



# City of Delray Beach

100 N.W. 1st Avenue  
Delray Beach, FL 33444

## Cover Memorandum/Staff Report

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File #: 19-149

Agenda Date: 3/12/2019

Item #: 9.A.

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**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Chief Neal de Jesus, Interim City Manager  
**DATE:** March 12, 2019

ORDINANCE NO. 14-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING CHAPTER 4, "ZONING REGULATIONS", SECTION 4.4, "BASE ZONING DISTRICT", SECTION 4.4.25, "SPECIAL ACTIVITIES DISTRICT (SAD)", SUBSECTION 4.4.25(H), "S.A.Ds", TO ADD A SPECIAL ACTIVITIES DISTRICT FOR THE PROPERTY LOCATED AT 777 CONGRESS SOUTH CONGRESS AVENUE BY CREATING THE "COLLIER CAR CLUB SAD"; AMENDING THE "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING/QUASI-JUDICIAL)

**Recommended Action:**

Motion to approve Ordinance No. 14-19 on First Reading for a privately-initiated rezoning from Mixed Residential, Office, and Commercial (MROC) to Special Activities District (SAD) for the Collier Car Club SAD located at 777 South Congress Avenue by adopting the findings of fact and law contained in the staff report, finding that the request and approval thereof is consistent with the Comprehensive Plan, and meets the criteria set forth in LDR Sections 2.4.5(D)(5), 3.1.1, and 3.2.2.

**Background:**

The request is to rezone the subject property from Mixed-Residential, Office, and Commercial (MROC) to Special Activities District (SAD) for the purpose of establishing a membership-based automobile club ("club") within the existing building formerly occupied by ABC Carpet & Home. The club will provide storage of the members' "meaningful cars" [as represented by the applicant] and specific services and benefits, such as the provision of an on-site research library, common showroom area, climate-controlled secure car storage exclusive to members, and an auto lab for restoration with supervision provided by master mechanics. Additional details of the proposal are provided in the attached Planning and Zoning Board report.

The Planning and Zoning Board considered the request at its February 25, 2019 meeting. A recommendation of approval was made with the following revisions to the Ordinance:

- Limit the amount of auto repair and restoration bays to 9.
  - Note: While 6 bays are presently proposed, the additional 3 bays will allow expansion, particularly if the building is expanded.
- Allow up to 20% additional square footage without requiring an SAD modification.
  - Note: The current building consists of 53,243 gross square feet. Twenty percent is

10,649 square feet. Typically, SAD modifications require that the same process as the initial rezoning to be followed. This exception will require an expansion to be reviewed and approved by the Site Plan Review and Appearance Board (SPRAB) only.

The recommendations of the Planning and Zoning Board have been incorporated into the attached Ordinance.

Pursuant to LDR Section 2.4.5(D)(5), in addition to provisions of Chapter 3, the City Commission must make findings that the rezoning fulfills at least one of the reasons listed under Subsection (2):  
(a) That the zoning had previously been changed, or was originally established, in error;  
(b) That there has been a change in circumstances which make the current zoning inappropriate; or  
(c) That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

The applicant has indicated that the request is based on (b) above, as “there has been a change in circumstances which makes the current zoning inappropriate. There has been a substantial decline in retail shopping at brick and mortar stores...Accordingly, a free standing solitary ‘big box’ located along Congress Avenue is unlikely to be repurposed as retail with another vendor...The applicant’s use will fit these circumstances and create a use that bring a spotlight to the Congress Avenue corridor...” The complete statement is attached. Approval of the request requires that the City Commission make a positive finding that the reason for the request is a change in circumstance, which makes the current zoning inappropriate.

Pursuant to LDR Section 3.1.1, Required Findings, prior to the approval of development applications, must be made in a form which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.

**LDR Section 3.1.1, Required Findings:**

(A) Future Land Use Map. The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map.

*The existing FLUM designation is Congress Mixed Use (CMU), which is the designation applied to MROC zoned properties in the Congress Avenue Corridor. The CMU designation accommodates a variety of uses including limited commercial, office development and residential uses. The proposed use, a member-based automobile club, is of a commercial nature with accessory office use and is consistent with the CMU designation. The SAD zoning district, which accommodates projects not otherwise classified or categorized in other zone district, is consistent with the CMU future land use designation. Member-based automobile clubs are not specifically accommodated in any of the City’s zoning districts, and therefore, is appropriate to the SAD zoning designation.*

(B) Concurrency. Concurrency as defined pursuant to Objective B-2 of the Future Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to

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require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CI-GOP-1 of the adopted Comprehensive Plan of the City of Delray Beach.

*Water and sewer services are adequately provided to the site and will remain as the site is not proposed to be redeveloped with the subject request. Drainage is accommodated by catch basins and existing dry retention areas on both the north and south sides of the existing structure. The traffic analysis report for the proposed use indicates a net decrease of 170 trips per day. The proposal has been reviewed by Palm Beach County Traffic Engineering and determined that it meets the Traffic Performance Standards of Palm Beach County. The change in use will also significantly decrease the solid waste generation, which is presently calculated at approximately 7.2 pounds for warehouse use area and 10.2 pounds for retail use area per square foot/year; the proposal would reduce the impact to 5.4 pounds for the storage area and 5.2 pounds for the office use area. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals till the year 2047. It is noted that the park impact fee is not applicable to the subject request as it does not include a residential component.*

(C) Consistency. A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

*A review of Article 3.2 has been conducted and found no conflicts with the Standards for Rezoning Actions, and that the Standards for Site Plans are addressed with the standards incorporated in the ordinance as part of the site plan review. The Standards for Specific Areas or Purposes are not applicable to the subject request.*

(D) Compliance with LDRs. Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.

*Concurrent with the review of the rezoning request, the LDRs relative to the development and use of the site have been applied and will be acted on separately by the Site Plan Review and Appearance Board (SPRAB). Section 4.4.25, Special Activities District specifies that SADs are established by an ordinance which is processed the same as a rezoning. However, a complete site plan is required to be reviewed concurrently, which can also be approved by SPRAB between First and Second Reading of the ordinance. The applicant has submitted the complete site plan, which has been reviewed by staff and is tentatively scheduled for approval by the SPRAB on March 27, 2019, prior to adoption of the ordinance.*

In addition to consistency with the Future Land Use designation as described in the Comprehensive Plan, the Comprehensive Plan identifies the following, which are applicable to the request:

Future Land Use Element, Objective A-1: Property shall be developed or redeveloped in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

Future Land Use Element, Policy A-2.2: Prior to approving any development application which comes before it, the applicable approving board must make a "finding of overall consistency" of the requested land use action with the objectives and policies of the Future Land Use Element.

The proposed rezoning to SAD to accommodate the membership-based automobile club and associated site improvements are appropriate and proposed in a manner that is compatible with the adjacent land uses and the Congress Avenue corridor. Further, the proposed rezoning is consistent with the future land use designation, and meets the intent of the objectives and policies of the Future Land Use Element. Therefore, a finding of overall consistency can be made.

Additionally, the Congress Avenue Task Force report, "Congress Avenue: Delray Beach's Next Great Street", which was accepted by the City Commission in 2016, outlined guiding principles that support the request:

- Redevelopment should attract aspiring, diverse, and talented people
- Making the area a destination, not just a passage way, comprised of unique users-tenants with a compelling draw that will contribute to Delray Beach's overall brand.
- The private sector as an engine of growth plays a key role in Congress Avenue's future success.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

Second Reading will occur subsequent to SPRAB consideration of the site plan on March 27, 2019.