



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Parks at Delray

1690-2350 South Congress Avenue SAD

Meeting	File No.	Application Type
November 16, 2020	2020-277-REZ	Rezoning
Applicant	Property Owners	Authorized Agent
Centerpointe Delray Holdings, LLLP	Centerpointe Delray Holdings, LLLP	Dunay, Miskel & Backman LLP

Request

Provide a recommendation to the City Commission regarding a privately initiated rezoning of the 1690-2350 South Congress Avenue SAD, amending the Development Standards, Allowed Uses, Sequencing Plan and the Master Development Plan.

Background Information

The 1690-2350 South Congress Avenue SAD is located at the southwest corner of Old Germantown Road and S. Congress Avenue. The project consists of four parcels and is 48.78± acres. The site was previously developed with 352,539+/- square feet of office use distributed between four buildings, which was formerly the Office Depot corporate offices and The Arbors office building. All the existing buildings are currently vacant, and three of which are currently undergoing demolition.

On December 11, 2018, Ordinance No. 30-18 approved the rezoning of the property from MROC (Mixed Residential Office and Commercial) to Special Activities District (SAD) with the associated Master Development Plan (MDP). The approved SAD allows for up to 1,009 dwelling units, 70,000 square feet of office, 250,000 square feet of retail, 80,000 square feet of restaurant development, and active and passive recreational facilities. Access to the development is provided by a road system connected to Congress Avenue and Germantown Road.

The proposed amendments to the approved SAD ordinance do not increase the approved number of units (density) or increase the amount of commercial square footage (intensity) allowed on the site, nor do they add any new uses to those approved or allowed to be developed on the site.



Project Planner:

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Attachments:

- Draft Ordinance No. 61-20
- Application Justification Statement
- Ordinance No. 30-18

The SAD zoning district is a unique zoning district, which is established “to be used for large scale and mixed projects for which conventional zoning is not applicable” (LDR Section 4.4.32). Each SAD establishes the allowed uses and development standards via ordinance at the time of rezoning. The only development standard specifically set forth in the LDRs is a minimum setback of 15 feet established around the perimeter of the property, which is to be landscaped along all front and side street areas. Pursuant to LDR Section 4.4.25(D)(1) a complete site and development plan with at least preliminary engineering plans is required to be processed concurrently with the rezoning. A waiver to the site plan requirement was approved as part of the rezoning to the 1690-2350 South Congress Avenue SAD via Ordinance No. 30-18 (attached).

The applicant desires to amend the adopted regulations and the MDP for the 1690-2350 South Congress Avenue SAD. The adopted SAD regulations allow for certain amendments to the MDP or approved site plan(s), depending on degree of change, either through administrative review or by the Planning and Zoning Board. Due to the nature of the current request, which includes changes to the development standards and construction sequencing, the changes are processed as a rezoning. The applicant is requesting to amend the following:

- The timing for the infrastructure improvements so that they are completed prior to the issuance of the first certificate of occupancy (“CO”) for a building, rather than being tied to the issuance of a building permit.
- Modification of standards that conflict with the proposed site plan, such as building setbacks and building separations.
- Clarification of the process for future modifications, including site plans and development standards.
- Amend the MDP to adjust the position of the clubhouse and park and to reflect a change from a roundabout to an intersection in the internal street network.

The rezoning request is being processed concurrently with a request for Class V site plan approval, which was presented at the October 28, 2020 Site Plan Review and Appearance Board (SPRAB) meeting where it was continued with direction by the board; the plan will be considered by the SPRAB on November 18, 2020.

Review and Analysis

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 part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body, which has the authority to approve or deny the development application.* These findings relate to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations.

- **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 subject property has a Land Use Map (LUM) designation of CMU (Congress Mixed Use) and the existing and proposed zoning designation is Special Activities District (SAD). Pursuant to Table NDC-1 of the adopted Comprehensive Plan, the SAD zoning designation is deemed consistent with the Congress Avenue Mixed Use LUM designation. The uses allowed within a specific SAD shall be consistent with the land use category shown on the Land Use Map. The previously approved mix of uses is consistent with the Land Use Map.

- **Concurrency:** *Pursuant to Section 3.1.1(B), Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.*

Pursuant to the December 11, 2018 approval by Ordinance No. 30-18, a positive finding of concurrency was made as it relates to water and sewer, streets and traffic, drainage, parks and recreation, open space, and solid waste. Full traffic

impacts were previously considered as part of this approval. No changes are proposed to the density or intensity of the development and additional traffic analysis is not required.

- **Consistency:** *Compliance with performance standards set forth in Chapter 3 and required findings in LDR Section 2.4.5(D)(5) for the Rezoning request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency.*

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. **LDR Section 2.4.5(D)** outlines the procedures for a zoning change, which includes compliance with the standard application items in **LDR Section 2.4.3**. In accordance with **LDR Section 2.4.3(E)**, a traffic study must be prepared to address the development of property under reasonable intensity pursuant to the existing and proposed zoning. A traffic study is not required for this request. The density and intensity will not change with the proposed rezoning.

Pursuant to **LDR Section 2.4.5(D)(2)**, 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 Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.

The request is related to the second and third criteria. The project was deemed appropriate in intensity December 11, 2018 via approval of Ordinance No. 30-18, and the proposed amendments to the zoning do not increase the intensity of the project. No significant changes have occurred in the surrounding area since the initial rezoning approval

Rezoning requests must meet five standards pursuant to **LDR Section 3.2.2**, 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.

The proposed amendments to the SAD adopted by Ordinance No. 30-18 on December 11, 2018 do not increase the approved density or allowed intensity on the site, nor are new uses added to those approved or allowed to be developed on the site.

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

Not applicable. The project zoning is Special Activities District (SAD) and does not accommodate auto dealerships.

(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.

Not applicable. Neither the approved SAD and MDP or the proposed amendments to the SAD and the MDP adopted by Ordinance No. 30-18 on December 11, 2018 create strip commercial 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 proposed amendments to the SAD adopted maintain the same standards that were found to be compatible with the adjacent and nearby land uses. The proposed changes do NOT increase the development program, add uses, increase building height, or decrease landscape or open space.

(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 property is not located in the coastal planning area.

The request to amend the Development Standards, Allowed Uses, Master Development Plan, and Sequencing Plan does not impact the proposal's compliance with the rezoning criteria.

Subsequent to adoption of Ordinance No. 30-18, the Always Delray update to the Comprehensive Plan was adopted. The following polices from the Always Delray Comprehensive Plan relate to the consistency of the proposed SAD rezoning:

Neighborhoods, Districts, and Corridors Element

- **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.*

A portion of the original oak hammock remains at the southwest corner of the property, and it will be preserved as required in the development standards. The required buffer areas surrounding the development are maintained in the proposed rezoning. The proposed rezoning and MDP provide a mixed-use development that will offer access to daily needs of the residential units and surrounding residential area. The organization of the uses on the MDP maintains residential uses adjacent to adjoining residential uses.

- **Policy NDC 1.3.18** *Use the Congress Avenue Mixed Use future land use designation to accommodate a variety of commercial, office, and residential uses that provide development intensities that advance economic growth, provide incentives for transit oriented development, and create multimodal development patterns along the Congress Avenue corridor, south of West Atlantic Avenue.*

The development provides residential units with a variety of types and sizes, commercial and retail amenities, common access streets with on-street parking, and traffic calming throughout the project. A 12-acre park is provided centrally next to the intersection of the north/south and east/west road. The development standards require 25% of the land area as open space, including sidewalks and multi-purpose paths. The internal street/pedestrian system will allow residents to access the commercial parcels without exiting and re-entering at different locations.

Policy NDC 1.3.4 Use Regional Activity Centers in mixed-use land use designations for large projects to create compact development with a variety of community-serving uses with the following development pattern design characteristics:

- An interconnected block structure and network of multimodal streets and paths to maximize internal circulation and minimize impacts to arterial roads;
- A complementary mix of uses, including residential, office, commercial, and recreation that meets the daily needs of residents, that may also include education and civic uses;

- Densities and intensities that support nearby transit service;
- Streets, paths, and public open spaces that are interconnected, safe, and attractive;
- Off-street parking areas located and designed to support walking, such as located to the rear or sides of buildings and limited in size; large fields of parking between building facades and streets are not desirable; and,
- Efficient infrastructure.

The proposed amendments to the SAD demonstrate the characteristics in the policy in the MDP.

Policy NDC 1.3.20: Use the Congress Village Regional Activity Center overlay that is established on the 42.749 acre site, located on the west side of Congress Avenue, south of Old Germantown Road to allow a maximum development program of 600,000 square feet of office use, 400,000 square feet of commercial uses, 350 hotel units and 2,000 residential units.

The MDP allows for up to 1,009 dwelling units, 70,000 square feet of office, 250,000 square feet of retail and 80,000 square feet of restaurant use to be constructed on six (6) parcels

Mobility Element

- **Policy MBL 3.1.5** *Require new development to provide connections to public transportation facilities, such as sidewalks, bike routes, and transit stops.*

In addition to the proposed internal pedestrian network, the proposed development connects to both Congress Avenue and Germantown Road. The MDP provides a perimeter sidewalk that connects to the Delray Oaks Nature Preserve, multiple areas within the property. Providing such accessways creates opportunities for people to walk, bike, use transit, or use a mixture of modes other than driving. A bus shelter is proposed along Congress Avenue to service Palm Tran Route 2 and an internal school bus area is proposed within the development. The proposed development is located approximately 1.5 miles from the existing Tri Rail Train Station.

- **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.*

Development of the property is regulated by **LDR Section 4.4.25 – Special Activities District (SAD)**. *“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.”*

Development standards for the SAD were approved by Ordinance No. 30-18 on December 11, 2018. The applicant proposes updates to Exhibit “B”, Development Standards; Exhibit “C”, Allowed Uses; Exhibit “D”, Master Development Plan; and, Exhibit “E”, Sequencing Plan as follows:

Exhibit “B”, Development Standards.

The edits to the proposed development standards are provided in a strike through and underline format. In some instance, language is moved from a table to text or restructured within the document for clarification purposes. The following is a summary of the amendments to this section:

- **Future Modifications to MDP.** Revises the process for modifying the Master Development Plan, to specify the types of modifications that can be processed administratively as opposed to modifications that require approval by the Planning and Zoning Board or the City Commission.

- **Construction Sequencing**
 - Maintains the requirement that buffers along Germantown Road and Congress Avenue shall be installed in the first phase of development.
 - Adjusts the requirement for the completion of internal infrastructure for a given parcel or phase to prior to the issuance of the first certificate of occupancy (CO) for a building or phase, rather than the issuance of a building permit.
 - Maintains requirements for the preservation of all trees identified for such purposes; the demolition of the three existing buildings, asphalt parking; and the installation of underground utilities; main infrastructure (roads, utilities, buffers, multi-use paths, and central park) must be completed prior to the issuance of the first residential CO for a building.
- **Parking**
 - Modifies the parking requirement for the non-residential, commercial uses to require 4 spaces per 1,00 square feet of gross floor area regardless of the mix of uses.
- **Perimeter Buffer.** The requirement is maintained for a landscape buffer (“SAD Perimeter Buffer”) around the outer perimeter of the overall MDP property. The SAD Perimeter Buffer will serve as the minimum setback / building setback and allow a building to be placed adjacent to the buffer, which can contain multi-purpose paths. Previous versions required an additional building setback.
- **Building Separations.** Amends the regulations to provide additional specifications for separations between different building types and heights. This provides consistency for the building setbacks provided as part of the Class V site plan application and the setback table.
- **Infrastructure / Streetscape / Bus Shelter.** Amended to include improvements such as on-street parking, brick paver crosswalks, and material changes as means to promote traffic calming. The proposed language allows for centrally located multimodal nodes instead of the specification for the drop-off and pickup location to be at a central rotary (roundabout). The language modifies the timing of the installation to be at issuance of the first CO, rather than prior to construction.
- **Traffic Calming.** Reference to a roundabout is removed.
- **Recreation Amenities**
 - The requirement for a single club house has been modified to specify that one club house, at a minimum, shall be provided. Because the applicant intends to provide two club houses, the minimum square footage has been reduced from 18,000 sf to 12,000 sf. The particular amenities are no longer specified. The proposed language specifies that the leasing center, which will be located within the club house, will not be counted in the minimum square footage.
 - The central park and multi-use paths shall be provided prior to issuance of the certificate of occupancy, rather than prior to issuance of a building permit for vertical construction.
- **Workforce Housing**
 - The proposed amendment changes the workforce housing allocation from 10 percent moderate income rental units and 10 percent moderate income for sale units, to 10 percent moderate workforce housing units, removing the owner/renter distinction.
 - Amends the definition of a moderate income household from 81 percent to 140 percent of the Palm Beach County Adjusted Median Income (AMI) to 81 percent to 120 percent of the AMI. The City does not identify income levels higher than 120 percent of the AMI as workforce housing.

Exhibit “C”, Allowed Uses

The proposed amendment adds language to specify that the development may have a combination of permitted residential and commercial uses.

Exhibit “D”, Master Development Plan

The currently adopted and proposed Master Development Plan are provided below and are in the proposed ordinance or attached at a larger scale.

Adopted MDP (Ordinance No. 30-18)

Proposed MDP

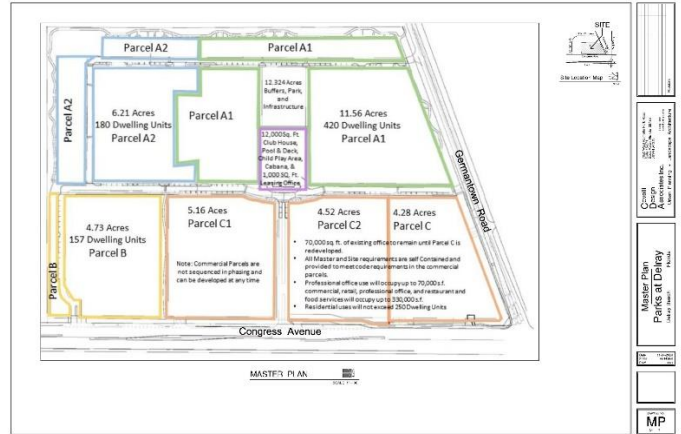
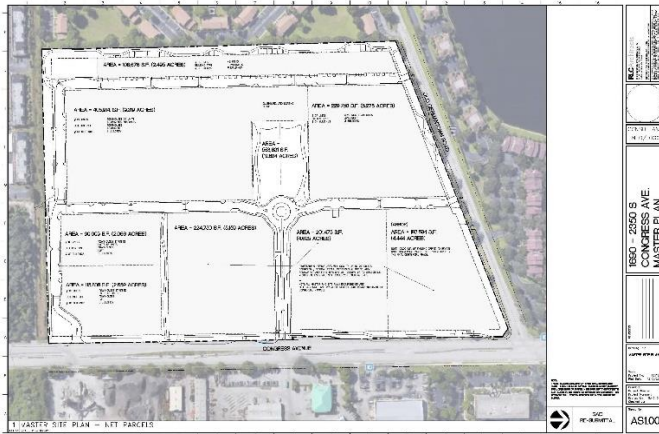
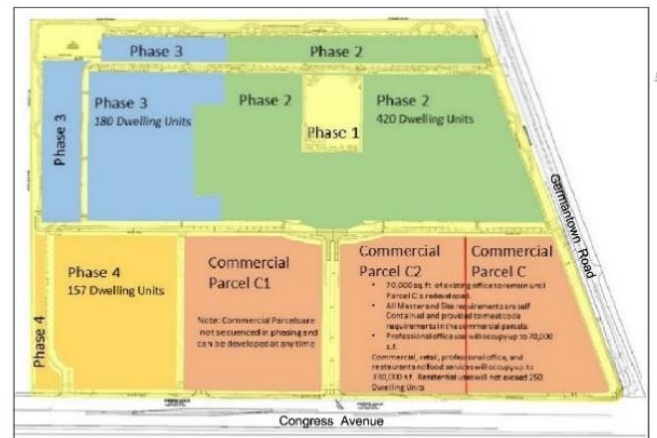


Exhibit “E”, Phasing Plan

The adopted and proposed infrastructure phasing plan are provided below and are in the proposed ordinance or attached at a larger scale. The new plan moves the phasing of the residential portion along the west property line from Phase 4 to Phases 2 and 3. Commercial parcels are not identified as ‘phases’ as the development will be programmed as industry demand supports their uses.

Adopted Sequencing Plan (Ordinance No. 30-18)

Proposed Sequencing Plan



Review By Others

The subject property is not within a redevelopment area or overlay. Dates for first and second reading at City Commission are to be determined.

Board Action Options

Rezoning

- A. Recommend **approval** of Ordinance No. 61-20, privately-initiated rezoning of the 1690-2350 South Congress Avenue SAD, amending the Development Standards, Allowed Uses, Sequencing Plan and the Master Development Plan, finding that the rezoning and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- B. Recommend **denial** of Ordinance No. 61-20, a privately-initiated rezoning of the 1690-2350 South Congress Avenue SAD, amending the Development Standards, Allowed Uses, Sequencing Plan and the Master Development Plan, finding that the rezoning and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.
- C. Continue with Direction

Public and Courtesy Notices

☒ Courtesy Notices are not applicable to this request.

☐ Public Notices are not required for this request.

☒ 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 November 6, 2019, 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.