

**Delray Central - 1615 & 1625 South Congress Avenue**  
**Waiver Request and Justification – Updated April 28, 2022**

G&C Arbors Investors, LLC (collectively referenced as the “Petitioner”) is the master developer of the +/- 12.134-acre parcel located at 1615 and 1625 South Congress Avenue, which is generally located at the southeast corner of South Congress Avenue and Linton Boulevard (“Property”) in the City of Delray Beach (“City”). The Property has a future land use map (“FLUM”) designation of Congress Avenue Mixed Use (“CMU”) and is zoned Mixed Residential Office and Commercial (“MROC”).

As it exists today, the Property consists of two (2) parcels, 1615 South Congress which consists of a 101,006 SF leased and occupied office building with 449 parking spaces and 1625 South Congress which consists of an 80,580 SF leased and occupied office building with 350 parking spaces. Petitioner is proposing to redevelop the Property by modifying the existing parking areas of both office buildings and constructing an eight (8)-story, +/-307,251 SF, 271-unit residential building with a seven (7)-story, +/-180,090 SF parking garage to include 513 parking spaces between the two (2) existing office buildings and 545 surface parking spaces for a total of 1058 parking spaces (“Project”). The Property is particularly unique as it is situated along three (3) rights-of-way including Linton Boulevard to the north, Congress Avenue to the west, and the CSX/FEC railroad corridor to the east. In addition to the waiver request, Petitioner is seeking approval for Master Development Plan and a Class V Site Plan approval.

Petitioner is proposing rental apartment style residences to meet the diverse housing needs and to enhance the synergy with the office use to promote a vibrant, livable atmosphere within the City. The proposed master plan includes the existing office buildings and the addition of the residential building (271 units), 1,095 SF of commercial use and associated parking. The construction of the residential building and the modifications to the existing parking areas will occur in one (1) phase.

The Project proposes to meet the City’s Land Development Regulations (“LDR”) to the greatest extent possible. However, due to existing constraints associated with the placement of the existing office buildings, parking location, and mature trees, the Petitioner is requesting four (4) waivers from the LDRs related to minimum building setback from Congress Avenue, minimum landscape island widths, minimum landscape buffer and parking adjacent to Congress Avenue. As such, Petitioner is requesting the following waivers:

- Waiver from LDR Section 4.4.29(G)(2)(g)(1) to allow a maximum 90’-10” front setback from the west property line along Congress Avenue in lieu of the 20-foot front setback along Congress Avenue;
- Waiver from LDR Section 4.6.16(H)(3)(i) to maintain certain landscape islands less than nine (9) feet wide in lieu of providing a nine (9)-foot wide landscape island at intervals for every 13 parking spaces;
- Waiver from LDR Section 4.4.29(G)(2)(d) to provide a landscape buffer less than 15 feet in lieu of providing the required 15 foot landscape buffer along the existing and southern buffer and providing the required 25 foot landscape buffer along the existing and east property line adjacent to the CSX/FEC railway; and
- Waiver from LDR Section 4.4.29(H)(11) to allow parking adjacent to Congress Avenue

In support of the waivers and pursuant to LDRs, Section 2.4.7(B)(5), Petitioner will demonstrate that the granting of the four (4) waivers: (1) will not adversely affect the neighboring area, (2) will not significantly diminish the provision of public facilities, (3) will not create an unsafe situation, and (4) will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

**Waiver #1: Waiver from LDR Section 4.4.29(G)(2)(g)(1) to allow a maximum 90'-10" front setback from the west property line along Congress Avenue in lieu of the 20-foot front setback along Congress Avenue.**

Section 4.4.27(G)(2)(g) Setbacks

1. Congress Avenue frontage. Setbacks shall be a minimum of ten feet and a maximum of 20 feet.

Section 2.4.7(B)(5) Waiver Criteria:

a) The waiver will not adversely affect the neighboring area.

Granting the waiver for an increased front setback will not adversely affect the neighboring area. As previously noted, Petitioner is proposing to redevelop the Property that will add a residential component to the current and established office use. Petitioner is proposing to redevelop the Property with a vibrant mix of residential and office uses that will serve the needs of the City's growing population. The adjacent parcels on the east side of Congress Avenue are developed with existing office, commercial and residential uses. Existing multi-family uses are located on parcels both to the west and north of the Property. As such, the Project will be a compatible use to the surrounding properties. The Project will improve the appearance of the Property by redeveloping the underutilized parking areas of both office buildings and enhancing the existing landscape within the site. Given that both residential and office uses will be located on the site, traffic trips on the major roads will be reduced since residents will have employment opportunities onsite. Further, the waiver will allow for the continued use of the established traffic signal located at the intersection of Congress Avenue and Germantown Road. This traffic signal allows for the safe movement of traffic in and out of the property and is an asset for the addition of the residential component. This waiver allows for a design that better meets the needs of both future residents and tenants of the office buildings and does not adversely affect the neighboring area.

b) The waiver will not significantly diminish the provision of public facilities.

The waiver will not significantly diminish the provision of public facilities. In fact, having the larger setback will allow the retention of the existing traffic signal which provides the City a controlled access point for ingress and egress when the need for City services should arise. The public facilities servicing the Project will not be impacted by the setback since the increased setback provides better traffic circulation and movement throughout the Property which is currently not possible under the existing conditions. Furthermore, the existing setback allows existing and functional infrastructure to be maintained, in particular, the existing lift station located adjacent to Congress Avenue. As such, the waiver will not diminish the provision of public facilities.

c) The waiver will not create an unsafe situation.

The granting of the waiver will not create an unsafe situation. The waiver does not provide for an unsafe situation or condition. The increased setback creates a safer condition for vehicles entering and exiting the Property. Vehicles will have the opportunity to use the existing traffic signal and have sufficient stacking area as cars enter the site. This could not be accomplished if the building setback for the proposed residential building was established at 20 ft. Sufficient area for pedestrian and vehicular circulation will be ensured so that the safety of those living on the Property will be preserved. The waiver will allow the Petitioner the ability to keep the existing traffic signal and develop the Project that will create jobs, provide more housing options, and create a convenient and safe destination where local residents can work and live.

d) The waiver will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

The granting of the waiver will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner. The Property is particularly unique as it is already developed with two (2) office buildings on the site. This is a very unique opportunity in the City where a residential use can be added to an existing office hub. Furthermore, there are not many sites where a residential component can be constructed on a site where there are established and existing office uses with an already constructed traffic signal. The intent of the LDR requirement is not lost and for sites that are being newly constructed, accommodating the required 20 ft maximum setback is much easier when all buildings are newly construction. Here, we are redeveloping a site with existing structures developed under an earlier version of the LDR which, at the time, preferred larger more traditional front setbacks. In this case, the larger front setback provides for greater area for vehicular circulation in and out of the Property on a parcel which characteristics are incomparable.

**Waiver #2: Waiver from LDR Section 4.6.16(H)(3)(i) to maintain certain landscape islands less than nine (9) feet in lieu of providing a nine (9) foot wide landscape island at intervals for every 13 parking spaces throughout the Property.**

Section 4.6.16(H)(3)(i)

Landscape islands which contain a minimum of 135 square feet of planting area, with a minimum dimension of nine feet, exclusive of the required curb, shall be placed at intervals of no less than one landscaped island for every 13 standard parking spaces. One shade tree shall be planted in every island with a minimum of 75 square feet of shrubs and groundcovers. Tree specifications shall adhere to those listed in Section 4.6.16(E)(5) and 4.6.16(E)(6). Where approval for the use of compact parking has been approved, islands may be placed at intervals of no less than one island for every 15 compact parking spaces.

Section 2.4.7(B)(5) Waiver Criteria:

a) The waiver will not adversely affect the neighboring area.

The granting of the waiver will not adversely affect the neighboring area. As previously stated, the Property consists of two (2) parcels, 1615 South Congress which consists of a 101,006 SF leased

and occupied office building with 449 parking spaces and 1625 South Congress which consists of an 80,580 SF leased and occupied office building with 350 parking spaces. Both office buildings and associated parking areas were constructed in the early 1980s before the current landscape island requirements were in place. Since the initial submittal and where feasible we have widened existing landscape islands in order to improve the existing condition and reduce the existing nonconformity. Therefore, only a handful of the existing landscape islands are legal nonconforming as they do not meet the minimum landscape island width per the LDRs.

The inability to widen these landscape islands is due to the growth of large, mature trees within these islands. The reconfiguration of curbing and paving to widen the landscape islands could detrimentally impact the preservation of these trees. As the landscape islands are existing, internal to the site and do not affect the use or intensity of the property, the neighboring area will not be adversely affected as a result of this waiver.

b) The waiver will not significantly diminish the provision of public facilities.

The granting of the waiver will not impact the provision of public facilities. The vehicular and pedestrian circulation will not be compromised as a result of maintaining the existing landscape islands. The purpose of the landscape islands is to break up spans of surface parking and must be wide enough for vegetation to grow and thrive. As a result, the size of the landscape islands have no impact on the provision of public facilities.

c) The waiver will not create an unsafe situation.

The Applicant's request for a waiver will not create an unsafe situation. The landscape islands on the Property have existed since the Property's construction in the early 1980s. The vehicular and pedestrian circulation will not be compromised as a result of keeping some of the existing narrow landscape islands. As stated, all new landscape islands will meet the minimum width requirement and where possible the existing landscape islands will be widened. However, in effort to preserve many of the large and mature trees, certain landscape islands cannot be widened and necessitate this waiver request. The preservation of these trees would not create an unsafe situation for the workers and residents on the property nor would it create an unsafe situation for nearby properties.

d) The waiver will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Approval of the waiver does not result in a grant of a special privilege. As previously discussed, both office buildings and associated parking areas were constructed in the early 1980s before the current landscape island requirements were in place. Therefore, a handful of the existing landscape islands are legal nonconforming as they do not meet the minimum landscape island width per the City's LDRs. The Applicant has attempted to meet the minimum landscape island width in so far as feasible by widening existing landscape island where possible. However, certain parking areas that will be restriped include landscape islands containing large, mature trees. The reconfiguration of curb and paving could detrimentally impact the preservation of these trees. Therefore, in effort to preserve many of the large mature trees on the property, certain landscape islands cannot be widened. A special privilege would involve not widening any of the existing landscape islands. However, the waiver request is only asking an exception for those landscape islands that contain large and mature trees. A majority of the trees central to the site are being

removed for the new residential building. Therefore, to minimize additional impact on the remaining trees on site, the Applicant wishes to preserve the existing narrow landscape islands that contain mature trees. Lastly, a review of the landscape islands as proposed in the most recent site plan, as submitted, shows that the average median width is 11.21 ft. The size of the landscape islands that occurs most often (mode) is 10.9 ft in width. This demonstrates that the majority of the landscape islands on the site exceed the width requirement of 9 ft in width.

**Waiver #3: Waiver from LDR Section 4.4.29(G)(2)(d) to provide a landscape buffer less than 15 feet in lieu of providing the required 15 foot landscape buffer along the existing and southern buffer and providing the required 25 foot landscape buffer along the existing and east property line adjacent to the CSX/FEC railway.**

Section 4.4.29(G)(2)(d), Perimeter Development

A landscape buffer shall be provided around each development. Parking, structures, perimeter roadways, and other paving is not permitted within this buffer except for bicycle paths, sidewalks, jogging trails, and driveways or access streets which provide ingress and egress for traffic and which are generally perpendicular to the buffer. The width of the buffer shall be the smaller distance of either the dimensions below or ten percent of the average depth of the property; however, in no case shall the landscape area be a width of less than ten feet.

Section 2.4.7(B)(5) Waiver Criteria:

a) The waiver will not adversely affect the neighboring area.

The Applicant's request for the waiver will not adversely affect the neighboring area. The Property was constructed in the early 1980s before the existing landscape buffer requirements were adopted. Since the initial submittal, we have reduced parking and increased the landscape buffers on the north and west sides of the property in order to comply with the LDR buffer requirements. The only buffer areas requiring relief is the existing landscape buffer on the south and a portion of the existing buffer located on the east side of the Property.

If the existing buffer on the south portion of the Property were increased to 15 ft, the landscape buffer would encroach into existing parking spaces and would result in the reduction of existing surface parking spaces utilized for the adjacent office building. The existing landscape buffer along the east property line, adjacent to the CSX/FEC railway, is required to be a minimum of 25 ft wide. While a portion of the buffer in this location currently meets the 25 ft buffer width requirement, there is a section of the buffer that cannot be expanded. The expansion of the buffer in this location is not possible due to the existing parking areas, mature vegetation and requirement to place the shared use pedestrian pathway along the property line. Unfortunately, the land area in this section of the buffer is simply not wide enough to accommodate the expansion of the buffer and would be compliant if not for the larger buffer requirement of 25 ft in this location. Since this particular landscape buffer is existing, is no less than 15 ft and does not impact any adjacent development, the granting of the waiver will not create additional adverse impacts to the neighboring area.

b) The waiver will not significantly diminish the provision of public facilities.

The approval of the waiver will not impact the provision of public facilities. Since the initial submittal, we were able to improve the existing conditions and increase the widths of the buffer in the areas most visible from the public right-of-way in order to make these areas compliant. Maintaining the widths of the existing landscape buffers will not diminish the provision of public facilities. An analysis of the buffers was conducted and concluded that approximately 75% of the buffers now meet or exceed the required buffer widths. In just two (2) locations on the site, the existing buffers do not meet the minimum width and this has no impact on the provision of public facilities for the 40 years.

c) The waiver will not create an unsafe situation.

The Applicant's request for a waiver will not create an unsafe situation. As previously discussed, maintaining the widths of the existing landscape buffers will not diminish the provision of public facilities. In fact, widening the landscape buffers where deficient may result in more of an unsafe situation because required parking would be lost which would result in a parking shortage which creates an unsafe condition for both pedestrians and vehicles. Therefore, the waiver request would allow for the Property to maintain the existing buffer widths.

d) The waiver will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Approval of the waiver does not result in a grant of a special privilege. Similar to many of the surrounding properties that were developed in the mid to late 1980s before the adoption of the current buffer requirements, the Property contains two (2) sections of landscape buffer that do not conform to the current minimum buffer widths. Granting of the waiver would not provide further benefit to the Applicant, but rather would allow the site to continue functioning safely. With or without the residential building, the buffers on the south and east sides are still nonconforming, and as a result of the redevelopment of the Property, the buffers on the west and north sides are now compliant and no longer legally nonconforming. The need for required parking and installation of the shared use pedestrian pathway along the CSX/FEC railway are important site elements to the Applicant and the City. Therefore, the waiver request is a result of legal nonconforming development and does not provide the Applicant with a greater benefit than another property owner.

**Waiver #4: Waiver from LDR Section 4.4.29(H)(11) to allow parking adjacent to Congress Avenue.**

Section 4.4.29(H) (11)

Parking adjacent to Congress Avenue. Parking shall be located to the rear of buildings having direct frontage along Congress Avenue. To that end no surface parking shall be located between buildings and Congress Avenue. Notwithstanding the above, relief to this requirement can be granted to accommodate pre-existing conditions.

Section 2.4.7(B)(5) Waiver Criteria:

a) The waiver will not adversely affect the neighboring area.

The granting of the waiver will not adversely affect the neighboring area. As previously stated, the Property consists of two (2) parcels, 1615 South Congress which consists of a 101,006 SF leased and occupied office building with 449 parking spaces and 1625 South Congress which consists of an 80,580 SF leased and occupied office building with 350 parking spaces. Both office buildings and associated parking areas were constructed in the early 1980s before the current parking requirements were in place. Therefore, the parking adjacent to Congress Avenue is a legal nonconformity, and while the size of the parking spaces is sufficient, the location of the parking, adjacent to the Congress Avenue right-of-way, is no longer desired. Traditional development patterns dating back to the 1980s permitted and encouraged parking in the front of buildings for ease of access and convenience. Today, the location of parking located between the right-of-way and the building is discouraged in order to utilize the space for more pedestrian related activities and to downplay the look and prominence of parking spaces along the frontage. Given that the parking spaces located adjacent to the right-of-way have been in place for several decades, it is appropriate to request that these spaces remain. The parking spaces serve the existing office buildings and are convenient for guests and employees of the office buildings. Additionally, we have been able to provide a significantly sized pedestrian plaza and other small pocket parks in front of the proposed residential building and adjacent to Congress Avenue so that pedestrian activity can be incorporated at the front of the buildings without having to sacrifice the removal of the parking adjacent to Congress Avenue. Lastly, as the parking spaces are internal to the site and do not affect the use or intensity of the property, the neighboring area will not be adversely affected as a result of this waiver.

b) The waiver will not significantly diminish the provision of public facilities.

The granting of the waiver will not impact the provision of public facilities. The vehicular and pedestrian circulation will not be compromised as a result of maintaining the existing parking spaces. The parking spaces provide convenient access into the building and are the shortest route from a vehicle into the building. Additionally, the parking spaces are existing and have not impeded the provision of public safety since the construction of the office buildings forty years ago. As a result, the presence of the parking spaces adjacent to Congress Avenue has no impact on the provision of public facilities.

c) The waiver will not create an unsafe situation.

The Applicant's request for a waiver will not create an unsafe situation. The parking spaces adjacent to Congress Avenue have existed since the Property's construction in the early 1980s. The vehicular and pedestrian circulation will not be compromised as a result of retaining the existing parking spaces adjacent to Congress Avenue. The preservation of these parking spaces does not create an unsafe situation. The existing conditions also include drive aisles, driveway crossings and sidewalks which provide a safe means of ingress into the office buildings from the parking areas. Once the site is redeveloped, pedestrians will have more opportunities to be removed from surface parking areas as a result of proposed site plan.

d) The waiver will not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Approval of the waiver does not result in a grant of a special privilege. As previously discussed, both office buildings and associated parking areas were constructed in the early 1980s before the

current parking requirements were in place. Therefore, the parking spaces adjacent to Congress Avenue are legal nonconforming. In order to mitigate and downplay the parking in this area, the Applicant has provided a large pedestrian plaza and pocket parks adjacent to Congress Avenue. The pedestrian plaza and pocket parks provides a gathering place for pedestrians and creates a safe location away from the right-of-way and vehicular traffic. Aesthetically, the pedestrian plaza and pocket parks will take precedence over the location of parking adjacent to Congress Avenue and the parking spaces will be screened by vegetation in accordance with CPTED design standards.