



## Aura Delray Beach SAD

## Request

## Background Information

In 2016, the Congress Avenue Task Force, a group comprised of residents and professionals, produced “Congress Avenue: Delray Beach’s Next Great Street.” The report sees Congress Avenue as the “key component to Delray’s future success and financial sustainability” and envisions the corridor as a “mixed-use urban and industrious district.” The report refers to the corridor with a cohesive future; however, the corridor has historically been broken up both through the land use and zoning designations, as well as geographically with West Atlantic Avenue as the dividing line. The report was presented to the City Commission, but not formally adopted. The Always Delray Comprehensive Plan adopted Policy NDC 2.3.7, which supports implementation of the report’s vision.

## Description of Proposal

The request is to rezone the eight parcels, which consist of approximately 12.20 acres, from MIC to SAD for the purpose of constructing a 292-unit multi-family residential development and a 2,000 square foot commercial building as part of the associated MDP. The LDRs indicate that SADs are regulated by the provisions established by the adopted Ordinance establishing the SAD.

The draft of Ordinance No. 32-20 provides the complete list of uses and development standards; the following list provides an overview of the primary standards:

### Uses

- Principal Uses:
  - General retail, not to exceed 20 percent of the total building square footage within the SAD.
  - Multi-family residential, not to exceed 24 dwelling unit per acre, subject to the provisions of the Aura Delray Beach Overlay District identified in LDR Section 4.7.
    - 292 units proposed = 24(23.9) units per acre
- Accessory Uses:
  - Includes parking lots and garages, refuse and loading area, amenities to the multi-family residential development.
  - Provision of services and repair of items incidental to the principal use.
  - Family Home Day Care.
  - Urban Agriculture.
- Conditional Uses:
  - Health spas and exercise facilities open to the general public.
  - Veterinary Clinics.
  - Drive-thru facilities with any allowed use.
  - Live/Work Units.
  - Large Family Home Child Care.

### Master Plan, Master Plan Modifications, and Site Plan

- Development of the parcels is governed by the approved Master Plan.
- Modifications may be approved administratively if less than a 5 percent deviation from the approved standard regarding number of dwelling units, parking count, or setbacks.
- Site Plans must be approved by the Site Plan Review and Appearance Board (SPRAB).
- The residential and commercial parts of the site may be developed independently in separate phases.

### Parking

- Residential: The parking calculations are the same as those in the LDRs with the exception of one bedroom dwelling units; the LDRs require 1.5 spaces per unit, and the proposed calculation reduces the requirement to 1.0 space per unit.
- Non-residential: The proposed rate of 4.5 spaces per 1,000 square feet is similar to the LDRs; however, LDR Section 4.6.9(C)(3)(d) requires a restaurant parking calculation at 12 spaces per 1,000 square feet up to 6,000 square feet, and 15 spaces per 1,000 square feet. For the purposes of parking, the restaurant parking calculation includes drive thru restaurants, coffee shops, sandwich shops, etc.
- Shared Parking: May be utilized when there is a balanced mix of uses provided.  
NOTE: At this time, the Site Plan parking calculations do not indicate utilization of the shared parking calculation. This additional language may not be necessary, as non-residential uses are limited to no more 20% of the total development square footage, which does not provide the balanced mix of uses required to use the shared parking calculation.

### Landscaping

- Extensive landscaping requirements are provided in the Ordinance that are similar to those of the LDRs.

### Development Standards

- Lot Coverage: 70 percent, maximum.
- Open Space: 30 percent minimum, non-vehicular.
- Perimeter Setback: 15 feet.

- Maximum Height: 60 feet (subject to approval of the LDR Amendment proposed in Ordinance 31-20).
- Perimeter Buffer: 15 feet landscaped area.
- Minimum Floor Area: The minimum unit square footage requirements are the same as the LDRs except for the efficiency type; the proposed minimum is 400 square feet, whereas the LDRs require a minimum of 450 square feet.

#### Workforce Housing Program

- Minimum of 25 percent of the approved project density provided workforce housing units to moderate income households; 292 units proposed = 73 units required for workforce housing.
  - Other Overlay Districts that are subject to the Density Bonus Program requirements are required to “contain units that are affordable to very low, low- or moderate-income families.”
- Minimum of 10 percent of the project density provided on site as workforce housing units; 292 units proposed = 29 units required to be provided on site as workforce housing units.
- Units not located on site may be provided through a \$60,000 contribution (per unit) to the City of Delray Beach Housing Trust Fund; this contribution amount is the same as required in the LDRs.

The Ordinance also specifies that those applicable requirements, which are in the LDRs and not included in Ordinance No. 32-20, shall also be met. The subject request is associated with Ordinance No. 31-20, which seeks to amend the LDRs by allowing the height for the subject parcels to be increased to 60 feet, via approval of a conditional use, and establishing the Aura Delray Beach Overlay District to require the provision of workforce housing units.

#### Master Development Plan

Access to the development is provided from West Atlantic Avenue through a security gate for residents and visitors to the multi-family residential portion of the development; additional access to the multi-family residential portion is provided from North Congress Avenue to the clubhouse and gate access. The MDP illustrates six multi-family residential buildings with associated amenities including a dog park (south west corner), fire pit area (between two rear buildings, adjacent to the canal), green space “outdoor amenity (adjacent to the south entrance), and centrally located pool, tot-lot, bar-b-que pavilion, and two-story clubhouse containing a resident-only gym, and leasing office, with a rooftop terrace. Parking is located throughout the site and is comprised of single-car garages, standard parking spaces, and compact parking spaces. A commercial parcel, which is not connected for vehicular access to the residential portion, is proposed along North Congress Avenue, and contains a one-story, 2,000 square foot building.

The proposed lot coverage is 58.6 percent, with 37.8 percent open space. Landscaping islands and buffers are dispersed throughout and around the perimeter of the property.

The six residential buildings are provided as follows:

- Two, three-story buildings parallel and adjacent to North Congress Avenue, containing 20 units each and measuring 35-feet in height;
- Two, five-story buildings centrally located on the site, running east to west with the pool and amenities situated between them, containing 63 units each and measuring 54 feet in height;
- Two, five-story buildings at the rear of the property and parallel to the canal, containing 63 units each and measuring 54-feet in height; and,
- The unit types consist of:
  - 22 studios at 600 square feet;
  - 67 one bedroom units at 725 square feet;
  - 67 one bedroom units at 775 square feet;
  - 58 two bedroom units at 1,050 square feet;
  - 58 two-bedroom units at 1,100 square feet; and,
  - 20 three bedroom units at 1,300 square feet.

The Master Development Plan illustrates a 45-foot-wide easement area (dedicated to the Lake Worth Drainage District-LWDD) along the west side of the property, adjacent to the canal. A greenway easement between the LWDD easement and the rear buildings is also provided (final width to be determined) at the request of the City. The purpose of the City’s requested greenway easement is to accommodate a shared recreational pathway for pedestrians and bicyclists accessible by the public, not limited to the residents of the development. The greenway would ultimately connect to other properties along the canal, as redevelopment continues.

A separate request (Ordinance No. 31-20) accompanies the subject rezoning, which seeks to amend the LDRs to establish the Aura Delray Beach Overlay District and allow for the height to be increased up to 60 feet of height. The overlay district will require compliance with the workforce housing provisions both in the LDRs and the SAD Ordinance. The increase in height above 48-feet up to 60-feet will require approval of a conditional use concurrent.

### Review and Analysis

Pursuant to **LDR Section 2.4.5(D)(1)**, the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board. The submitted application complies with the submittal requirements in **LDR Section 2.4.3**.

**LDR Section 2.4.5(D)(2)** outlines the procedures for a zoning change, which includes the standard application items in Section 2.4.3. Valid reasons for approving a change in zoning, pursuant to **LDR Section 2.4.5(D)(2)** 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 requested rezoning is to be considered under the second and third criteria. The rezoning to SAD does not require an amendment to the Land Use designation, as SAD is identified as a “compatible” implementing zoning district for the Commerce land use designation. The applicant’s request statement and justification for the request is provided as an attachment.

As part of the rezoning request, consideration is to be given as whether the proposal meets the intent of the SAD zoning designation. The following regulations are provided from **Section 4.4.25, Special Activities District (SAD)**:

**(A), Purpose and Intent**, *the Special Activities District (SAD) is established in order to provide a zone district which is appropriate for projects which are not otherwise classified or categorized in other zone districts; or, which for some other good reason, cannot be properly accommodated in the other zone districts. Also, the SAD is to be used for large scale and mixed projects for which conventional zoning is not applicable. While SAD zoning is deemed consistent with any land use designation on the Future Land Use Map, the uses allowed within a specific SAD shall be consistent with the land use category shown on the Future Land Use Map. The uses, activities, and characteristics of a SAD are to be consistent with the Comprehensive Plan, suitable and compatible with surrounding existing development, and with the proposed character of the area.*

**(B)(2), Allowed uses and structures, SAD required:** *The SAD zone designation is required for the following:*  
*(a) Any development which is designated as a Large Scale Mixed Use pursuant to the Comprehensive Plan.*  
*(b) Any Development of Regional Impact (DRI).*  
*(c) A full service marina.*  
*(d) Any use which is otherwise not accommodated in any of the other zone districts.*

The intent of the SAD zoning designation is to accommodate unique uses and development types not otherwise accommodated in conventional zoning districts, but which are compatible with the land use designation. The proposed multi-family residential development is allowed in other zoning districts at varied densities, but those outside of the Central Business District (CBD) that allow more than 12 dwelling units per acre require workforce housing provisions. None of the other zoning districts that are deemed preferred or compatible for the land use allow residential uses. A copy of **Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts** from the Neighborhoods, Districts, and Corridors Element of the Always Delray Comprehensive Plan is provided as an attachment. The density identified for the CMR land use designation is included to accommodate the Delray Station complex within the 1-95/CSX Railroad Corridor Overlay District, which allows the residential development with the provision of workforce housing to implement Policy NDC 1.4.6 (provided under Required Findings below):

Pursuant to **LDR Section 3.1.1, Required findings**, *prior to the approval of development applications, certain findings 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.*



(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 resulting use of land is predominantly residential with limited commercial use available, per the customized SAD regulations proposed by the applicant. While the zoning designation is “compatible” with the land use designation, consideration must be given as to whether the proposed uses and regulations are consistent with the Commerce land use designation, which is categorized as an Industrial land use designation.

The Neighborhoods, Districts, and Corridors Element provides descriptions of each land use designation. **Objective NDC 1.4, Industrial Land Use Designations**, provides direction that the industrial land use designations are to be applied 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.” The following policies provide specific direction regarding the implementation of the Commerce land use designations:

**Policy NDC 1.4.6:** *Allow a maximum floor area ratio of 0.60 for nonresidential uses and a revitalization/incentive density up to 24 dwelling units per acre with at least 25% of the units provided as workforce housing units, for properties with a Commerce land use designation.*

**Policy NDC 1.4.7:** *Use the Commerce land use designation for property located along or adjacent to the North Congress Avenue corridor, north of West Atlantic Avenue, 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.*

**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.*

While the proposed zoning does not require a land use change, thereby complying with Policy NDC 1.4.7, consideration must be given as to whether the request meets the intent of and implements the designation. CMR allows “limited” residential, but strives to maintain opportunities for industrial, services, and commercial uses, particularly those which have limited opportunities to be accommodated in the city. Additional policies in the Economic Prosperity Element further support maintaining opportunities for industrial-type uses.

(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 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.*

Traffic. The applicant has provided a traffic impact analysis, which indicates a net increase of 2,383 daily trips based on the development of 292 dwelling units, and a 2,000 square foot “coffee/donut shop.” The Palm Beach County Traffic Division has reviewed the request and provided a letter indicating that “the proposed development meets the Traffic Performance Standards of Palm Beach County.” The letter also indicates that the owner is responsible for the construction of a right turn lane north approach at the northernmost project driveway on Congress Avenue, and to extend the northbound left turn lane.

Schools. A review by the Palm Beach County School District for compliance with the adopted Level of Service for School Concurrency indicates that “there will be no negative impact on the public school system.”

Water and Sewer. Municipal water service and sewer service is available via connections along North Congress Avenue and West Atlantic Avenue; a thorough review of the connection locations and types will be conducted during the site plan review, which requires complete engineering plans. Pursuant to the Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out.

Solid Waste. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2047. The following generation rates will be used to calculate impact with the site plan evaluation:

- Residential: 1.99 tons per unit per year
- Restaurant: 24.9 pounds per square foot per year
- Retail: 10.2 pounds per square foot per year

Drainage. Drainage is will be thoroughly reviewed with the site plan submittal; the applicant is required to provide a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3(D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into the City's sewer system.

Parks and Open Space: A park impact fee is collected to offset any impacts that a residential project may have on the City's recreational facilities. Pursuant to LDR Section 5.3.2, a park impact fee of \$500.00 per dwelling unit (\$146,000) will be collected prior to issuance of a building permit for each residential unit at the time a project is presented for approval at the Building Department.

(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**

Pursuant to **LDR Section 3.2.2, Standards for Rezoning Actions**, rezoning requests must meet five standards, which are described below as they relate 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 to those areas identified as "stable" and "stabilization" on the Residential Neighborhood Categorization Map. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied.*

Not applicable.

(B) *Rezoning to AC (Automotive Commercial) to accommodate auto dealerships shall not be permitted west of I-95.*

Not applicable. Auto dealerships are not a proposed use.

(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 should be given to increasing the depth of the commercial zoning in order to provide for better project design.*

The proposed zoning change is customized to the site, and does not allow for strip commercial development, as its predominantly multi-family residential with commercial uses limited to no more than 20% of the total development area. The proposed commercial development is limited to a 2,000 square foot commercial building along North Congress Avenue, which functions as a separate parcel, as there is no connectivity or physical relationship with the residential development.

*(D) That the rezoning shall result in allowing land uses which are deemed compatible with adjacent and nearby land use 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 existing uses and zoning surrounding the proposed development include a variety of industrial and service/commercial types of uses, consistent with the land use designation and MIC zoning throughout this portion of the corridor; see table below. The makeup of the Congress Avenue corridor shifts south of West Atlantic Avenue where residential uses exist and are encouraged, given the proximity to the Tri-Rail station to facilitate transit-oriented development within a ½ mile radius. A sliver of the subject property along West Atlantic Avenue is within this radius. Consideration is to be given as to whether the resulting land uses are deemed compatible and, if incompatible, whether sufficient regulations are provided to mitigate any adverse impact.

	Zoning Designation	Land Use Designation	Use	Overlay District
North	MIC	CMR	Palm Tran Bus Terminal and Offices	None
South	MIC	CMR	Convenience Store (Stop-n-Go); Auto Related Business (German Auto World); Construction Equipment Rental	
	General Commercial (GC)	GC	Retail Plaza (Sandwich Man, Pizza Too, Verizon, Price Flooring)	
	Planned Commercial (PC)	GC	Shopping Plaza	
East	GC	GC	Gas Station (Chevrolet)	
	MIC	CMR	Mix of Industrial based businesses (Old School Bakery & Outlet, Auto Repair, Cabinetry, etc.)	
West		Low Density (LD) Medium Density (MD)		

*(E) Remaining, isolated infill lots within the coastal planning area shall be developed under zoning which is identical or similar to the zoning of adjacent properties; and, the resulting development shall be of a design and intensity which is similar to the adjacent development.*

Not applicable. The proposed development is not within the coastal planning area.

### Section 3.2.4, Standards for Specific Areas or Purposes

*(A) Wellfield Zones: The City shall continue to assure compliance with the County Wellfield Protection Ordinance by including compliance as a performance standard for which a specific finding must be made upon approval of any site plan or conditional use action.*

The properties are located within Wellfield Zone 4; compliance with any requirements identified by Palm Beach County will be required with the site plan.

*(D) Flood Prone Areas: Certification that any development proposed on land which is located in a floodplain has proper provisions for mitigation of flood damage potential.*

The northern portion of the properties are located within Special Flood Hazard Area, Flood Zone AE, which requires compliance with the base building elevation requirements in the LDRs. This requirement, which mitigates flooding impacts on buildings by requiring them to meet the minimum FEMA and Florida Building Code requirements, will be reviewed with the site plan.

**(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 will be scheduled for approval by the SPRAB prior to adoption of the ordinance.

### Master Development Plan

Pursuant to **LDR Section 2.4.5(F)(6), Master Development Plans, Special Provisions**, the Master Development Plan *“shall be the guide for any subsequent site plan or subdivision action. A site plan shall be required for any phase or the entire area encompassed by a MDP...Variances and waivers to the requirements of base district standards and supplemental district regulations, referred to herein, may be granted by the Planning and Zoning Board concurrent with approval of the Master Development Plan (MDP) without the requirement of a public hearing.”*

In accordance with the SAD provisions, the MDP has been submitted, which identifies the general details of the site development, including placement, uses, parking, landscape area, amenities, etc. The MDP guides the site plan, which provides more in-depth details and information such as floor plans, elevations, landscaping specifications, and engineering plans. The site plan has been submitted, and must be approved by the SPRAB prior to adoption of Ordinance No. 32.20. Given that the SAD establishes the development standards applicable to the development, there are no identified waivers or variances.

However, it should be noted that there are differences between requirements in the LDRs and the proposed standards; consideration should be given to requesting that these be revised to meet the minimum LDR requirement:

- Restaurant Parking: Proposed at 4.5 spaces per 1,000 square feet; LDR requirement is 12 spaces per 1,000 square feet up to 6,000 square feet, and 15 spaces per 1,000 square feet above 6,000 square feet.
- The proposed minimum size for an efficiency is 400 square feet, whereas the LDRs require a minimum of 450 square feet. It is noted that the proposal does not presently include efficiencies less than 450 square feet.

In addition to the above differences with the LDR requirements, the following is a summary of the specific considerations to be provided by the Board:

- whether the proposal meets the intent of the SAD zoning designation;
- whether the proposed uses and regulations are consistent with the Commerce land use designation, which is categorized as an Industrial land use designation, particularly given the limited opportunities to accommodate industrial and service type uses;
- whether the request meets the intent of and implements the Commerce land use designation; and,
- whether the resulting land uses are deemed compatible with the surrounding land uses.

### Review By Others

The **City Commission** is tentatively scheduled to review Ordinance No. 32-20 (First Reading) at its meeting of August 18, 2020; the Second Reading of the Ordinance cannot be scheduled until after the Site Plan Review and Appearance Board (SPRAB) approves the site plan.



### Board Action Options

- A. Move a recommendation of **approval** of Ordinance No. 32-20, a privately-initiated request for rezoning from Mixed Industrial & Commercial District (MIC) to Special Activities District (SAD), and approval of the Master Development Plan, finding that the amendment 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** of Ordinance No. 32-20, **as amended**, a privately-initiated request for rezoning from Mixed Industrial & Commercial District (MIC) to Special Activities District (SAD), and approval of the Master Development Plan, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations, with the following revisions:
- C. Move a recommendation of **denial** of Ordinance No. 32-20, a privately-initiated request for rezoning from Mixed Industrial & Commercial District (MIC) to Special Activities District (SAD), and approval of the Master Development Plan, finding that the amendment 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

☐ Courtesy Notices are not applicable to this request.

☒ Courtesy Notices were sent to:  
- Chamber of Commerce

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

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

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

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

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

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