



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### RaceTrac

Meeting	File No.	Application Type
February 22, 2021	2020-271-USE-PZB	Conditional Use (Gasoline Station)
Applicant	Authorized Agent	Property Owner
Same as owner	Sachs Sax Caplan PL	D&N Realty Holdings 2

### Request

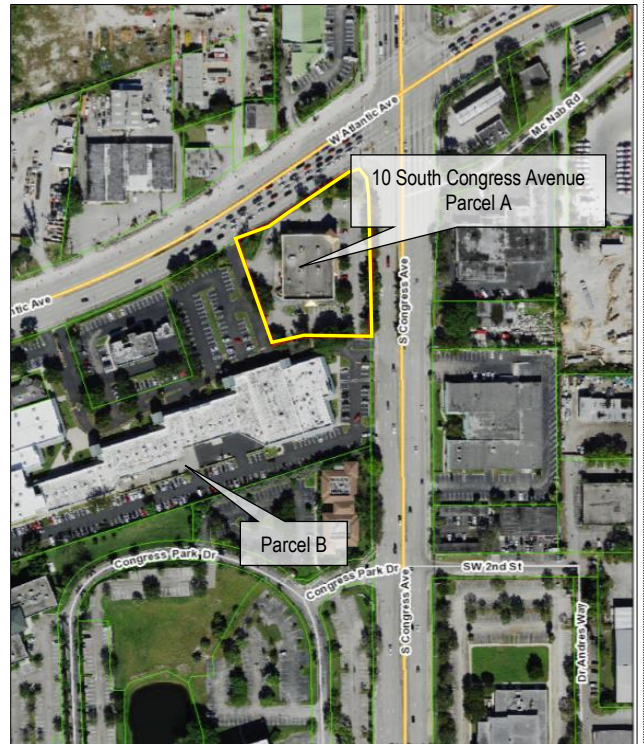
Provide a recommendation to the City Commission regarding a Conditional Use request to establish a gasoline station with convenience store for RaceTrac at 10 South Congress Avenue.

### Background Information

The subject site is located at 10 South Congress Avenue, on the southwest corner of West Atlantic Avenue and South Congress Avenue. The subject site, which is zoned Planned Commercial (PC), is an outparcel tract in the Congress Square shopping center where a Walgreens drug store is currently located. The property has a land use designation of General Commercial (GC).

The following is a list of actions related to the subject property:

- On August 10, 1982, the City Commission adopted Ord. No. 49-82 granting the SAD designation for the Congress Square shopping center. The shopping center is made up of Parcel A (subject site), and Parcel B (100 S. Congress Avenue).
- In October 1990, the shopping center parcels were rezoned to PC as part of the citywide rezoning.
- On August 20, 1998, the Board of Adjustment (BOA) granted a variance (Petition 906) to LDR Section 4.3.4 (H)(6)(b), allowing for the reduction of the required special landscape setback from 30 feet to 10 feet along West Atlantic Avenue and South Congress Avenue.
- On June 30, 1999, the Site Plan Review and Appearance Board (SPRAB) approved a Class IV site plan modification (1999-137) for the demolition of a 6,000-auto supply store and the construction of a new 13,305 sq. ft. Pharmacy (Walgreens).
- On February 4, 2010, the BOA granted a variance (Petition No. 991) for the reduction of the special landscape buffer requirement from 10 feet to 2.8 feet along West Atlantic Avenue resulting from an FDOT right-of-way dedication and subsequent road widening project.
- On September 22, 2020, a Class IV Site Plan modification (2020-270) was submitted with a waiver seeking relief from the minimum floor area requirement for free-standing structures required by LDR Section 4.4.12 (F)(2).



## Description of Proposal

The Development Services Department received a Class IV Site Plan modification (2020-270) with an accompanying conditional use application (2020-271) for a gas station and convenience store. The site plan modification is associated with the demolition of a 13,305 sq. ft. Walgreens drugs store, and construction of a new 24-hour RaceTrac convenience store with a deli and gas station with 10 fueling stations (20 fuel pumps), and associated site and landscape improvements. The site plan layout features access from West Atlantic Avenue and South Congress Avenue and internal circulation. The convenience store building faces both major corridors and includes an outdoor café dining area.

The waiver request is seeking relief from the minimum floor area requirement listed in LDR Section 4.4.12 (F)(2), which requires that *"Any free-standing structure shall have a minimum floor area of 6,000 square feet; shall be architecturally compatible with other structures, shall take access from the interior circulation system of the development and shall be able to meet all code requirements if it were to be situated on an outparcel. Architectural compatibility shall be determined pursuant to Section 4.6.18."* The proposal includes a 5,411 sq. ft free-standing convenience store building with a 565 sq. ft outdoor patio area. The justification statement provided indicates that the waiver request to reduce the building size is to allow for the addition of outdoor seating, increased vehicular circulation and stacking distances, and wider parking spaces that are common standards for RaceTrac company stores. The plans provided include internal circulation, pedestrian connection, 28 parking spaces, and 26.65% landscaped open space. The architectural compatibility of the elevations will be reviewed and determined by SPRAB.

It is important to note that both the site plans and elevations, which are provided for reference, are subject to final approval by SPRAB at a later date.

## Analysis

Pursuant to **LDR Section 4.4.12 (D)(1), Planned Commercial (PC) District, Conditional uses and structures allowed**, *All conditional uses allowed as such within the GC District [Section 4.4.9(D)].*

- LDR Section 4.4.9 (D)(8), lists Gasoline Stations or the dispensing of gasoline directly into vehicles as a conditional use allowed in the General Commercial (GC) zoning district, thus the proposed conditional use application has been submitted for the proposed RaceTrac gas station.

Pursuant to **LDR Section 4.3.3 (J)(2), Convenience mart (gasoline station with food sales)**, *A gasoline station which also sells foods and convenience items and does not accommodate repair or installation services provided that the sale of food and convenience items is secondary to use as a gasoline station.*

- The proposed RaceTrac gas station with a convenience store meets the criteria of this LDR description.

Pursuant to **LDR Section 4.3.3 (J)**, Gasoline Stations are required to meet the following regulations:

LDR Section 4.3.3 (J)(5) – Gasoline Stations		
	Requirement	Provided
Minimum Lot Area	15,000 sq. ft.	69,026 sq. ft.
Minimum Lot Frontage	150 ft	295 ft (W. Atlantic Ave) 354 ft (S. Congress Ave)
Parking requirements	4.0/1,000 Square Feet of Gross Floor Area* (5,411 + 565 sq. ft.) = 24 spaces	28 spaces

\* Per LDR Section 4.6.9 (C)(3)(e), shopping centers with a gross leasable floor area of 25,000 to 400,000 square feet are required to provide 4 parking spaces for every 1,000 square feet of gross floor area, irrespective of uses.

- Pursuant to LDR Section 4.3.3 (J)(3), gasoline station convenience stores are required to provide 4.5 parking spaces per 1,000 of gross floor area which would require 27 spaces. However, since the subject site is part of the Congress Avenue Square shopping center the parking rate of 4.0 parking spaces per 1,000 of gross floor area in LDR Section 4.6.9 (C)(3)(e) is used. Furthermore, as indicated in the Declaration of Covenants for the Congress Avenue Square Shopping Center, each parcel has non-cancelable reciprocal parking and access rights to share all parking spaces throughout the center regardless of ownership or lessees. Using the shopping center parking rate, the proposed gas station is required to have 24 spaces but

is providing 28 spaces (4 space surplus), thus complying with the LDR section. The plans provided mention shopping center with the proposed gas station would provide 410 total parking spaces which exceeds the minimum 379 spaces required. Additional review of the required and provided parking will be conducted during site plan review prior to consideration by SPRAB.

Pursuant to **LDR Section 4.3.3 (J)(6)**, compliance with the following Gasoline facility development standards are required:

- (a) **Location of dispensers.** *Gasoline dispensers, tanks, dispenser island, and canopies shall not be located closer than 15 feet from any property line. When property directly abuts residentially zoned property, gasoline dispensers, tanks, dispenser islands and canopies, signs, or vents shall not be located closer than 40 feet from the property line abutting the residentially zoned property.*
  - The plans provided show that the fuel tanks will be located 16.48 feet from the northern property line along West Atlantic Avenue. The subject site does not abut any residentially zoned properties.
- (b) **Storage tanks.** *All storage tanks shall be underground.*
  - The plans provided show underground storage tanks.
- (c) **Lift and repair facilities.** *All such facilities shall be located within a structure.*
  - The proposed development does not contain lift or repair facilities. The uses proposed are self-service automobile fueling (gas pumps), retail (convenience store), and deli (restaurant).
- (d) **Display of products.** *Vending machines are to be located under roof and screened on three sides. Racks containing cans of lubricating oil may be displayed on service islands. Racks or pedestals used for the display of tires shall be located along any side (as opposed to front) of a structure.*
  - No vending machines or outdoor display areas are proposed.

**NOTE:** The subject property is not located within 300 feet of residentially – zoned property, and therefore, a conditional use for the 24-hour business is not required based on this provision. The closest residentially-zoned property is R-1-AA, located to the northwest and more than 700 feet away, is the site of Atlantic Community High School.

#### **LDR Section 2.4.5(E), Establishment of a Conditional Use**

Pursuant to **LDR Section 2.4.5(E)(1), Rule**, *the City Commission, by motion, after review and recommendation for approval by the Planning and Zoning Board may approve or reject a request for a conditional use.*

Pursuant to **LDR Section 2.4.5(E)(4), Conditions**, *conditions may be imposed pursuant to Section 2.4.4(C). In addition, limitations on the hours of operation and/or the longevity of the use may be imposed.*

**LDR Section 2.4.4(C), Imposition of conditions.** In granting approval to any development application, the granting body may impose whatever conditions it deems necessary in order to insure:

- *The compatibility of the use with nearby existing and proposed uses.*
- *Concurrency.*
- *Consistency with objectives and policies of the Comprehensive Plan.*
- *The fulfillment of requirements of these Regulations which should have or could have been fulfilled prior to the approval action but which were not, due to conditions beyond the control of the applicant.*
- *The fulfillment of requirements of these Regulations which could have been fulfilled prior but remain outstanding; thus, providing that they will be accommodated in a later stage of processing.*

In consideration of the findings below, the Board may recommend to the City Commission that specific conditions be included to address concerns in accordance with the Section cited above.

Pursuant to **LDR Section 2.4.5 (E)(5), Findings**, *in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:*

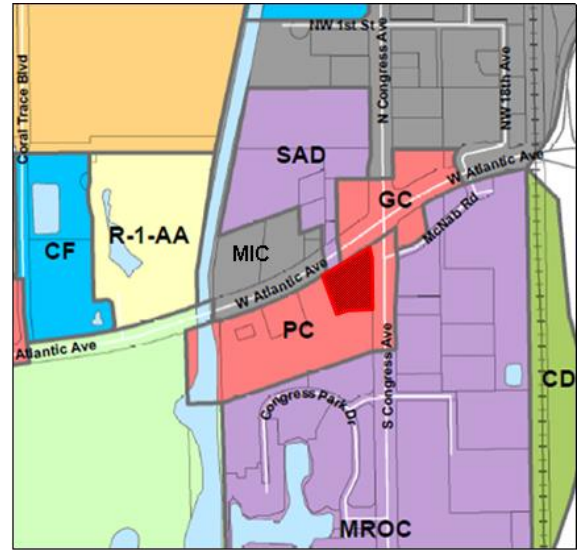


a) **Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;**

- While the gas station and convenience store may not have a detrimental effect on the surrounding neighborhood's stability, the safety of the employees and business patrons are important given the proposed hours of operation. Convenience businesses, as defined by Florida Statutes Section 812.171, are required to provide convenience business security in accordance with Florida Statute Section 812.173 - 812.175. These security requirements assist in minimizing the potential for crime and mitigating a detrimental effect upon the surrounding neighborhood. In addition, a review of the site plan by the Police Department was conducted and determined to be in compliance with CPTED (Crime Prevention Through Environmental Design) principles.

b) **Hinder development or redevelopment of nearby properties.**

- The site is located in the Congress Square shopping center at the southwest corner of West Atlantic Avenue and South Congress Avenue. The shopping center contains mostly retail uses and some medical office uses. The subject site is zoned PC and is adjacent to the Chevron gas station located at the northeast corner of the corridor zoned GC, a Shell gas station located at the southeast corner zoned GC, and a commercial retail center located at the northwest corner. The remainder of the South Congress Avenue corridor within vicinity of the subject site consists of commercial, residential, industrial, and retail use properties within the MROC (Mixed Residential Office Commercial) zoning district. The zoning districts along West Atlantic Avenue near the intersection adjacent to the subject site consist of commercial, industrial, and retail uses with GC and MIC (Mixed Industrial Commercial) zoned properties.



If approved, the conditional use allowing the gas station is not anticipated to hinder the development or redevelopment of nearby properties.

- Housing Element Policy HOU 1.1.12 of the Always Delray Comprehensive Plan (Comprehensive Plan) requires “that proposals for new development illustrate compatibility with adjacent neighborhoods with respect to noise, odors, dust, traffic volumes and circulation patterns in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If the development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.” The Residential Neighborhood Stabilization map in the Comprehensive Plan lists the area as “Non-Residential.” Since the subject site is not adjacent to any existing residential developments, it is unlikely that the increased traffic volumes generated by the gas station would negatively impact the stability of residential areas. It is noted, however, that the Aura SAD, which was approved in November 2020, is located across West Atlantic Avenue and is approved for 292 multi-family apartment units and a 1,635 sq. ft. commercial building.

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 that has the authority to approve or deny the development application. The following findings relate to consistency with the Land Use Map (LUM), Concurrency, Comprehensive Plan Consistency, and Compliance with the LDR:

a) **Land Use Map (LUM):** *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 site has a GC land use designation.. The PC zoning district is compatible with the GC land use designation. The proposed gas station is allowed with a conditional use.

- b) **Concurrency.** *Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

Traffic: The traffic impact assessment (impact assessment) provided indicates that the proposed gas station will generate 1,110 new external daily trips per day. The Palm Beach County Department of Engineering and Public Works Traffic Division reviewed the impact assessment and indicated that the proposed project meets the traffic performance standards of Palm Beach County with the conditions for site improvements. The conditions require that a right turn lane added at the north driveway approach onto South Congress Avenue, and that the left turn lane taper be extended along South Congress Avenue. The required right-of-way improvements will be coordinated with Palm Beach County, who owns South Congress Avenue, and Florida Department of Transportation, who owns this portion of West Atlantic Avenue. Additional traffic review will be conducted during site plan review prior to consideration by SPRAB.

- Water and Sewer: The engineering plans indicate that the proposed development would be connecting into an existing 8" PVC water main 8" Sewer main from Congress Avenue.

- Solid Waste:

Current Demand:

Pharmacy (Retail):  $13,305 \text{ sq. ft gsf} \times 10.2 \text{ lbs} = 135,711 / 2,000 = 67.86 \text{ tons per year}$

Proposed Demand:

Service Station:  $4,566 \text{ gsf} \times 29.5 \text{ lbs} = 134,697 / 2,000 = 67.35 \text{ tons per year}$

Restaurant:  $845 \text{ gsf} \times 24.9 \text{ lbs} = 21,040.50 / 2,000 = 10.52 \text{ tons per year}$

The proposed RaceTrac gas station would have an 10.01 ton increase in solid waste per year when compared to previous use. The Solid Waste Authority has indicated that its facilities have sufficient capacity to handle all development proposals until the year 2048.

- Drainage: The provided stormwater management report indicates that the project is located in the FEMA X flood zone. Per the Palm Beach County Water Table Map, the water table elevation at the site is 6.50 NAVD. A pre vs. post- analysis was conducted for the possible storm events. Based on the information calculated, the report indicates that the new development will have improved drainage versus current development. The proposed finished floor for the building is 17.00 NAVD, which was determined to be higher than the 100-year 3-day storm event peak stage elevation. Further review of site drainage will take place during site plan and building permit reviews. In addition, the proposed site grades will be reviewed for ADA compliance during the site plan review process prior to SPRAB's hearing on the site plan modification.
- Lake Worth Drainage District (LWDD): Notice of the project was provided to the LWDD and no comment of objection was provided.

- 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 outweighs the negative impacts of identified points of conflict.

**Healthy Community Element (HCE) Element**

- **Objective HCE 1.2** – Improve access to healthy foods throughout Delray Beach.
- **Policy HCE 1.2.2** Policy HCE 1.2.2 - Encourage the establishment of new grocery stores and support neighborhood and Farmer's markets to provide healthy food choices within a mile of all residential areas.

The proposed RaceTrac floor plan shows that the convenience store will include an indoor deli and outdoor café eating area. Unlike the adjacent gas stations that only provide prepackaged convenience food and drinks, the proposed RaceTrac will include healthier meal options such as sandwiches, fruits, vegetables, baked goods, and meals freshly prepared on site in addition to traditional convenience store products 24 hours a day. Within proximity to Atlantic Community High School, residential neighborhoods, and commercial businesses, the RaceTrac will increase the availability of healthy food options in the area, which is deficient as identified in the Food Market map in the comprehensive plan (Map DIA-2).

**Neighborhoods, Districts, and Corridors (NDC) Element**

- **NDC Policy 2.3.7** – Implement the vision in the “Congress Avenue Delray Beach’s Next Great Street” report by protecting commercial and industrial land uses to maintain and enhance the jobs base; ensuring diverse housing options for varying income levels; attracting higher education institutes; encouraging sustainable redevelopment; and, establishing a balance of uses along the corridor.
- **NDC Policy 2.7.21** – Evaluate the Congress Avenue corridor study and consider implementing the strategies and recommendations of the Delray Beach’s Next Great Street report.

The site is part of an established shopping center that was developed in 1984, and is near to two other gas stations with convenience stores at the intersection of West Atlantic Avenue and South Congress Avenue. The NDC Policy 2.3.7 recommends implementation of the vision in the “Congress Avenue: Delray Beach’s Next Great Street” plan (Congress Avenue Plan). Even though the Congress Avenue Plan was not adopted by the City Commission it is used as a reference to guide new development along the corridor. The Congress Avenue plan recommends Transit Oriented Development (TOD) within ½ mile of the Tri-Rail Transit Stop (445 S. Congress Avenue). TOD projects are compact, moderate to high density and intensity, mixed use developments with bicycle and pedestrian friendly connections, with access to multi-modal transportation hubs (bus, train, etc.).

While the proposed gas station isn’t considered a TOD use and doesn’t further the intent of the Congress Avenue Plan, it is not incompatible with the existing buildings and uses at the intersection or other adjacent properties. The proposed gas station is near interstate I-95 and will likely encourage increased vehicular use traffic in the area by providing an additional option close to the Atlantic Avenue highway exit.

**Board Action Options:**

- A. Move a recommendation of approval to the City Commission of the Conditional Use request for a gasoline station with food sales (convenience mart), known as “RaceTrac,” located at 10 South Congress Avenue, by finding that the request is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.

- B. Move a recommendation of denial to the City Commission of the Conditional Use request for a gasoline station with food sales (convenience mart), known as "RaceTrac," located at 10 South Congress Avenue, by finding that the request is not consistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.
- C. Move to continue with direction.

#### Public and Courtesy Notices

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| <ul style="list-style-type: none"><li>✓ Courtesy Notices were provided to the following Homeowner's Associations:<ul style="list-style-type: none"><li>• High Point of Delray</li><li>• Woodlake</li></ul></li></ul> | <ul style="list-style-type: none"><li>✓ Public Notice was posted at the property on <b>February 12, 2021</b>.</li><li>✓ Public Notice was mailed to property owners within a 500-foot radius on <b>February 12, 2021</b>, at least ten days before the meeting date.</li><li>✓ Public Notice was posted to the City's website on <b>February 12, 2021</b>.</li><li>✓ Public Notice was posted in the main lobby at City Hall on <b>February 12, 2021</b>.</li><li>✓ Courtesy Notice was e-mailed on <b>February 12, 2021</b>.</li></ul> |
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