

Rezoning Application
1660 South Congress Avenue

The Applicant property owner seeks to rezone the property at 1660 South Congress Avenue, from Professional Office District (POD) to General Commercial (GC). The property is 0.77 acres, 33,541.2 SF located on the northwest corner of Linton Boulevard and Congress Avenue and is a former Wells Fargo branch that has been vacant for at least the last twenty-four months.

SECTION 2.4.5(D)(1)

Section 2.4.5(D)(1) of the Land Development Regulations requires a “statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning include:

- That the zoning had previously been changed, or was originally established, in error;
- That there has been a change in circumstance which makes the current zoning inappropriate; or
- 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 reason for the change in zoning is that there is a change in circumstance which makes the current zoning inappropriate. The current zoning is inappropriate due to the social change that occurred after the COVID pandemic. The Professional and Office District (POD) “is created to provide a smaller-scale and very limited application of professional, office, and similar intensity uses to small parcels on properties designated as Transitional or General Commercial on the Land Use Map and mitigate against adverse effects which may occur with a higher intensity development.” (Sec. 4.4.16(A)) Among the permitted uses include professional offices, general business offices, banks and financial institutions, finance, insurance, travel and real estate services, medical offices, medical clinics and neighborhood electric vehicle sales, lease or rentals.

The use of professional offices and professional offices is down and the workforce is demanding less time in the office, which makes the current zoning inappropriate. Forbes recently published an article titled, “Demand For Office Space Could Fall 13% By 2030—And That’s Not The Severe Forecast” which indicates that office attendance has held steady at a 30% below pre-pandemic levels and that even by 2030, office demand will be lower than it was pre-pandemic in 2019. This was based on a McKinsey Global Institute report that went even further to suggest that in even modest scenarios, there will be a 13% decrease in demand for office space. The decrease in office demand stems from the work-at-home environments that a majority of the workforce enjoyed during the pandemic.

Banks and financial institutions are no longer being developed, in fact there is a significant contraction in this sector of the real estate market, which makes the current zoning inappropriate. In September of 2023, the American Banker publication published a story, “Why banks are closing

so many branches,¹” that identifies that since 2009, when there were almost 100,000 bank branches in the United States, that there are fewer than 80,000 in 2023. This trend started with the invention, integration, and acceptance of mobile banking and was even further ingratiated into society with the COVID pandemic and the social distancing that came with it. Moneywise, also confirmed this trend of banks and financial institutions retracting their branches, in its article “Why are banks closing more branches?²” Its relevant that this property was previously home to a Wells Fargo Bank branch that was closed over two years ago, and then was sold to my client.

Medical office and clinic development has been hot and cold in recent times; however, banks are signaling an uneasiness with this product, in addition to the site constraints which make the current zoning inappropriate. Real estate internet presence Globe Street reports³ in late September of 2023, that year-to-date sales volume is down about 62% and that the overall volume of medical office deals is down from the prior year. Lenders are also placing a premium on these deals with cap rates at 7.1%, which Globe Street reports are the “highest they’ve been in the last seven years.” The site is too small to allow for the development of a medical office or clinic that will have enough parking, to justify the development expense for the use making the current zoning inappropriate.

General Commercial is a more appropriate zoning district for this property, based on its relatively small size, prominent location on the northwest corner of Linton Boulevard and Congress Avenue and permitted uses. Section 4.4.9(A) of the LDRs says that “The General Commercial (GC) District provides basic regulations for small parcels which are best suited for general retail and office uses... The GC designation is applied to small parcels, most of which are developed, where adherence to standard regulations is most appropriate. The GC designation is to be applied primarily along arterial and collector streets. Uses may be conducted singularly or in combination within the same structure.” The property at issue is small, totaling just 0.77 acres, which is best suited for general retail due to its size and location. Office use at this location would require parking demands that end up making the site undevelopable, and the site is close to residentially zoned parcels, which makes adding heigh to a building more challenging. The permitted uses: general retail, business professional and medical uses, contractor’s offices, services and facilities, tattoo establishments, urban agriculture and CBD oil establishments are all more appropriate for this property based on its size, location, and considering the permitted uses, the propensity for single story development.

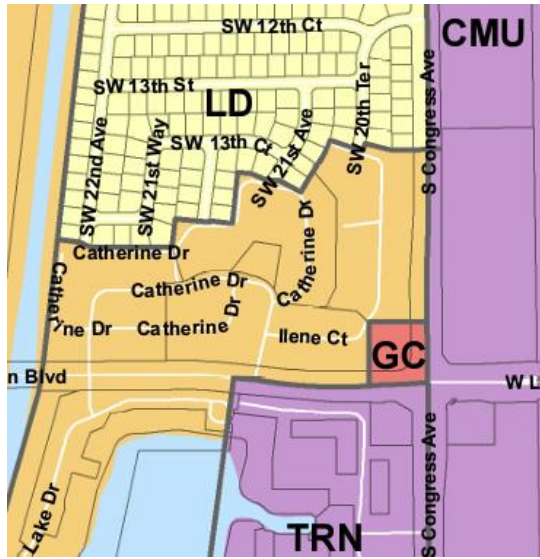
The adjacent uses are complimentary of GC zoning at this location:

	Land Use	Zoning	Use
North	Medium Density Residential	Medium Residential	Residential
South	Transitional	General Commercial	Gas Station
East	CMU	MROC	Large retail center
West	Medium Density Residential	Medium Residential	Residential

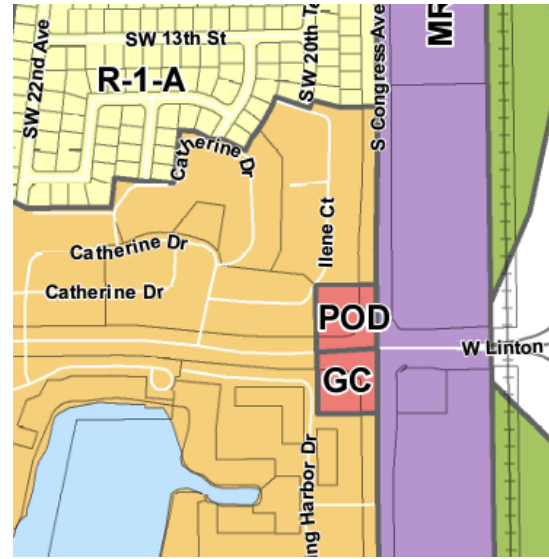
¹ <https://www.americanbanker.com/news/why-banks-are-closing-so-many-branches>

² <https://moneywise.com/banking/why-are-banks-closing-more-branches#:~:text=Banks%20closing%20the%20most%20branches&text=In%20the%20first%20seven%20months,as%20shown%20in%20Table%202>)

³ <https://www.globest.com/2023/09/26/medical-office-buildings-not-immune-to-volatility/?slreturn=20231114163431>



Land Use Designation Map



Zoning Map

SECTION 3.1.1 – REQUIRED FINDINGS

- A) Land Use Map: the current General Commercial land use designation is consistent with the proposed General Commercial zoning district. The GC zoning is one of five preferred implementing zoning districts for the General Commercial land use.

Table NDC - 1			
Land Use Designations: Density, Intensity, and Implementing Zoning Districts			
Land Use Designation	Residential Density (Maximum Dwelling Units Per Acre)	Intensity (Maximum Floor Area Ratio)	Implementing Zoning Districts
General Commercial (GC)			
Standard	12	3.0	Preferred: GC, AC, PC, POC, POD Compatible: A, NC, SAD CF, OS, OSR
Revitalization/Incentive	12-30		

- B) Concurrency: the proposed rezoning will not impact concurrency criteria

Criteria	Applicant Response
Traffic	Applicant will submit a compliant traffic study
Schools	No residential proposed, therefore no impact
Water	No residential demand, enough capacity to meet commercial demand
Sewer	Enough capacity to meet demand
Solid Waste	SWA has enough capacity to meet demand
Drainage	Drainage will be reviewed at site plan

- C) Consistency: the application is consistent with the following Comprehensive Plan Goals, Policies, and Objectives.

- **Objective NDC 1.3 Mixed-Use Land Use Designations:** Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress

Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.

- **Policy NDC 1.3.10:** Use the General Commercial land use designation to accommodate a wide range of non-residential and mixed-use development, and limited stand-alone residential development, along major corridors and in certain districts in the city.
- **Objective ECP 2.1 – Small Business Growth:** Support efforts to strengthen the small business entrepreneurial ecosystem to provide for more in-area resources and services.
- **Policy ECP 3.3.6:** Promote development or redevelopment of vacant, underutilized or surplus properties, particularly those with the potential to serve as a catalyst for economic development.
- **Policy ECP 3.3.9:** Encourage business and commercial growth to better distribute the tax burden from the residential community.
- **Policy ECP 5.4.2:** Support development of neighborhood business centers that serve adjacent residential areas and neighborhoods within redevelopment areas.
- **Policy ECP 5.5.2:** Increase essential retail and consumer services and neighborhood-based employment opportunities for residents.
- **Policy ECP 5.5.9:** Strengthen small business and retail opportunities beyond Atlantic Avenue and the downtown corridor by expanding support for businesses to relocate off Atlantic Avenue, and marketing retail opportunities available in other commercial districts.

D) Compliance with the LDRs: Applicant will submit a fully compliant site plan and plat as applicable.

SECTION 3.2.2 – STANDARDS FOR REZONING ACTIONS

- (A) The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied unless the proposed changes implement an adopted neighborhood or redevelopment plan.

The proposed rezoning from POD to GC is the most restrictive zoning district that is compatible with the existing land use designation and the applicable Congress Avenue Planning Study. Table NDC-1 shows that the General Commercial land use designation has preferred zoning districts of General Commercial, Automotive Commercial, Planned Commercial, Professional Office Center and Professional Office District (current zoning). The proposed General Commercial zoning, is more restrictive than the intensities allowed in Automotive Commercial and Planned Commercial, while the uses in Professional Office Center and Professional Office District are no longer conducive or marketable for the Property.

- (B) Rezoning of land located west of Interstate-95 to accommodate auto dealerships or to AC (Automotive Commercial) is prohibited pursuant to Policy NDC 2.5.2 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan.

Not applicable

- (C) Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration shall be given to increasing the depth of the mixed-use zoning to provide for more substantive, mixed use projects that provide compatible transitions in form and use to the surrounding area.

The proposed zoning change does not result in strip commercial development, despite its allowance for retail uses. The Property and its site constraints don't allow for the development of strip commercial, which is not a defined term in the LDRs, as it is too small and the parking demands would not be conducive to the development of strip mall commercial project.

- (D) Rezoning of land shall result in allowing land uses deemed compatible with adjacent and nearby land uses both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.

The proposed rezoning should be compatible as it is the mirror image of the GC parcel directly south of the Property, which is also adjacent to the West and South is RM zoning. Additionally, that property is used as a gas station, which is among the most intense uses permitted in GC. Any potential incompatibility issues can be appropriately addressed through the site plan process.

- (E) Remaining infill lots within the Coastal High Hazard Area of the Coastal Planning Area shall be developed using zoning which is identical or similar to the zoning of adjacent properties or that results in less intense development.

Not applicable