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April 5, 2021

Mr. Kent Walia
Senior Planner
City of Delray Beach
Development Services Department
100 NW First Avenue
Delray Beach, FL 33444

Re: RaceTrac Application for Conditional Use

Dear Kent:

I am writing regarding the Conditional Use application for a RaceTrac Gasoline Station ("RaceTrac") on the property located at 10 S. Congress Avenue, Delray Beach, Florida (the "Property"). Specifically, I am writing to respond to the arguments presented by Congress Square Ltd. ("Congress Square") in opposition to the application. Congress Square is the owner of the shopping center adjacent to the Property.

First, I would like to provide some basic background on the application. The approval of the conditional use for RaceTrac would allow for the construction of a gasoline station with a convenience store on a 1.6-acre parcel at the corner of Atlantic Avenue and Congress Avenue. This stretch of Atlantic Avenue to I-95 carries more than 46,000 cars a day. RaceTrac will provide a safe and convenient option for the area, including COVID-friendly outdoor seating and self-checkout lanes, competitively priced fuel, fresh fruit and salads, and a well-lit and clean customer area. Compared to the other gasoline stations in the area, the proposed RaceTrac will accommodate a completely difference experience for customers and will allow for a proper and efficient delivery of necessary products and food services.

In opposition to the project, Congress Square, through its attorney, has argued that the RaceTrac application is inconsistent with the Delray Beach Comprehensive Plan (the "Comprehensive Plan"). This letter will address the portions of the Comprehensive Plan cited by Congress Square in turn.

Congress Square cited Policy HCE 3.2.1 (providing alternatives to motorized vehicles) and Objective HCE 3.3 (reducing risk of injury from vehicular accidents). This policy and objective do not mean that gas stations should not be permitted within the City. Also, as discussed above, compared to the existing gasoline stations, RaceTrac will provide a much fuller convenience store experience.

Congress Square cited Policy HCE3.4.1 (properly managing hazardous materials and waste) and Objective 3.8 (promoting safety through the design of the built environment) but did not provide any specific claim that RaceTrac would not meet these safety standards. In fact, RaceTrac has policies in place to ensure safety. There has been much progress as to environmental protection in gasoline stations. Attached is the Compliance and Spill Prevention Program of RaceTrac. The double-wall construction with alarms presents a completely different set of circumstances in comparison to the gasoline storage procedures in place previously. Likewise, Policy MBL 2.5.2 (Ensure safe vehicular, pedestrian, and bicycle operations) is cited by Congress Square. The design of RaceTrac took safety into consideration, and this policy is not an issue with the design.

Other objectives cited by Congress Square are objectives that if read literally, would not allow any gas stations to exist within the City limits. A better read would be to see that the RaceTrac design takes these considerations into mind and provides a safe option for a gasoline station that meets the needs of the public. These include Objective MBL 3.3 (transportation system management principles), Objective CSR 1.2 (Greenhouse gas emissions), Objective CSR 1.2 (transportation-related emissions), and Objective CSR 1.4 (vehicle-related emissions).

Congress Square cites other sections of the Comprehensive Plan that deal with environmental issues, specifically Objective CSR 2.3 (Water Quality) and Objective CSR 3.1 (Soil Resources). There is nothing specific to the RaceTrac application that would be inherently inconsistent with these objectives. Operated safely through the comprehensive policies established by RaceTrac, impact on water and/or soil can be prevented.

Finally, Congress Square cites two additional policies of the Comprehensive Plan with which it claims that the RaceTrac would present an inconsistency. Policy NDC 1.4.9 states the following: 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. The proposed RaceTrac is not inconsistent with Policy NDC 1.4.9.

Consistent with Policy NDC 1.4.9, RaceTrac would provide a modern convenience store with fueling pumps to serve customers driving along Congress Avenue. This is a different service than what is being provided by the existing gasoline stations in the area. Given the newly slated residential uses for the area, these residents also would benefit from the proposed use. In addition, the Property is a direct out-parcel at the corner of a major intersection with multiple frontages on major rights-of-way. This proposed use fits with the characteristics of the Property and would provide an option to contribute to the mix of uses.

The second additional policy cited by Congress Square is Policy NDC 2.5.4, which states the following: Direct auto-related uses that involve the servicing and repair of vehicles, other than as part of a full service dealership, to land with an Industrial or Commerce land use designation. Although the land use designation of this Property is GC- General Commercial, it is not an accurate description of the proposed use to call it a use that involves the servicing and repair of vehicles. The primary use is a gasoline station and convenience store. This is different than “auto-related uses focused on

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servicing and repair”. In the Land Development Regulations, gasoline stations are listed as a use, and there are separate, distinct uses for both vehicle care and automobile paint, body, and repair shops.

Land Use designations of Industrial and Commerce both fall under the “Industrial” category of land use designations. It would not be accurate to describe the Comprehensive Plan as discouraging gasoline station and convenience store uses from areas without industrial land use designations.

If I can provide any additional information, please contact my office.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner

Michael S. Weiner