




REQUEST: Site Plan Level IV Review: Rezoning from Residential Multifamily Mid Rise/ Medium High Density (RMM-25) District to Parking Lot (XP) District with Allocation of 0.25 Acres of Commercial Flexibility Acreage to Construct a Surface Parking Lot

Case Number	PLN-REZ-20010001
Property Owner/Applicant	800 Las Olas, LLC., and Mustang Properties, Inc.
Agent	Robert Lochrie, Lochrie & Chakas P.A.
General Location	1016 SE 2 nd Court
Property Size	10,982 square feet / 0.25 acres
Existing Use	Vacant
Zoning	Residential Multi-family Mid-Rise / Medium High-Density (RMM-25)
Proposed Zoning	Parking Lot (XP)
Future Land Use Designation	Medium-High Residential
Applicable Unified Land Development Regulations (ULDR) Sections	47-9.2.A, X-Exclusive Use Districts 47-24.4, Rezoning 47-25.2, Adequacy Requirements 47-25.3, Neighborhood Compatibility Requirements 47-28.1.G, Flexibility Rules
Proposed (XP)	
Density	N/A
Lot Size	10,982 / 0.25 acres*
Lot Width	100 feet
Open Space	4,205 square feet
Landscape Area	2,859 square feet
Parking	18 parking spaces
Notification Requirements	ULDR Section 47-27.2, Sign Notice 15 days prior to meeting ULDR Section 47-27.4, Public Participation ULDR Section 47-27.5, Mail Notice
Action Required	Recommend approval, recommend approval to more restrictive zoning, or deny
Project Planner	Karlanne Grant, Urban Planner III 

PROJECT DESCRIPTION:

The applicant, 800 Las Olas, LLC., and Mustang Properties, Inc., is proposing to rezone the property located at 1016 SE 2nd Court from Residential Multifamily Mid-Rise / Medium-High Density District (RMM-25) to Parking Lot District (XP) to construct a surface parking lot. The property has an underlying land use of Medium-High Residential, which requires allocation of 0.25 acres of Commercial flexibility acreage. The Location Map, Zoning District Map, Future Land Use Map, and Sketch and Legal are included as **Exhibit 1**. The Application, Applicant's Narrative responses to the applicable Unified Land Development Regulations (ULDR) code criteria, and Site Plan are provided as **Exhibit 2**.

PRIOR REVIEWS:

The application was reviewed by Development Review Committee (DRC) on February 25, 2020. The DRC Report and complete application is available on file with the Department of Sustainable Development (DSD).

REVIEW CRITERIA:

The following criteria apply to the proposed request:

- ULDR Section 47-9.2.A, X-Exclusive Use Districts
- ULDR Section 47-24.4, Rezoning
- ULDR Section 47-25.2, Adequacy Requirements
- ULDR Section 47-25.3, Neighborhood Compatibility Requirements
- ULDR Section 47-28.1.G Flexibility Rules

REZONING CRITERIA

Pursuant to ULDR Section 47-9.2.A., Conditions for Rezoning to X -Exclusive Use District, the following criteria are used to evaluate rezoning applications:

1. The property is not zoned RS-4.4, RS-8 or RC-15 except as follows:
 - a. Property which is zoned RS-4.4, RS-8 or RC-15 which was legally permitted to be used as a parking lot prior to the effective date (June 28, 1997) of the ULDR and served a nonresidential use or a use which had been permitted in R-1, R-2, R-3 and R-4 districts prior to the effective date (June 28, 1997) of the ULDR but is no longer permitted in RS-4.4, RS-8 or RC-15 may apply to be rezoned to exclusive use parking lot. All conditions for rezoning to exclusive use parking lots as provided herein must be met except as follows:
 - i. Parking lots which served a use which was permitted to be located in an R-1, R-2 or R-3-B zoning district on October 1, 1996 which is no longer a permitted use in RS-4.4, RS-8 and RC-15 will not be required to meet the conditions provided in subsections A.5, 6 and 7.
 - b. Property which is zoned RS-8 or RC-15 and abuts a right-of-way greater than 20 feet in width may apply for rezoning to Exclusive Use Parking Lot/Residential (X-P-R) or Exclusive Use Parking Garage/Residential (X-G-R), with required residential units, subject to the provisions of Section 47-9.21.F.

Not applicable. The property is currently zoned RMM-25.

2. The property is located in an area with available commercial flexibility acreage pursuant to the comprehensive plan and flex acreage is allocated pursuant to Section 47-28, Flexibility Rules, as part of the rezoning.

The property is located in an area with available commercial flexibility acreage. A more detail analysis of the Commercial flexibility acreage is located in the Comprehensive Plan Consistency section contained herein.

3. If the property is contiguous to property which has already been granted commercial flexibility in accordance with the comprehensive plan, the total acreage of the contiguous property previously approved for commercial flexibility and the total acreage of the property proposed for exclusive use shall not exceed ten acres.

The property is contiguous to another property that was granted commercial flexibility (the property 20' to the east of the Property was rezoned to Business with Optional Residential Units District (X-B-OR)). Although the Property and the property to the east are properties under separate ownership, they would be less than 10 acres if combined.

4. The property is designated for residential use on the Future Land Use Map.

The property has a future land use designation of Medium-High Residential.

5. The property proposed for exclusive use abuts or is separated by a right-of-way no greater than 20 feet in width from business property as defined in Section 47-35, Definitions, which has a front yard abutting a street.

The property is separated by a 10-foot alley right-of-way from business property which has a front yard abutting East Las Olas Boulevard.

6. The property proposed for exclusive use and business property must share at least 50 feet of the same property line or if separated by an alley, at least 50 feet of a property line of the exclusive use property is parallel to a property line of business property.

The property and the business property fronting East Las Olas Boulevard are separated by a ten foot alley, and 100% of the proposed XP parcel is parallel to the property line of the business property for a distance of 100'.

7. Property proposed to be zoned exclusive use shall extend no more than one hundred eighty (180) feet into a residentially zoned district, except property located on the north side of Sunrise Boulevard, between the Florida East Coast Railway and Powerline Road, may extend no more than 500 feet into a residentially zoned district, but in no case shall the exclusive use zoning in this area go north of the south right-of-way line of N.E. and N.W. 11th Street.

The property extends approximately 110 feet into a residentially zoned district.

8. An application which meets the requirements of this section is submitted by the owner of the property to be rezoned and is approved by the City Commission.

The application that accompanies this narrative is being submitted by the owner of the property.

9. If the property proposed for exclusive use is to be used for business use as provided in Section 47-9.10 in addition to the above, the property proposed for exclusive use and business property described in subsection A.5 must be submitted as a single site plan and the owner of the business property must join in the application for rezoning of the proposed exclusive use property.

The property is not proposed to be used as a business use as provided in Section 47-9.10.

10. Property located within the following described area may not be rezoned to exclusive use for a period ending June 30, 1998 unless sooner terminated by ordinance adopted by the city commission: The area bounded on the east by Federal Highway, the west by the Florida East Coast Railway, the north by Tarpon River and the south by State Road 84.

Not applicable.

In addition to the criteria provided for a rezoning to XP, the following criteria shall apply pursuant to ULDR Section 47-9.20.C

1. The proposed site and use meet the conditions and performance criteria provided in this section.

Acknowledged. Applicant has provided a point-by-point response to the conditions and performance criteria for properties in the X-P zoning district.

2. The height, bulk, shadow, mass and design of any structure located on the site is compatible with surrounding properties and is consistent with the goals and objectives for the location of the property as provided in the comprehensive plan.

The only structure on the property is the trash enclosure. The property currently has trash facilities in a similar location, and the proposed enclosure will mitigate adverse impacts to

the surrounding area. The design of the trash enclosure is compatible with surrounding properties.

3. If the application is for rezoning to exclusive use district/business, the City Commission may include conditions on the business property which are a part of the application in addition to the conditions on the property proposed to be rezoned to exclusive use. All such conditions shall relate to the preservation of the character and integrity of the neighboring property and mitigate adverse impacts which arise in connection with the approval of the rezoning. Conditions for approval may relate to any aspect of the site plan including the property proposed to be rezoned and the business property, including but not limited to height, bulk, shadow, mass and design of any structure and parking and landscaping requirements.

Acknowledged by applicant.

In addition, the applicant addressed the General Design and Performance Standards pursuant to Section 47-9.22, by stating that the project will comply with all noise limits for an X district with a maximum permitted sound level decibels (dBA) of 55 dBA between 7am to 10 pm and 45 dBA between 10pm and 7am and will enhance the pedestrian experience by providing a ten-foot sidewalk along SE 10th Terrace and an eight-foot sidewalks along SE 2nd Court. In addition, the applicant proposes to provide live oaks for the required street trees along SE 10th Terrace and SE 2nd Court.

Pursuant to the ULDR Section 47-24.4, Rezoning, the rezoning request is subject to the following criteria:

1. The zoning district proposed is consistent with the City's Comprehensive Plan.

The Property is currently zoned RMM-25 and has an underlying future land use designation of Medium-High Residential. A more detailed analysis of the consistency with the City's Comprehensive Plan is located in the Comprehensive Consistency section contained herein.

2. The changes anticipated by the proposed rezoning will not adversely impact the character of development in or near the area under consideration.

The anticipated changes of the proposed XP zoning district will be minor because the anticipated changes is compatible with the development in and around the area. The properties to the west and east of the property has existing X-Exclusive Use zoning districts. The properties to the north of the properties are zoned RMM-25 and Boulevard Business (B-1) to the south. The proposed XP zoning district to construct a surface parking lot will not adversely impact the character of development in or near the area under consideration because the change will support the character of development which are businesses fronting East Last Olas Boulevard by providing parking for patrons.

3. The character of the area proposed is suitable for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses.

The proposed XP zoning only permits a parking lot use. The character of the area is suitable for the proposed surface parking lot because parking lots are a common use for the properties south of SE 2nd Court.

ADEQUACY AND NEIGHBORHOOD COMPATIBILITY

The adequacy criteria of ULDR Section 47-25.2 are used to evaluate the demand created on public services and facilities by a proposed development. The applicant has stated that the proposed surface parking lot is not expected to generate any additional need for sanitary and sewer facilities as well as potable water. Stormwater will be retained on site in accordance with

the Broward County Department of Environmental Regulations criteria and is not expected to generate any additional need for wastewater facilities.

The neighborhood compatibility criteria of ULDR Section 47-25.3 include performance standards requiring all developments to be "compatible with, and preserve the character and integrity of adjacent neighborhoods... the development shall include improvements or modifications either on-site or within the public rights-of-way to mitigate adverse impacts, such as traffic, noise, odors, shadow, scale, visual nuisances, or other similar adverse effects to adjacent neighborhoods. These improvements or modifications may include, but shall not be limited to, the placement or orientation of buildings and entryways, parking areas, bufferyards, alteration of building mass, and the addition of landscaping, walls, or both, to ameliorate such impacts".

The subject property is zoned RMM-25 and the applicant proposes to rezone the property to XP. The property is surrounded by the following zoning districts:

- North - RMM-25
- South - Boulevard Business District (B-1)
- East - RMM-25 and X-B-OR
- West – XP and RMM-25

The proposed rezoning to XP District with the proposed surface parking lot is in conformance with the pattern of the development in and around the area. The application does not present adverse impacts such as traffic, noise odors, shadow, scale, visual nuisances, or other similar adverse effects to adjacent neighborhoods. To address smoke, odor, emissions of particulate matter and noise, the applicant will apply for and obtain such permits from the Broward County Environmental Protection and Growth Management Department (EPGMD) (formally Department of Natural Resource Protection (DNRP)) to the extent if any permit is needed. The property zoned RMM-25 to the east is part of the X-B-OR project to the east and consequently is not considered a residential property, therefore mitigation for lighting and bufferyard from residential property is not needed. Nevertheless, dumpster on the property is proposed to be adequately screened and the proposed landscaping will enhance the pedestrian realm and control visual impact.

PARKING AND TRANSPORTATION:

Vehicular ingress and egress for the proposed surface parking lot is located along SE 10th Court. The existing ten-foot alley provides the ingress to the site. The applicant is proposing to provide 18 parking spaces on-site. The applicant does not propose a use that will generate additional trips. To enhance the pedestrian experience, new sidewalks ranging from eight to ten feet are proposed to be installed and lined with shade trees along SE 10th Terrace and SE 2nd Court.

COMPREHENSIVE PLAN CONSISTENCY:

The City's Future Land Use Map indicates that the proposed project has a land use designation of Medium – High Residential. The proposed request to rezone from RMM-25 to XP and the request for Commercial flexibility acreage allocation is permitted in the Medium-High Residential land use category if approved through the Site Plan Level IV/Rezoning application, and associated allocation of Commercial flexibility acreage, subject to consistency with the City's Comprehensive Plan, Goal 1, Objective 1.36, Use of Flexibility and Irregular Density Provision and ULDR, Section 47-28, Flexibility Rules as well as Broward County Land Use Plan (commonly known as BrowardNext), Administrative Rules Document, Flex Rules and Regulations. The proposed project will allocate 0.25 acres of Commercial flexibility acreage. Should the project be approved, 517.59 of Commercial flexibility acreage remains. The City is required to monitor and track the allocation of flexibility acreage. The table below provides a summary of allocation for Commercial flexibility acreage and remaining balance of Commercial flexibility acreage if the project is approved.

Table 1: Summary of Commercial Flexibility Acreage

	Commercial Flexibility Acreage
Total Permitted	519.60
Assigned to Date	.66

Pending	1.35
Remaining	517.59

The applicant has stated that the proposed XP zoning designation is consistent with the City's Comprehensive Plan in that the proposed rezoning is permitted in the Medium-High Residential land use category, subject to the allocation of Commercial flexibility acreage pursuant to the Comprehensive Plan and ULDR Section 47-28, Flexibility Rules. The Medium-High Residential future land use category permits office and/or retail uses if flexibility acreage is allocated to the property. Additionally, the ULDR permits properties with an underlying residential future land use designation to be rezoned to XP if commercial acreage is allocated

The proposed use is consistent with the City's Comprehensive Plan Goals, Objectives and Policies, including the Future Land Use Element, Goal 1, Objective 1.19, Neighborhood Compatibility, which limits intensity of commercial development adjacent to residential neighborhoods through ULDR controls such as criteria for neighborhood compatibility and Future Land Use Element Goal 1, Objective 1.42, Protection of Residential Neighborhoods and Policy 1.20.1, which states that the City shall continue to maintain through the ULDR, buffering provisions which are necessary to protect residential areas from adjacent nonresidential uses.

PUBLIC PARTICIPATION:

The application is subject to the public participation requirements established in ULDR Section 47-27.4, which applies to projects within 300 feet of City-recognized civic associations. The applicant conducted a virtual public participation meeting on June 15, 2020, to provide an opportunity for comments from the public. The applicant's public participation meeting summary and affidavit are provided as **Exhibit 3**.

In addition, this request is subject to mail notice and sign notification requirements established in ULDR Section 47-27.4. The applicant has installed a total of three signs on the property and has submitted a sign affidavit indicating proper sign notification was provided. The affidavit and photographs of the posted signs, reflecting the meeting date of July 15, 2020, are provided as **Exhibit 4**.

PLANNING & ZONING BOARD REVIEW OPTIONS:

The Planning and Zoning Board shall consider the application and make a decision based on the following criteria:

- ULDR Section 47-24.2, Rezoning
- ULDR Section 47-25.2, Adequacy Requirements
- ULDR Section 47-25.3, Neighborhood Compatibility Requirements
- ULDR Section 47-28.1.G, Flexibility Rules

The applicant has submitted narratives outlining how the project complies with the applicable sections of the ULDR as described herein and attached as **Exhibit 2**, to assist the Board in determining if the proposal meets these criteria.

If the Planning and Zoning Board determines that the application meets the rezoning criteria as provided in this section, the Planning and Zoning Board shall recommend that the rezoning, including the associated site plan, be approved or recommend a rezoning to a more restrictive zoning district than that requested in the application if necessary to ensure compliance with the criteria for the rezoning and if consented to by the applicant.

If the Planning and Zoning Board determines that the application does not meet the criteria provided for rezoning or if the applicant does not consent to a more restrictive zoning district, the Planning and Zoning Board shall deny the application and an appeal to the City Commission may be filed by the applicant in accordance with Section 47-26B, Appeals.

CONDITIONS OF APPROVAL:

Should the Planning and Zoning Board approve the request, the following conditions are proposed:

1. Prior to issuance of final Certificate of Occupancy, applicant shall record a 5-ft permanent Right-of-Way Easement along the south side of SE 2nd Court;
2. Prior to issuance of final Certificate of Occupancy, applicant shall record a permanent Sidewalk Easement as appropriate along the south side of SE 2nd Court to accommodate the additional portion of pedestrian path beyond the requested 5-ft Right-o-Way easement as shown on sheet X-2; and,
3. Applicant shall investigate and provide shade trees between the sidewalk and the parallel parking stalls along SE 10th Terrace to help in mitigation of the heat island effect from the pavement areas prior to Final DRC.

EXHIBITS:

1. Location Map, Zoning District Map, Future Land Use Map, Sketch and Legal
2. Application, Applicant's Narratives, and Site Plan
3. Public Participation Meeting Summary and Affidavit
4. Public Sign Notice and Affidavit