



## Legislation Details (With Text)

**File #:** 18-810      **Version:** 1      **Name:**

**Type:** Ordinance      **Status:** Passed

**File created:** 11/16/2018      **In control:** City Commission

**On agenda:** 12/11/2018      **Final action:** 12/11/2018

**Title:** ORDINANCE NO. 30-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED MIXED RESIDENTIAL, OFFICE AND COMMERCIAL (MROC) DISTRICT TO SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT; AMENDING SECTION 4.4.25 (H) OF THE LAND DEVELOPMENT REGULATIONS TO ADD THE 1690-2350 SOUTH CONGRESS AVENUE SAD; SAID LAND LYING GENERALLY ON THE WEST SIDE OF CONGRESS AVENUE BETWEEN OLD GERMAN TOWN ROAD AND THE DELRAY OAKS NATURAL AREA TO THE SOUTH; AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING/SECOND PUBLIC HEARING)

ALONG WITH A WAIVER FROM LAND DEVELOPMENT REGULATION 4.4.25(D) TO WAIVE THE REQUIREMENT THAT A SITE PLAN BE PROCESS CONCURRENTLY WITH THE SAD ORDINANCE. (QUASI-JUDICIAL - TO BE CONSIDERED PRIOR TO 2ND READING AND ADOPTION OF ORDINANCE NO. 30-18)

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Clean-10-24-2018-Ord 30-18, 3. 1690-2350 South Congress Avenue Site\_Final Staff Report for P&Z meeting 10.05.18., 4. 180616 - 1690-2350 South Congress Avenue 10-18-18, 5. Waiver Board Order City Commission

Date	Ver.	Action By	Action	Result
12/11/2018	1	City Commission	approved	

**TO:** Mayor and Commissioners  
**FROM:** Timothy Stillings, Development Services Director  
**THROUGH:** Mark R. Lauzier, City Manager  
**DATE:** December 11, 2018

ORDINANCE NO. 30-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED MIXED RESIDENTIAL, OFFICE AND COMMERCIAL (MROC) DISTRICT TO SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT; AMENDING SECTION 4.4.25 (H) OF THE LAND DEVELOPMENT REGULATIONS TO ADD THE 1690-2350 SOUTH CONGRESS AVENUE SAD; SAID LAND LYING GENERALLY ON THE WEST SIDE OF CONGRESS AVENUE BETWEEN OLD GERMAN TOWN ROAD AND THE DELRAY OAKS NATURAL AREA TO THE SOUTH; AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING/SECOND PUBLIC HEARING)

ALONG WITH A WAIVER FROM LAND DEVELOPMENT REGULATION 4.4.25(D) TO WAIVE THE REQUIREMENT THAT A SITE PLAN BE PROCESS CONCURRENTLY WITH THE SAD ORDINANCE. (QUASI-JUDICIAL - TO BE CONSIDERED PRIOR TO 2ND READING AND ADOPTION OF ORDINANCE NO. 30-18)

**Recommended Action:**

Move to approve Ordinance No. 30-18 for the privately-initiated rezoning from MROC (Mixed Residential Office and Commercial) to SAD (Special Activities District) with a Master Development Plan (MDP) for 1690-2350 South Congress Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Sections 3.1.1 (Required Findings), 3.2.2 (Standards for Rezoning Actions), 2.4.5(F)(6), and 2.4.5(D)(5)(Rezoning Findings), subject to the following conditions:

1. That the traffic issues identified by the Palm Beach County Traffic Engineering Division are addressed and a finding of concurrency be provided prior to consideration of the rezoning request by the City Commission.  
(Condition satisfied, Letter from Palm Beach Co Traffic attached; recommend revising condition to require conditions outlined in PBC Traffic letter)
2. That the sewer capacity issue be resolved prior to consideration of the rezoning request by the City Commission.  
(Status of the condition will be reported at the meeting)
3. That the proposed development standards be revised to require the tandem parking spaces be attended by a valet operator during the hours of operation of the commercial components only.  
(Condition satisfied)
4. That the Master Development Plan be revised to include an internal road (one-way or two-way) between the residential apartments and "The Annex" park or an expanded sidewalk that accommodates emergency services. At a minimum the sidewalk must be one-way, nine feet wide to accommodate emergency vehicle access and multi-modal pathway.  
(If approved and adopted by the City Commission, the MDP will be modified to reflect the referenced road.)

Move to approve the waiver to LDR Section 4.4.25(D), which requires a SAD rezoning be accompanied by a site development plan to be approved by the SPRAB (Site Plan Review and Appearance Board) prior to adoption of the rezoning, based on positive findings with LDR Section 2.4.7(B)(5), to allow the Master Development Plan (MDP) to be approved by the City Commission and subsequent site plans, consistent with the adopted MDP, to be approved by SPRAB. Please note that this action needs to occur prior to action on the second reading of the SAD rezoning ordinance.

**Background:**

The development proposal is for the approximately 48 acre property located at the southwest corner of South Congress Avenue and Germantown Road. The development proposes a rezoning from Mixed Residential Office Commercial (MROC) to a Special Activities District (SAD) zoning district with a Master Development Plan (MDP) that includes up to 1,009 total dwelling units; 70,000 square feet

of office; 250,000 square feet of retail; 80,000 square feet of restaurant; and a procedural waiver regarding future site plans (described below).

Currently, a portion of the proposed site (approximately 42 acres) consists of approximately 567,000 square feet of vacant office buildings which were vacated by Office Depot in 2006. In June of 2009, the 42-acre site was designated as a Regional Activities Center which is classified in the City's Future Land Use Element of the Comprehensive Plan as a Large Scale Mixed Use (LSMU) in an attempt to reactivate the property. The LSMU is defined as "The Congress Village Regional Activity Center" overlay. The Regional Activity Center was approved with a maximum development intensity of 600,000 square feet of office use, 400,000 square feet of commercial uses, 350 hotel units, and 2,000 residential units. The proposed development program of the SAD is considerably less intense. The existing MROC district restricts retail and hotels to not more than 20 percent of the total building square footage of a development and also limits the amount of residential in relation to the commercial uses. The use limitations do not support the proposed development and the SAD will allow for a development proposal to achieve the development program as proposed.

The SAD proposal includes a waiver from the procedural requirements in LDR Section 4.4.25(D), which require a SAD rezoning be accompanied by a site plan which is approved by the SPRAB (Site Plan Review and Appearance Board) prior to adoption of the rezoning. The proposed waiver request is to allow the site plans for the development of the MDP to be processed separately and approved by the SPRAB based upon the development standards specifically drafted for the MDP and adopted as a part of the SAD rezoning.

The proposed development standards are unique to the subject property and prescribe process requirements as well as development standards including, but not limited to, perimeter buffers, workforce housing requirements, building height, parking, architectural style requirements, and the Performance Standards from the RM (Multiple Family Residential) zoning district. The development standards are largely based on the MROC zoning district development regulations.

With respect to workforce housing, the proposed development standards indicate that 10% workforce housing units are required for the residential portion of the development. The existing MROC zoning district requires that 20% of the housing units be provided as workforce; the workforce housing units are required without any bonus units or other incentives.

The Planning and Zoning Board (PZB) considered the request at its meeting of October 15, 2018 and recommended approval by a 6 to 0 vote (Jones absent). The PZB recommended approval subject to the four conditions mentioned above. Condition #1 addressed the submission of a finding of traffic concurrency from the Palm Beach County (PBC) Traffic Engineering Division. Following the PZB meeting a finding of concurrency has been received from the Traffic Division. The conditions of the PBC letter need to be added as conditions of the proposed rezoning.

Condition #2 addresses the adequacy of the sewer network relative to the demands of the development proposal. The applicant has been coordinating with the City of Delray Beach Utilities Department; however, the conclusion regarding the adequacy has not yet been determined. Due to the potential impacts on the intensity of the development, the determination of adequacy and any associated infrastructure improvements should be completed prior to consideration of the rezoning by the City Commission. An alternative approach is to require the determination to be made prior to application for the first site plan and that all subsequent site plans must ensure adequate sewer infrastructure will be provided prior to issuance of requisite building permits.

For consideration of the waiver, the findings required in LDR Section 2.4.7(B)(5) ensure that:

- (1) The waiver will not adversely affect the neighboring area; the procedural change does not reduce the development review or the public's opportunity for input. In addition, the development standards being adopted as a part of the SAD address compatibility, perimeter buffers, and potential impacts to the area.
- (2) The waiver will have no impact on the provision of public facilities or create an unsafe situation. The development must address the provision of all public facilities.
- (3) The waiver does not grant a special privilege. The SAD is appropriate for the LSMU designation and the process will ensure the development is reviewed and approved consistent with the MDP. The procedural change is not a special privilege as all master plans approved would be processed similarly.

Based on the above, positive findings with LDR Section 2.4.7(B)(5) are made.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

The potential ad valorem taxes associated with the proposed project have not been quantified; however, the increase in residences in this area and an increase in activity will increase business support in and around the project site.

**Timing of Request:**

The applicant has requested that the request be considered before the end of the calendar year.