



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD STAFF REPORT

1660 South Congress Avenue

Meeting	File No.	Application Type
March 17, 2025	2025-064-REZ-CCA	Rezoning
Applicant and Owner		Authorized Agent
Heidi Deux Properties, Inc.		Neil Schiller, Esq. Government Law Group

Request

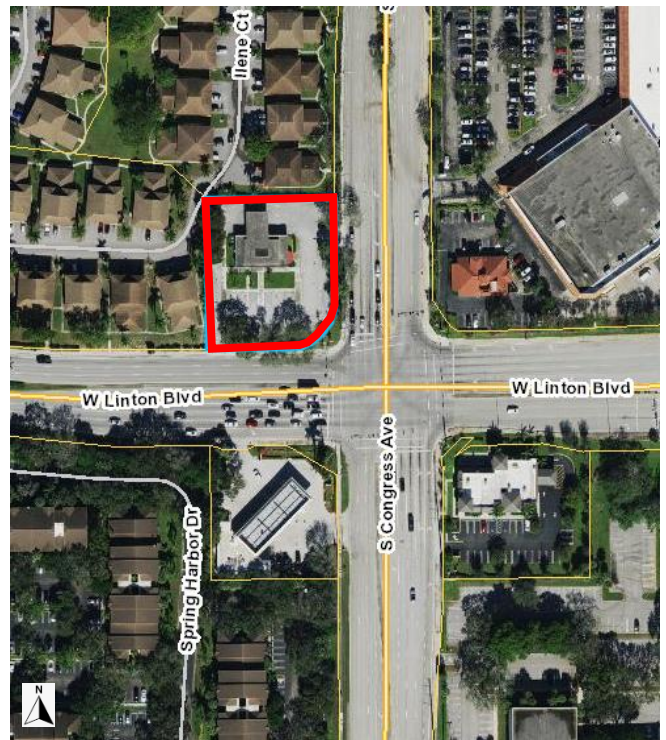
Provide a recommendation to the City Commission on Ordinance No. 13-25, a privately-initiated rezoning from Professional Office District (POD) to General Commercial (GC) for the property located at 1660 South Congress Avenue.

Background Information

The subject property is a 0.79-acre parcel located on the northwest corner of West Linton Boulevard and South Congress Avenue. The property has a land use designation of General Commercial (GC) and is zoned Professional Office District (POD). The site is currently developed with a 2,750 square foot drive-thru bank constructed in 1984.

The property had a number of different zoning districts until the current POD zoning was applied in the 1990 citywide rezoning. The property was annexed into the City in 1960 with low density residential zoning. Subsequently, the property had RM-15 (a medium density residential zoning district), followed by Special Activities District (SAD) zoning until the property was rezoned to POD.

The subject property is located on the Congress Avenue Corridor and is subject to the analysis in the Delray Beach Congress Avenue Strategies Plan completed in 2023 by Streetsense and CBRE (real estate consultants) at the direction of the City (document attached). The goal of the Plan is *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 there are many office and retail vacancies, limited space for growing industrial businesses, 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). POD zoning is not specifically mentioned in the Plan, but general issues with contradicting or missing definitions for uses, and attempts to comprehensively list all principal, conditional, and accessory uses in every zoning district, instead of having one centralized list using the same nomenclature and definitions, creates challenges for businesses along the corridor.



Project Planner:

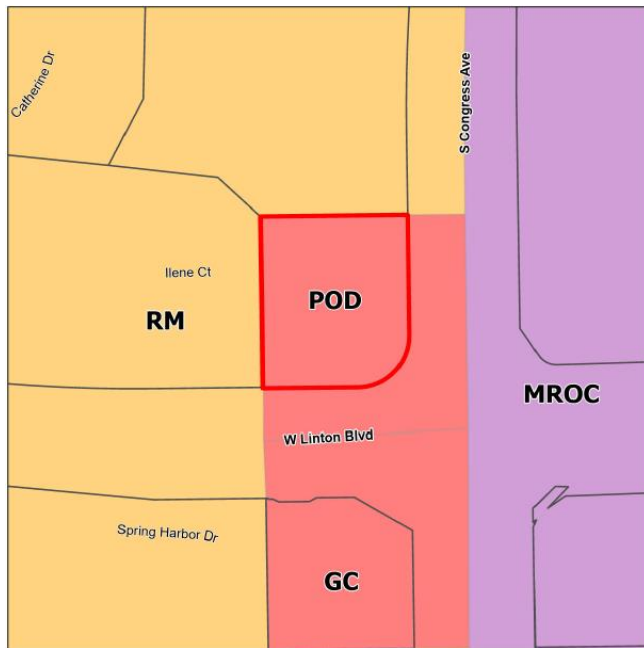
Alexis Rosenberg, Senior Planner
rosenberg@mydelraybeach.com

Attachments:

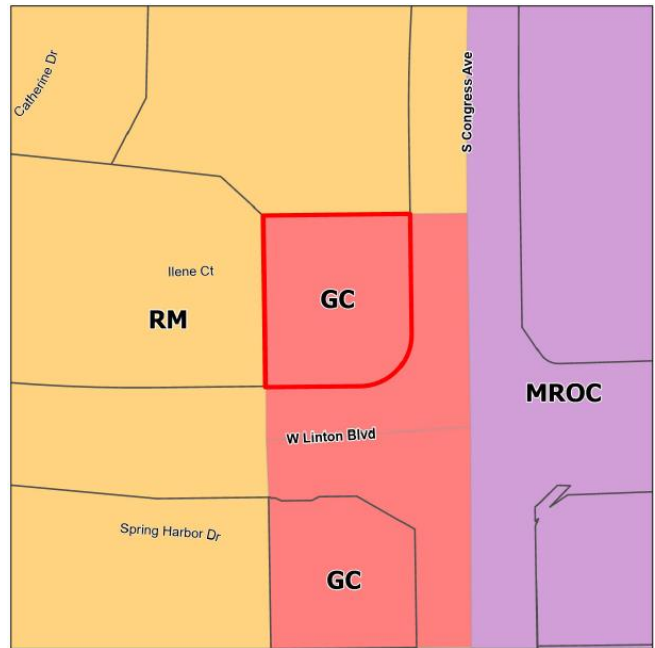
- Maps Existing and Proposed Zoning
- Survey
- Applicant's Justification Statement
- Traffic Impact Statement
- CBRE Congress Avenue Strategies Study

Description of Proposal

The subject request is for a privately-initiated rezoning from POD to GC. The existing and proposed zoning maps are shown below.



Existing Zoning



Proposed Zoning

Pursuant to Table NDC-1, "Land Use Designations: Density, Intensity, and Implementing Zoning Districts," both the existing POD zoning and proposed GC zoning are preferred zoning districts of GC land use, which is intended 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 (Policy NDC 1.3.10) with a maximum floor area ratio of 3.0 and a maximum standard density of 12 dwelling units per acre with a revitalization/incentive density of 12-30 dwelling units per acre.

The existing POD zoning 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" (LDR Section 4.4.16(A)). The proposed GC zoning district provides basic regulations for small parcels which are best suited for general retail and office uses, with regulations in particular locations, such as the Four Corners Overlay District, that encourages mixed use development that may include retail, office, and multi-family uses. GC zoning is generally applied primarily along arterial and collector streets (LDR Section 4.4.9(A); POD zoning does not provide locational criteria.

Review and Analysis

LDR Section 2.4.5(D)(1), Change of zoning district designation: Rule

The City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board.

Upon a recommendation of approval by the Planning and Zoning Board, the requests can move forward for consideration by the City Commission. If a recommendation of approval is not made or does not pass, the request does not move forward to the City Commission for further consideration.

LDR Section 2.4.5(D)(2), Change of zoning district designation: Required Information

A statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning are:

- 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;*
- *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 subject application is being processed under the second and third criteria. The existing POD zoning district is intended for limited office uses, such as professional office, general business office, financial institutions, and medical offices. The applicant cites social changes that affected the market after the COVID 19 epidemic, transitioning to more work-from-home culture, and thus resulting in less demand for office space. The justification statement (attached) cites references that specifically highlight the decline of physical locations for banks and financial institutions in the real estate market, which further renders the POD zoning district inappropriate.

The proposed GC zoning district is designed to accommodate a mix of general retail and office uses on small parcels, primarily along arterial and collector streets. The property is relatively small, being approximately 0.79 acres, best suited for stand-alone uses. Additionally, the property sits on a prominent intersection fronting West Linton Boulevard (Minor Arterial) and South Congress Avenue (Principal Arterial). As many of the office uses permitted in POD are also allowed in GC, rezoning to GC would provide more flexibility by expanding the types of principal uses allowed.

LDR Section 3.1.1, Required Findings

Prior to the approval of development applications, certain findings must be made. These findings relate to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations.

(A) 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 Land Use Map.*

The proposed GC zoning district is a preferred implementing zoning district of the GC land use, pursuant to Table NDC-1 of the Always Delray Comprehensive Plan. The property is currently developed with a 2,750 square foot drive-thru bank. Financial institutions are a principal use in the existing and the proposed zoning.

(B) Concurrency: *Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted 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 require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

Traffic. The submitted traffic impact statement (attached) analyzes the most intense potential traffic demands of the existing versus proposed zoning. While the GC land use designation allows a maximum FAR of 3.0, due to the size of the lot, it is unlikely a development of that intensity could be developed at the site while meeting all other code requirements.

Under the existing POD zoning district and building square footage (2,750 square feet), the use generating the most intense traffic rates is a drive-in bank, with a total of 146 daily trips. Applying one of the most intense uses permitted under the GC zoning of the same size, a drive-thru restaurant is anticipated to generate 656 daily trips, which results in a net potential increase of 510 trips. As the GC zoning district permits a variety of commercial uses, a traffic study will likely be required concurrently with a site plan application for specific development.

Water and Sewer. The subject property is currently served by City water and sewer. Pursuant to the Always Delray Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out; adequate water and sewer treatment capacity exists to meet the adopted LOS at the City's build-out population based on the proposed zoning designation.

Solid Waste. The Solid Waste Authority (SWA) is the waste collector for both the City and the County, and currently serves the subject property. It is noted that the landfill serving the property is projected to have sufficient capacity to meet the needs of city residents through the depletion year in 2054.

Drainage. No modifications have been proposed for the site. Any development applications would be subject to the standard City review process.

Parks and Open Space. Park impact fees do not apply to commercial land use and zoning.

Schools. The School Board provided a School Capacity Availability Determination (SCAD) letter, determining that the proposed zoning district does not pose negative impacts on the school district.

(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.*

Article 3.2, Performance Standards

Section 3.2.2 - Standards for Rezoning Actions

Rezoning requests must meet five standards, which are described below relative to the proposed rezoning under consideration.

(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.

Not applicable; the current zoning is a commercial zoning district, and a commercial / mixed residential zoning district is proposed.

(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.

Both the existing and proposed zoning permit uses that could be configured as a strip commercial development. However, the existing structure is not configured as such, and the generally square shape of the property and its small size make a strip commercial development configuration very unlikely.

(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 site is immediately adjacent to Medium Density Residential (RM) to the north and west. GC zoning is located across West Linton Boulevard to the south, and Mixed Residential, Office, and Commercial (MROC) zoning is located across South Congress Avenue to the east. While the GC zoning district is a preferred implementing district of the GC land use category, the board may consider if the uses permitted under the GC zoning district are compatible with the surrounding residential development, and if sufficient regulations are set in place to mitigate any potential negative impacts from the neighborhood (e.g. traffic, odor, etc.).

(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. The property is not located within the Coastal Planning Area.




Comprehensive Plan Consistency

The applicable Objectives and Policies of the Always Delray Comprehensive Plan are provided below.

Neighborhoods, Districts, and Corridors Element

Objective NDC 1.1, Land Use Designation Establish compatible land use arrangements using land use categories appropriate for the diverse and difference neighborhoods, districts, and corridors throughout Delray Beach.

Policy NDC 1.1.2 Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:

-  Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.
-  Uses that meet the daily needs of residents.
-  Public open spaces that are safe and attractive.

Policy NDC 1.1.7 Establish the maximum density, measured in dwelling units per gross acre, for residential land use and mixed-use designations (See Table NDC-1). The Standard density is the range of density allowed in the land use designation. The Revitalization/Incentive density is the maximum density that may be offered in the Land Development Regulations to achieve a certain community benefit in a specific area as part of an incentive program, or to implement the recommendations of an adopted redevelopment or neighborhood plan. Standards in the Land Development Regulations, including those guiding compatibility and transitions, such as setbacks, height limitations, open space criteria, etc. may limit the actual density achievable on a specific site.

Policy NDC 1.1.11 Use the implementing zoning districts identified in Table NDC-1 to provide appropriate development and improvements that further the adopted strategies of and are compatible with the assigned land use designation.

Policy NDC 1.1.14 Continue to require that property be developed or redeveloped or accommodated, in a manner so that the 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.

Policy NDC 1.3.9 Allow a maximum floor area ratio of 3.0 and a maximum standard density of 12 dwelling units per acre with a revitalization/incentive density of 12-30 dwelling units per acre in the General Commercial land use designation to accommodate general commercial uses such as retail, office, commercial services, and mixed use developments with limited residential development opportunities.

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.

Policy NDC 1.4.9 Analyze the existing land use and zoning designations of Commerce and Congress Avenue Mixed Use assigned to property along the Congress Avenue Corridor for the purpose of accommodating a balanced mix of commercial, industrial, office, and residential uses with a cohesive aesthetic for the corridor.

Policy NDC 2.3.7 Implement the vision in the “Congress Avenue: Delray Beach’s Next Great Street” report by protecting commercial and industrial land 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 uses along the corridor.

Policy NDC 2.7.21 Evaluate the Congress Avenue corridor study and consider implementing the strategies and recommendations of the Delray Beach’s Next Great Street report. [Complete by 2025]

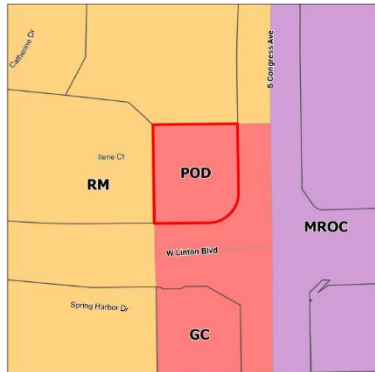
Policy NDC 3.4.1 Amend the Land Use Map only when a demonstrated need for the requested land use is based upon circumstances that are verified and supported by data and analysis, such as shifts in demographic trends, changes in the availability of land, changes in the existing character and Land Use Map designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances, and the following findings can be determined:

- That the requested land use designation is consistent with the goals, objectives, and policies of the most recently adopted Comprehensive Plan; and,

- That development at the highest intensity possible under the requested land use designation meets the adopted concurrency standards; and,
- That the requested land use designation is compatible with the land use designations of the surrounding area; and,
- That the requested land use designations are compliant with the provisions and requirements of the Land Development Regulations.

The subject property is surrounded by RM zoning on the north and west, GC zoning to the south, and MROC zoning to the east across Congress Avenue, described in further detail in the chart and map below.

Location	Development Type / Uses	Land Use Designation	Zoning District
North	Multifamily Residential	Medium Density (MD)	Medium Density Residential (RM)
South	Gas Station	Transitional (TRN)	General Commercial (GC)
East	Retail Plaza	Congress Avenue Mixed Use (CMU)	Mixed Residential, Office, and Commercial (MROC)
West	Multifamily Residential	Medium Density (MD)	Medium Density Residential (RM)



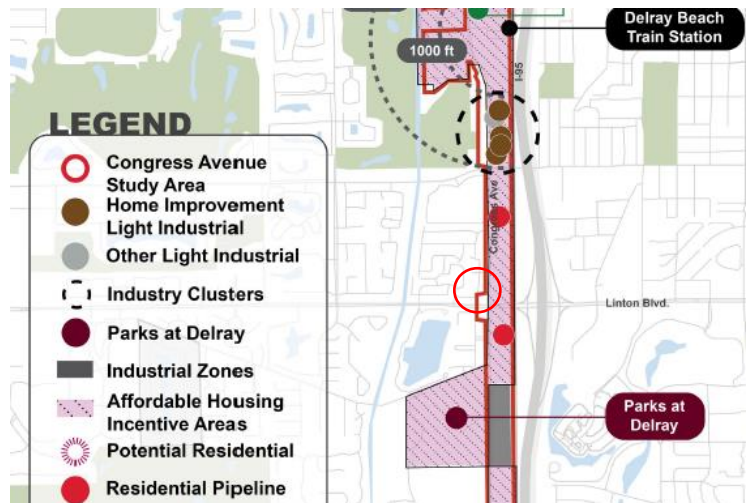
The area along Congress Avenue, south of West Atlantic Avenue was intended to accommodate a mix of commercial, office, and high-density residential uses. The POD district accommodates mostly office-based uses, while the GC district permits a broader range of commercial uses including retail, office, restaurants (including drive-in and drive-thru), service and facilities, as well as multi-family residential. Rezoning the property to GC would maintain consistency with the GC land use and expand the range of uses that can activate the intersection.

The Board may consider whether the potential increase in traffic, based on the most intense use permitted in the POD and GC districts, would negatively impact the surrounding neighborhoods and/or would pose safety concerns regarding ingress and egress to the site, as the Linton Boulevard/West Atlantic Avenue intersection is identified as a major traffic node. A change of use would likely require a concurrent site plan, in which a separate traffic analysis would be required for that specific use.

Based on the Delray Beach Congress Avenue Strategies Plan, the subject site is within Sub-Area #4 of the corridor, which is characterized as an area that is predominantly zoned MROC, *where new, full residential development currently gravitates*. This area is over a half-mile from the Tri-Rail Station; therefore, the Study supports less of a focus on *transit-oriented development, and more on a balanced horizontal mix of uses, including 100% residential development*. While the Sub-Area encourages residential development, the site (circled in red at right) is not identified as a potential residential area or affordable housing incentive area. The subject property can, however, contribute to the *balanced horizontal mix of uses* identified as important for the corridor.

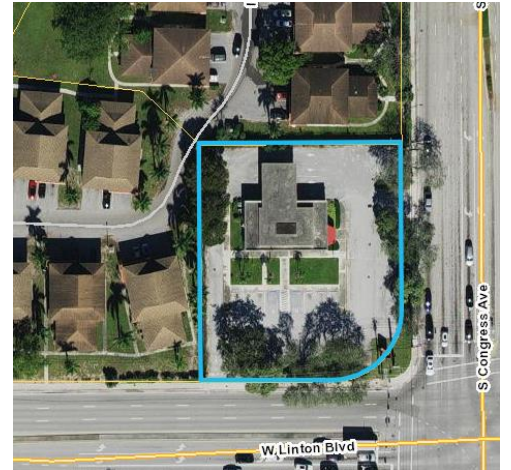
Key guiding principles for Sub-Area 4 are:

- Support existing home improvement/ light industrial clusters and encourage commercial property improvement/ redevelopment
- Work with owners of underutilized Class B/C office space to understand tenant needs and consider business incubation programs, lease incentives, and alternative commercial and light industrial uses for these spaces



Page 10, Delray Beach Congress Avenue Strategies Plan

Overall, the Study stresses the importance of supporting light industrial and office uses while also encouraging residential development within key areas of the corridor to further support the commercial industries. The proposed GC zoning district allows for a broader range of commercial uses which may allow for a productive use of the property, and better serve the surrounding residential neighborhoods.



Alternatively, however, GC zoning allows for a broader range of uses by right, which may be less compatible with the adjacent residential use on the north and west. The most intense potential use in GC zoning is likely the restaurant use, which has the most intense traffic generation scenario (as a drive-thru facility) and the greatest potential to generate odors that could negatively impact the quality of life for the adjacent residential properties (image at right). Per the criteria in LDR Section 3.2.2(D), the Board should consider the requested rezoning results *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.*

(D) Compliance with LDR *Whenever an item is identified elsewhere in these Land Development Regulations (LDR), 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.*

The amendment is being processed pursuant to LDR Section 2.4.5(B).

No site plan modifications have been proposed by the applicant. Should the site be redeveloped, the site would be subject to all regulations of the requested GC zoning district. Additionally, all uses in the implementing zoning district will apply.

Considerations

The Board should consider the following in reviewing the subject request:

- Whether there has been a change in circumstances on the site or within the neighborhood that renders the existing POD zoning inappropriate.
- Whether the requested zoning is of similar intensity as allowed under the GC land use designation and is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

Review By Others

The first and second reading dates by the **City Commission** are anticipated in April and May of 2025.

Options for Board Action

- A. Move a recommendation of **approval** to the City Commission of Ordinance No. 13-25, a privately-initiated rezoning from Professional Office District (POD) to General Commercial (GC) for the property located at 1660 South Congress Avenue, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** to the City Commission of Ordinance No. 13-25, a privately-initiated rezoning from Professional Office District (POD) to General Commercial (GC) for the property located at 1660 South Congress Avenue, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- C. Motion to **deny** Ordinance No. 13-25, a privately-initiated rezoning from Professional Office District (POD) to General Commercial (GC) for the property located at 1660 South Congress Avenue, finding that the request and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- D. **Continue With Direction.**

Public and Courtesy Notices

X Courtesy Notices were sent to the following:

- Delray Estates
- Abbey Delray North

X Public Notice was posted at the property 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

X Public Notice was published in the Sun Sentinel 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall 10 calendar days prior to the meeting.

X Agenda was posted at least 5 working days prior to meeting.

Technical Review of Comments (TAC) Timeline

Review No.	Submittal Date	TAC Comments Transmitted
1	11-26-24 (Deemed sufficient on 12-10-24)	12-18-24
2	01-21-25	02-14-25