



## Legislation Details (With Text)

**File #:** 21-007      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Passed  
**File created:** 12/17/2020      **In control:** City Commission  
**On agenda:** 1/5/2021      **Final action:** 1/5/2021  
**Title:** ORDINANCE NO. 61-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT TO SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT BY AMENDING ORDINANCE NO. 30-18 TO UPDATE THE ADOPTED DEVELOPMENT STANDARDS, AND AMENDING SECTION 4.4.25 (H)(14) OF THE LAND DEVELOPMENT REGULATIONS TO UPDATE THE 1690-2350 SOUTH CONGRESS AVENUE SAD TO IDENTIFY THE SUBJECT ORDINANCE; SAID LAND LYING GENERALLY BETWEEN OLD GERMANTOWN ROAD ON THE WEST SIDE OF CONGRESS AVENUE AND THE PRESERVE 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).

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Ordinance No. 61-20 Parks at Delray, 3. Proposed Changes to Development Standards, 4. Ordinance No. 61-20: Exhibit E, Proposed Phasing Plan, 5. Parks at Delray PZB Staff Report, 6. Parks of Delray Applicant Justification Statement.pdf, 7. Ordinance No. 30-18, 8. Ordinance No. 30-18: Master Plan, 9. Ordinance No. 30-18: Phasing Plan

Date	Ver.	Action By	Action	Result
1/5/2021	1	City Commission	approved	Pass

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** January 5, 2021

ORDINANCE NO. 61-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT TO SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT BY AMENDING ORDINANCE NO. 30-18 TO UPDATE THE ADOPTED DEVELOPMENT STANDARDS, AND AMENDING SECTION 4.4.25 (H)(14) OF THE LAND DEVELOPMENT REGULATIONS TO UPDATE THE 1690-2350 SOUTH CONGRESS AVENUE SAD TO IDENTIFY THE SUBJECT ORDINANCE; SAID LAND LYING GENERALLY BETWEEN OLD GERMANTOWN ROAD ON THE WEST SIDE OF CONGRESS AVENUE AND THE PRESERVE 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).

### Recommended Action:

Motion to Review and Consider Ordinance No. 61-20, rezoning land presently zoned SAD to SAD by

amending Ordinance No. 30-18 to update the adopted Development Standards for the 1690-2350 South Congress Avenue SAD and identify the subject ordinance.

**Background:**

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 new uses to those approved or allowed to be developed on the site.**

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. It is important to note, 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). As the detailed Site Plan has been developed, the resolution of conflicts with and clarifications to the adopted SAD development standards are needed.

The applicant desires to amend the adopted development standards 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 must be 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 to the Site Plan Review and Appearance Board (SPRAB) meeting on November 18, 2020, and received approval 6 to 0.

Since amendments to adopted SAD development standards are considered a "rezoning", pursuant to LDR Section 3.1.1 certain findings related to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations are required - as well as meeting the standards in LDR Section 3.2.2. In this case, the density and intensity of the zoning is not changing from the SAD adopted by Ord. No. 30-18. The request to amend the Development Standards, Allowed Uses, Master Development Plan, and Sequencing Plan of the SAD ordinance does not impact the proposal's compliance with the rezoning criteria. A full analysis is provided in the attached Planning and Zoning Board Staff Report.

The City adopted the Always Delray Comprehensive Plan after the initial SAD rezoning. The current proposal is evaluated for consistency with the "new" comprehensive plan Goals, Objectives, and Policies. A full analysis is provided in the attached Planning and Zoning Board Staff Report.

#### **Exhibit "B", Development Standards.**

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

**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, which is also removed from the MDP.

**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. This change aligns the ordinance with city standards.

**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 points of access to the surrounding streets are not changed. The proposed MDP removes the internal roundabout from the design. The clubhouse and park locations are interchanged.

**Exhibit "E", Phasing Plan**

The amended 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.

On November 16, 2020, the Planning and Zoning Board reviewed the proposed rezoning and Ordinance No. 61-20 and recommended approval 6 to 0, with comments related to (1) the amount and income levels for workforce housing, and (2) concern about the effectiveness of traffic calming with the removal of the roundabout.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A