.4.7(A)(5), Findings

*For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.*

The following Objectives and Policies of the adopted Comprehensive Plan are applicable to the proposed amendment.

### Neighborhoods, Districts, and Corridors Element

Objective NDC 1.4 Industrial Land Use Designations *Apply the industrial land use designations of Industrial and Commerce to those areas where industrial type uses, such as fabrication and assembly of goods, warehousing, and vehicle repair, are the primary economic strategy for the district, to ensure that those industries, which are essential to the local economy, are appropriately accommodated in the city.*

Policy NDC 1.4.7 *Use the Commerce land use designation for property located along or adjacent to the Congress Avenue corridor, where it is appropriate to accommodate a mix of industrial, service, and commercial uses, and limited residential development opportunities.*

Policy NDC 1.4.8 *Recognize the importance of maintaining the Commerce land use designation for long term economic prosperity by discouraging amendments to the Future Land Use Map that diminish the quantity of property with Commerce land use designation.*

Commerce (CMR) is the underlying land use for the implementing MIC zoning district; the policies above relating to CMR land use apply to this request. In general terms, the Comprehensive Plan supports the retention of industrial type land uses. However, heavier industrial types are typically restricted to the Industrial (I) zoning district; lighter industrial uses are allowed in the MIC zoning district. As noted above, the purpose and intent of the MIC zoning district is:

*[...] to provide for a mix of industrial, commercial, and office use in a single zoning district. The uses allowed are intended to enhance employment opportunities in the industrial, manufacturing and trade sectors, with supporting business and professional office functions. Retail uses are appropriate on a limited basis, and only as a secondary use within the district. Residential uses are only allowed within the I-95/CSX Railroad Corridor Overlay District, subject to Article 4.7. The MIC District is applied to properties with a Commerce or Industrial designation on the Land Use Map (LDR Section 4.4.18(A)).*

Although City policy supports industrial uses, the concrete products manufacturing and distribution sector is not necessarily an industry cluster that the City has previously sought to expand through policy and regulation within the MIC zoning district. In fact, the 1990 citywide rezoning deprioritized the expansion of the concrete use by not adopting it as a use in the MIC zoning district (a successor to districts in which concrete uses were previously approved).

There are four businesses in the city that are classified as the concrete products manufacturing and distribution use. The map and chart below provide the details of the use on each property.

|                   | Address                         | Zoning     | Begin Operations Date           | Details / Status               |
|-------------------|---------------------------------|------------|---------------------------------|--------------------------------|
| CEMEX             | 1170 W. Atlantic Avenue         | MROC       | 1969                            | Legal Non-Conforming           |
| All County Paving | 1180 SW 10 <sup>th</sup> Street | Industrial | 2013                            | Approved Conditional Use       |
| Supermix          | 1840 Marty Fladell Drive        | MIC        | 1971                            | Legal Non-Conforming           |
| Calabash Gunite   | 135 N. Congress                 | MIC        | Code Violation Issued 9/19/2023 | Not Approved; Code Enforcement |



The Cemex property has been operating since 1969 (approval granted to Rinker). At the time of approval, the property was zoned C-3, “Wholesale Distribution and Light Industrial District. Concrete block manufacture and cement products was a permitted use in the C-3 zone district, and it has operated continuously since 1969. Supermix has been operating since 1971 (approval granted to Snow Concrete Corp) and was also zoned C-3 at the time of its approval. Subsequent to the C-3 zoning, Medium Industrial (MI) zoning was applied from approximately 1976 to 1989, at which time MIC zoning was adopted and applied as part of the 1990 citywide rezoning. Then, in 2006, Mixed Residential, Office, and Commercial (MROC) zoning was established and applied to properties south of Atlantic Avenue. Even though the current MROC and MIC zoning regulations do not allow the concrete products and manufacturing use, the continuous operations of the use designate it as a legal non-conforming use.

Thus, in evaluating the proposed amendment, the Board must consider if a more limited approach to allowing the use should be pursued, or if an expansion of the concrete manufacturing and distribution sector is a policy direction the City should pursue.

In making this consideration, the Board should consider the analysis in the 2023 Congress Avenue CBRE Plan. In late 2022, the City engaged with Streetsense and CBRE (real estate consultants) to perform a study of the corridor (document attached) to understand the existing conditions, market

demand, and existing land use regulations. On May 22, 2023, CBRE prepared the Delray Beach Congress Avenue Strategies Plan to provide market-informed development and retail strategy recommendations for the Congress Avenue corridor, with the goal of balancing commercial and housing growth. The Study found that the initial vision of the CMU land use and the companion MROC district has not been fulfilled, with many office and retail vacancies, limited space for growing industrial businesses, a continued proliferation of legal non-conforming uses, and the increasing pressure to build stand-alone residential development along the corridor due to the increased costs of land (Delray Beach Congress Avenue Strategies Plan, Page 5 and 8).

The Plan identifies the competing policy goals of the Congress Avenue corridor, which are to “identify, build-on, and support existing and emerging industry clusters and small businesses” and “limit amendments that would convert industrial land” vs. “allow / incentivize affordable housing in targeted areas and corridors,” “improve street designs for multi-modality & walkability,” and “increase density and transform the mixed-use section of Congress Ave into a ‘Great Street.’”

The MIC zoned segment of the Congress Avenue corridor is identified as Sub-Area 2 - an employment center with an existing light industrial cluster, having industrial and existing home improvement / light industrial characteristics that should be maintained. The Board should consider how much freedom should be given to the concrete products manufacturing and distribution use, given these recommendations.

**Economic Prosperity Element**

Policy ECP 3.3.7 *Strictly limit activities and comprehensive plan amendments which convert industrial land that would diminish Delray Beach’s economic competitiveness.*

Objective ECP 6.3 Business-ready Environment *Create a business-ready environment for existing and emerging industry clusters.*

Policy ECP 6.3.1 *Review and improve the Land Development Regulations to ensure permitted uses and building requirements align with desirable industry clusters in targeted areas and with the vision of adopted neighborhood revitalization plans.*

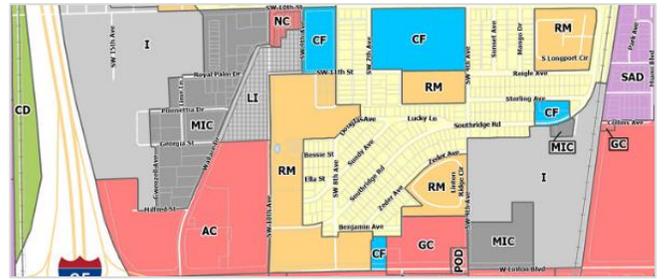
Policy ECP 6.3.4 *Discourage the reduction of Commerce land use designations, which involve a mix of light industrial, commercial uses, and research and development, and Industrial land use designations, which are needed to grow Delray Beach’s job base.*

Policy ECP 6.4.1 *Implement the vision in the Delray Beach Next Great Street report by protecting commercial and industrial uses to maintain and enhance the jobs base; ensuring diverse housing options for varying income levels; attracting higher education institutes; encouraging sustainable redevelopment; and, establishing a balance of appropriate uses along the corridor.*

Staff was directed to amend the LDR to create a path for the business at 135 N. Congress Avenue to legally operate, but the request to amend the LDR could potentially impact more than the subject application’s operator, if the addition of the concrete products manufacturing and distribution use in MIC encourages the expansion of the use. As noted above, facilities that deal with concrete processing and other similar materials often require permits and licensure from State agencies to confirm compliance with certain pollution mitigation measures; gunite is permitted by the State as a concrete batching plant. Therefore, the proposed regulations impose strict regulations on the concrete products manufacturing and distribution use, which has the potential to create adverse impacts on other commercial properties along the Congress Avenue corridor due to any dust and noise generated by the use.



One such proposed policy is the restriction of the use to properties north of Atlantic Avenue. With the recently adopted amendment to the Comprehensive Plan (Ordinance No. 05-25, June 3, 2025) to allow MIC zoning south of Atlantic Avenue (when it previously was only allowed to be applied to new properties to the north of Atlantic Avenue along Congress Avenue), and the existing MIC zoning in the southeast quadrant of the city, the restriction of the use to properties north of Atlantic Avenue is important to limit the negative interaction with properties that are more residential in character south of Atlantic Avenue (map at right).



Another policy intended to inhibit the over-expansion of the use is the proposed a distance separation requirement of 1,000 feet (consistent with the distance separation requirement opposed on standalone retail tobacco shops). The map at left shows several different distance buffers relative to 135 N. Congress Avenue. If a distance separation is appropriate, the Board can consider if the distance should be either less or greater. Although the adoption of a 1,000-foot buffer would require the operator to request a waiver, the Board should consider if the potential proliferation of the concrete products manufacturing is a concern and the distance separation is warranted, or if a potentially heavier industrial character in the MIC zoning district would be acceptable and it is either not necessary or excessive.

Additionally, the Board should consider if the proposed regulations (landscape buffering, building setbacks, standards for material storage, and other site development standards) are sufficient to counteract any potentially negative impacts on surrounding properties related to the use.

It should be noted that there is an open Code Enforcement violation on the applicant's business operations (Case No. 2023-014280, opened on September 19, 2023) for operating an unapproved use and for making site improvements without a permit. Approval of this amendment would **not** clear the violation, but it would provide the applicant the **opportunity** to correct the violation by filing a series of applications. This would include:

- Conditional Use
- Level 2 Site Plan
- Building Permits for all Site Improvements

While the amendment would provide the applicant with the opportunity to correct a Code violation, the decision to approve or deny the request should not be made with the violation in mind. The determination to recommend approval or denial is based on a finding of consistency with the Comprehensive Plan. The Board should consider whether or not concrete products manufacturing and distribution is an appropriate use within the MIC zoning district, based on established Comprehensive Plan policies, and whether the proposed regulations sufficiently mitigate any potential negative impacts.

**Summary of Board Considerations**

- Is it appropriate to allow a much more industrial-type use in a zoning district designed to accommodate a ***mix*** of industrial, commercial, and office uses?

- Should the expansion of the concrete products manufacturing and distribution use be encouraged along the Congress Avenue corridor?
- Are the proposed regulations sufficient to prevent any potential negative impacts on properties adjacent to the concrete products manufacturing and distribution use, or are they overly restrictive of a desirable use?

#### Options for Board Action

- A. Move a recommendation of **approval** of Ordinance No. 17-24, a City-initiated amendment to Section 4.4.19, "Mixed Industrial and Commercial (MIC) District" of the Land Development Regulations (LDR) to establish gunite and other concrete products manufacturing and distribution as a conditional use and to adopt regulations governing the use, and to Section 4.4.20, "Industrial (I) District" to make the identified types of concrete products consistent with LDR Section 4.4.19, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Move a recommendation of **denial** of Ordinance No. 17-24, a City-initiated amendment to Section 4.4.19, "Mixed Industrial and Commercial (MIC) District" of the Land Development Regulations (LDR) to establish gunite and other concrete products manufacturing and distribution as a conditional use and to adopt regulations governing the use, and to Section 4.4.20, "Industrial (I) District" to make the identified types of concrete products consistent with LDR Section 4.4.19, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.
- C. **Continue with direction.**

#### Public Notice

Public Notice is not required until first and second reading of the ordinance at City Commission.