



**Aura Delray Beach  
Intersection of N. Congress Avenue and W. Atlantic Avenue  
Rezoning Application Statement of Use and Justification Statement**

Trinsic Residential Group (“Petitioner”) is the contract purchaser of an aggregation of parcels comprising +/- 12.20-acres (“Property”), which are generally located at the northwest corner of the intersection of North Congress Avenue and West Atlantic Avenue within the City of Delray Beach (“City”), Palm Beach County (“County”), Florida. The Property is referenced by parcel control numbers 12-43-46-18-00-000-5090, 12-43-46-18-00-000-5101; 12-43-46-18-00-000-5110; 12-43-46-18-00-000-5111; 12-43-46-18-00-000-5120; 12-43-46-18-00-000-5122; 12-43-46-18-00-000-1190; 12-43-46-18-00-000-5100. The Property is designated Commerce (“CMR”) on the City’s Future Land Use Map and is located within the MIC, Mixed Industrial & Commercial, zoning district. The southern portion of the Property is primarily developed with blighted warehouses and the northern +/- 5.53-acre portion of the Property remains undeveloped.

Petitioner proposes to redevelop the Property with a mixed use project including a 292 dwelling unit multifamily residential component comprised of two (2) 3-story buildings containing 40 dwelling units and four (4) 5-story buildings containing 252 dwelling units, and a small commercial component (“Project”). The Project will be developed two (2) phases with the residential completed in one phase and the commercial completed in separate phase. The Project is planned to locate the 3-story buildings along Congress Avenue to activate the streetscape, two (2) of the 5-story buildings along the canal, and two (2) of the 5-story buildings clustered central to the Property to provide a resort-style courtyard. The Project will also feature a variety of common amenities for residents including, but not limited to, a centrally located pool, clubhouse, and tot lot. The proposed infill redevelopment of the Property will better serve the community as a strategically placed residential development with neighborhood serving commercial uses, further contributing to the City’s Comprehensive Plan NDC Goal 2 to “transform underutilized and blighted areas into attractive and thriving neighborhoods, districts, and corridors.” The Property is ideally located for the proposed development considering its location adjacent to the transit corridors along Atlantic Avenue and Congress Avenue and in close proximity to the major Interstate 95 thoroughfare, civic and recreation uses, and general commercial uses. Approval of the Project will promote a more walkable and sustainable atmosphere at the Atlantic and Congress node.

In order to develop the Project, Petitioner is requesting that the Property be rezoned from MIC to Special Activities District (“SAD”) (“Rezoning Application”). Concurrent with this Rezoning Application request, the Petitioner is also processing a master plan application for the Project (“Master Plan Application”) as required by the City’s SAD regulations and a text amendment to the City’s Land Development Regulations (“LDRs”) to establish a workforce housing overlay for the Property and allow a maximum building height of 60 feet for the Project. Justification for the requested Rezoning Application is provided herein.

**Statement of Reasons for Rezoning Application – Section 2.4.5(D)(2) of the City’s Land Development Regulations (“LDRs”)**

*The rezoning from the MIC zoning district to the SAD zoning district requires a statement of justification per Land Development Regulations (LDR’S) Section 2.4.5(D)(2). The valid reasons stated in the code for approving a change in zoning include: A. That the zoning had previously been changed, or was originally established, in error; B. That there has been a change in circumstance which makes the current zoning inappropriate; or, C. That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

*A. That the zoning had previously been changed, or was originally established, in error;*

**Petitioner is not aware of any previous changes to the existing zoning or errors in its establishment.**

*B. That there has been a change in circumstance which makes the current zoning inappropriate; or*

**There has been a change in circumstance that makes the current zoning inappropriate. Specifically, external market forces have shifted over the course of the past several decades making true industrial production infeasible in urban and suburban settings such as the area surrounding the Property. At the same time, the population has increased and created a need for additional housing opportunities within the City. Unfortunately, wages have not increased consistent with housing cost increases, which has created a significant need for workforce housing units in the City. Consistent with the Always Delray Comprehensive Plan, the proposed development and SAD regulations include a requirement for 25% of the project density to be provided as workforce housing units with a minimum of 10% of the project density to be provided as on site workforce housing units and the remaining to provided either on site or through a contribution to the City of Delray Beach Housing Trust Fund. Considering the nationwide decrease in industrial production, increased population, and increasing housing costs, there are significantly changed circumstances that make the current zoning inappropriate.**

*C. That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

**Goal NDC 2 of the City’s Comprehensive Plan is to “provide a high quality life for all residents, encourage a mix of building types and uses, diverse housing, and transportation options, and use meaningful community engagement to transform underutilized and blighted areas into attractive and thriving neighborhoods, districts and corridors.” However, Policy NDC 1.4.8 of the City’s Comprehensive Plan dictates that the City “recognize the importance of maintaining the Commerce land use designation for long term economic property by discouraging amendments to the Future Land Use Map that diminish the quantity of property with Commerce land use designation.”**

**As stated above, the Property is currently a partially undeveloped, blighted area located at the intersection of two prime corridors in the City. The redevelopment options in this area should improve and enhance the quality of life of the community, especially the immediately surrounding area – which is comprised of a public school to the west (separated from the Property by a canal), a County Palm Tran office to the north and residential multiple-family neighborhoods and a**

shopping center immediately south of West Congress Avenue. The City created and codified the SAD zoning district to be consistent with any future land use designation for circumstances like this rezoning: because the Project – a primarily residential multiple-family project -- couldn't be properly accommodated in another zoning district that is consistent with the CMR FLUM designation.

Accordingly, to maintain the Property's CMR FLUM designation as required by Policy NDC 1.4.8, while redeveloping the Property to meet the needs of the immediately surrounding area, a rezoning to SAD is the best option – activating a prime location in the City with CMR-appropriate uses that are compatible with the surrounding area, especially the school in close proximity. Therefore, the requested SAD zoning will allow for development that meets the purpose and intent of the City's Comprehensive Plan, CMR FLUM designation, and SAD zoning district, and is more appropriate for the Property based upon circumstances particular to the site and/or neighborhood.

#### **Required Findings for Rezoning Application – Section 3.1.1 of the City's LDRs**

*Prior to 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.*

Per Table NDC 1 of the City's Comprehensive Plan, the proposed SAD zoning designation is consistent with the CMR Future Land Use Map designation. Per Section 4.4.25(A) of the City's LDRs, "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," and "the uses, activities, and characteristics of a SAD are to be consistent with the Comprehensive Plan." Per Policy NDC 1.4.7 of the City's Comprehensive Plan, the CMR FLUM designation "is appropriate to accommodate a mix of industrial, service, and commercial uses, and limited residential development opportunities." This Project is consistent with that limitation as it is on North Congress just north of Atlantic. Further, with the exception of undeveloped property to the north, all other contiguous properties are developed with non-industrial uses. Moreover, the subject property is just north of the Atlantic and Congress intersection, which is primarily commercial. This site is a strong transition to the uses located north of the property. The Project is the ideal location to provide the residential development opportunities envisioned by Policy NDC 1.4.7 within the Commerce land use designation. Approval of this project will locate the residential use at the edge of the corridor at the major intersection/node of Congress and Atlantic, adjacent to the area's major transportation network, closer to the Tri-Rail station and downtown Delray than any other property within the Commerce land use designation, in close proximity to the civic (place of worship and school) and recreational uses to the west, and between the employment generating commercial uses to the south and industrial uses to the north. The Project will provide new housing opportunities adjacent to the existing Palm Tran routes and within ½ mile of the City's Tri Rail station, thereby providing an alternative option to the decentralized, auto-reliant residential development patterns which

inherently increase housing and commute costs and limit accessibility for a portion of the workforce.

An inventory of the lands designated Commerce on the City's land use map indicates that the predominant uses within the Commerce land use are primarily developed as auto repair, warehouse/showroom, utility, and office uses with limited industrial/manufacturing and that there is minimal vacant land or opportunity for new development within the Commerce land use in close proximity to the existing transit facilities. As such, the property provides the only logical location to accommodate the limited residential use envisioned for the Commerce land use designation and in the most practical, transit oriented location along the corridor. The residential use in the Project provides the appropriate residential development to complement and balance the existing uses in accordance with Policy NDC 1.4.9 for the Commerce land use designation in the Always Delray Comprehensive Plan.

In addition, it is essential to the long-term viability of the desired mix of industrial, service and commercial uses in the Commerce land use designation that higher density residential uses are in direct proximity in order to provide the population base and demographics the needed to protect and support the existing industrial and commercial uses within the CMR land use.

Finally, the Project will also promote Policy ECP 6.4.1 by ensuring diverse housing options for the City's varying income levels, encouraging sustainable redevelopment of lands, and establishing a balance of appropriate uses along the corridor which fit the needs of the area's existing and future residents. As such, the proposed residential use will strengthen and support the viability of these commerce.

Considering that the Project will promote transit oriented development patterns, provide workforce housing opportunities, and support the long term feasibility of the adjacent commercial and industrial uses, the proposed residential use is the appropriate location for residential development within the Commerce district. As described here, it is not necessary for the development within the project to support a greater amount of commercial or industrial uses than is proposed in order to promote a balanced mix of uses along the corridor as the remainder of the corridor is already developed with the mix of industrial, service, and commercial uses needed and the addition of the project's residential uses will provide a catalyst for re-investment and re-development of the existing commercial and industrial uses. Considering the foregoing, the Project's proposed residential and commercial use are permitted in the SAD and consistent with the CMR FLUM designation. Therefore, approval of the requested Rezoning Application is consistent with the City's Comprehensive Plan.

- (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.

The Petitioner is not proposing a future land use map amendment for the Project; only a rezoning to the SAD zoning district that is explicitly compatible with the CMR future land use category in the City's Comprehensive Plan. Accordingly, the use contemplated in the Project was already

contemplated for the Property, causing no additional concurrency impact. In addition, Petitioner has submitted letters verifying availability of service from all applicable utility providers and has requested concurrency determinations from Palm Beach County Traffic and Palm Beach County 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.

As is more fully discussed in “Standards for Rezoning Application – Section 3.2.2 of the City’s LDRs”, below, the Project is consistent with the performance standards contained within Article 3.2.

- (D) *Compliance with LDRs.* Whenever an item is identified elsewhere in these 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.

As mentioned above, the Project is permitted within the SAD zoning district, which will receive final approval by the City Commission. As is more fully explained under separate cover in the Master Plan Application Statement of Use and Justification Statement, the Project will comply with the City’s LDRs.

#### **Standards for Rezoning Application – Section 3.2.2 of the City’s LDRs**

*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 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.*

**The Property is not located within an area identified as “stable” and “stabilization” on the Residential Neighborhood Categorization Map. As such, this criterion is not applicable.**

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

**The Project does not involve rezoning to the AC zoning district. As such, this criterion is 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 should be given to increasing the depth of the commercial zoning in order to provide for better project design.*

The proposed zoning change will not result in strip development. Rather, the Project involves well planned residential development with a neighborhood serving commercial component integrated into the design to ensure strip development does not occur.

- (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 Project is designed to ensure compatibility with adjacent and nearby land use both existing and proposed. The Project is thoughtfully planned to locate the commercial component at the northeast corner of the Property, adjacent to an existing warehouse to the north and along the Congress Avenue frontage. In addition, two (2) 3-story buildings are located along Congress Avenue to activate the streetscape; two (2) of the 5-story buildings are located along the canal; and two (2) of the 5-story buildings are clustered central to the Property to provide a resort-style courtyard. The Project will also feature a variety of common amenities for residents including, but not limited to, a centrally located pool, clubhouse, and tot lot. The Property is immediately bordered to the west by a canal along which a wide open green area is provided in conjunction with a greenway easement for a shared bicycle/pedestrian pathway that will ultimately provide connections to the regional greenway network. Across the canal to the west is a public school, which is compatible and consistent with the proposed residential use and will allow for walkability and access to daily needs for the residents of the Project. The north border of the Property is directly adjacent to Palm Beach County's Palm Tran South County Facility. The north property line features a lush and expansive natural vegetation barrier separating the two properties. Also to the north of the Property, on a small parcel fronting N. Congress Avenue, is a warehouse storage use, which will be adjacent to the commercial component of the Project. As such, a logical and well planned transition from the industrial uses to the north to the proposed residential use is provided. To the Property's south, north of West Atlantic Avenue, are warehouses and a restaurant, each zoned MIC and General Commercial ("GC"), respectively. The residential buildings are proposed inset from these uses with active green areas provided to allow a proper transition from the commercial to residential uses. The residential buildings pushed as far away from such uses as possible to mitigate and minimize impact. It is important to note that south of West Atlantic Avenue is a similar use configuration that is proposed with these Rezoning and Master Plan Applications – West Atlantic Avenue is directly lined with a shopping center, and immediately to the south of the shopping center is a residential multiple-family development.

Further, the Project will comply with all separation, buffering, and setback requirements imposed by the City's LDRs in order to properly mitigate any potential adverse impacts to the Project's residents. Accordingly, the requested rezoning will allow land uses that are compatible with adjacent and nearby land uses, both existing and proposed, and will properly mitigate any adverse impacts.

- (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.*

The Property is not located within the coastal planning area. As such, this criterion is not applicable.