

**Justification Statement
Delray Corporate Centre
Future Land Use Map Amendment and Rezoning Applications
City of Delray Beach, Florida
Original Submittal: August 5, 2025
Resubmitted: October 14, 2025**

Introduction

On behalf of the applicant and property owner, DELRAY CORPORATE CENTER, LLC. ("Applicant"), Miskel Backman, LLP ("Agent") respectfully requests your approval of these Future Land Use Amendment and Rezoning applications for an assemblage of three (3) properties located in the City of Delray Beach, Florida. The 7.596-acre subject property is composed of three (3) parcels (PCNs: 12-43-46-30-20-001-0000, 12-43-46-30-21-001-0000 & 12-43-46-30-28-000-0010) located on the east side of S Congress Avenue at its intersection with SW 29th Street ("Property"). These applications are being submitted to address existing uses on the Property that are deemed "nonconforming" under the current City's Land Development Regulations (the "Code") as well as proposed uses that are no longer permitted under the current zoning district. The five (5) existing buildings on the Property were designed and constructed to accommodate light industrial type uses consistent with the future land use and zoning in place when they were approved and occupied. These hindrances are a direct result of the City-initiated Land Use and Rezoning changes approved for the Property back in 2007. It should be noted that there is no proposed development as part of this application therefore, several items on the application checklists are not applicable.

Requests

The Applicant is requesting the following:

- A small-scale Land Use Map Amendment from the Congress Avenue Mixed Use (CMU) to the Commerce (CMR) for the Property; and
- A Rezoning from the Mixed Industrial and Commercial (MROC) to the Mixed Industrial and Commercial (MIC) for the Property.

Currently, the subject property supports a Future Land Use designation of Congress Avenue Mixed Use (CMU) and is within the Mixed Residential, Office and Commercial (MROC) zoning district. The current uses on the Property are a variety of commercial, office and light industrial uses. The Applicant is not proposing any land development building construction changes with these applications however, approval of these applications allows for better marketing of this project and how it was intended to be utilized when the buildings were constructed back in the 1980's.

Below is a summary of surrounding properties:

Adjacent Lands	Uses	FLU	Zoning
Subject Property	A variety of commercial, office and light industrial uses (Major tenants include: Call 4 Health; CJ Design and Build; NJB Construction; Polair; & Signarama)	CMU	MROC
North	Vacant	CMU	MROC
South	Light Industrial/Office & Self-Storage (Kaufman Lynn Construction & CubeSmart)	CMU	MROC
East	Transportation ROW & Open Space (Seaboard Coastline Railroad, I-95 & Tropic Palms ROW buffer)	OS	OS
West	Conservation & Multi-family Residential (Delray Oaks Natural Area & Delray Oaks)	CON & MD	OS & RM

Background

On February 6, 2007, the Delray Beach City Commission (“City Commission”) approved Ordinance No. 38-06 that amended the Property’s future land use from Commerce (CMR) to the newly created Congress Avenue Mixed Use (CMU). Subsequently following that adoption, the City Commission approved Ordinance No. 05-07 on February 20, 2007, which amended the Property’s zoning district from Mixed Industrial and Commercial (MIC) to Mixed Residential Office and Commercial (MROC). As previously stated, the Applicant is requesting to amend the Property’s future land use and zoning to revert back to the superseding future land use and zoning in order to bring existing uses back into compliance with the City’s Code. Therefore, these two (2) requests are directly related to the previously approved, City-initiated Future Land Use Amendment and a Rezoning that resulted in the creation of existing non-conforming uses and uses that are no longer permitted under the current zoning and cannot utilize the existing buildings, which were originally constructed for these types of uses.

Since the adoption of Ordinances 38-06 and 05-07, the industrial flex space type developments along the S Congress Avenue corridor, including the Property, have experienced many challenges retaining tenants, as well as attracting new tenants. Specifically, the Property has vacancy within the buildings located on the Property and lost potential tenants due to businesses with uses that were previously permitted in the MIC but are no longer allowed under the MROC zoning district. Some of the existing uses are nonconforming under the MROC, but have remained, as there was no sunset requirements under the aforementioned Ordinances.

When comparing the Property's previous MIC zoning to the current MROC zoning, the most glaring difference is the elimination of the Industrial type uses that include manufacturing, fabrication, and wholesale of items and other uses as described in Sec. 4.4.20 (B) (1), (2) and (3) of the Code. All these uses were permitted by-right under the MIC zoning. Some of these specific uses include:

- Household furnishings and goods (Home décor, curtains, tile, bath, and kitchen suppliers where some manufacturing and fabrication is completed on-site);
- Moving and related storage (Moving companies with on-site storage of vans and trucks as well as customers goods);
- Assembly of mechanical and/or component parts (Electronic repair of radios, televisions, cameras, etc.);
- Machine shops (HVAC duct repair and assembly and other businesses that use milling machines, grinders, and drill presses);
- Millwork (Woodworking, cabinets, and furniture); and
- Welding shops

The five (5) buildings located on the Property were designed and constructed with these industrial type uses in mind, which were permitted in the MIC. The various bays have customer service areas, showrooms, and/or office space in the front and large workspace, warehouse areas with high volume ceilings with accessible bay doors in the rear. The elimination of these industrial type uses when the Property was rezoned from MIC to MROC in 2007 has hindered the Applicant's ability to attract new tenants to utilize the buildings for which they were intended.

In May of 2023, CBRE analyzed the four-mile Congress Avenue corridor located west of I-95 from the northern city border with Boynton Beach to the southern border with Boca Raton and prepared a study referred to as the Streetsense - Delray Beach Congress Avenue Strategies (the "Study"). The Study comprised of a needs assessment and made several recommendations and strategies to the City. Below are some of the strategies and recommendations outlined in the Study that are relevant to these application requests:

Page 14 – Guiding Principles:

"Maintain the non-residential tax base by supporting existing home improvement/ light industrial clusters along the entire corridor and encourage commercial property improvement/ redevelopment through branding and marketing, incentives, and corrections to the regulatory framework."

Applicant Response: These application requests seek to maintain the existing home improvement/light industrial cluster on the Property to maintain and increase the non-residential tax base in the City.

Page 15 – Branding & Marketing:

“Enhance existing home improvement and light-industrial industry clusters by developing a brand identity and increasing marketing efforts to improve the customer base awareness of the clusters.”

Applicant Response: These application requests seek to maintain the existing home improvement/light industrial cluster on the Property in hopes of attracting new businesses to the City.

Page 15 – Regulatory Reform:

“Increase land use flexibility within the MROC zone to enable growth in the light-industrial cluster.”

Applicant Response: These application requests seek to increase land use flexibility by rezoning the Property back to MIC on the Property to enable growth in the light-industrial cluster.

Page 15 – Regulatory Reform:

“Streamline, simplify, and clarify allowable uses to reduce regulatory hurdles to market entry.”

Applicant Response: These application requests seek to streamline, simplify, and clarify allowable industrial type uses permitted on the Property to reduce regulatory hurdles to market entry by rezoning the Property back to MIC.

Page 23 - Recommendations:

“The MROC zone is home to existing light-industrial businesses that, due to the zoning, are no longer allowed by-right. Instead, they are considered nonconforming uses, which renders them incompatible with uses allowed by the zone and disallows property and businesses owners from improving their property for these uses through physical expansion. This substantially limits the existing light industrial clusters from thriving into the future when many uses may actually be residentially compatible. Uses like recreational establishments, theaters, light manufacturing, fabrication, and assembly, breweries and distilleries, on-site repair of electronics, and other similar uses are currently unacknowledged or prohibited by the zone. Broadening allowances around uses for which there is demand reduces risk of vacancy in existing and future development, especially considering the low demand for retail and office use.”

Applicant Response: These application requests seek to rezone the Property back to MIC to attract new light-industrial businesses that are no longer allowed by-right on the Property due to the current MROC zoning.

Future Land Use Map Amendment

The Applicant is requesting a small-scale Land Use Map Amendment from the Congress

Avenue Mixed Use (CMU) to Commerce (CMR) for the Property. Pursuant to the Code Sec. 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 which has the authority to approve or deny the development application.*

- (A) *Land Use Map. 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.*

Applicant Response: The proposed MIC zoning district is consistent with the proposed Commerce (CMR) future land use designation. The Commerce land use designation is categorized as an Industrial-type land use designation and is intended to accommodate a mix of industrial, service, and commercial uses according to the Neighborhoods, Districts, and Corridors element of the comprehensive plan. The Property was previously designated CMR consistent with other properties located along or adjacent to the S Congress Avenue corridor prior to 2007. The existing uses of the Property are commercial warehouse, business and professional office, and light industrial which are consistent with the proposed CMR designation and proposed MIC zoning district.

- (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.*

Applicant Response: There are no proposed development changes, changes in use, or increases in intensity requested as part of this application. Therefore, the proposed future land use map amendment meets concurrency requirements. As it relates to traffic concurrency requirements, the Applicant submitted a traffic analysis by Kimley-Horn to address the change in future land use from CMU to CMR. The zoning change from CMU to CMR would result in a net decrease of 31,302 daily trips, a decrease of 2,146 AM peak hour trips, and a decrease of 2,782 PM peak hour trips based on a comparison of the theoretical maximum intensities for the existing and proposed designations. It should be noted that CMU allows up to 40 dwelling units per acre and 2.5 floor area ration ("FAR"), whereas the CMR only allows a maximum of 0.6 FAR no residential density.

(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 (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*

Applicant Response: The proposed future land use amendment is generally consistent with the applicable Goals, Objectives and Policies of the Always Delray Comprehensive Plan as provided below:

Neighborhoods, Districts, And Corridors Element

Objective NDC 1.4 Industrial Land Use Designations

Apply the industrial land use designations of Industrial and Commerce to those areas where industrial type uses, such as fabrication and assembly of goods, warehousing, and vehicle repair, are the primary economic strategy for the district, to ensure that those industries, which are essential to the local economy, are appropriately accommodated in the city.

Policy NDC 1.4.7

Use the Commerce land use designation for property located along or adjacent to the Congress Avenue corridor, where it is appropriate to accommodate a mix of industrial, service, and commercial uses, and limited residential development opportunities.

Policy NDC 1.4.8

Recognize the importance of maintaining the Commerce land use designation for long term economic prosperity by discouraging amendments to the Future Land Use Map that diminish the quantity of property with Commerce land use designation.

Policy NDC 1.4.9

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.

Economic Prosperity Element

Policy ECP 6.3.4

Discourage the reduction of Commerce land use designations, which involve a mix of light industrial, commercial uses, and research and development, and Industrial land use designations, which are needed to grow Delray Beach's job base.

(D) Compliance with LDRs. Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.

Applicant's Response: The requested land use designation of CMR is compliant with the provisions and requirements of the Code. The proposed future land amendment to CMR is being processed pursuant to the Code Sec. 2.4.5(A). There are no development or site plan modifications being proposed as part of this application. The property is fully developed with five (5) existing buildings, and any future redevelopment of the site would be subject to Code under the proposed MIC zoning district being requested. All existing and proposed uses will comply with the Code and the MIC zoning district.

Official Zoning Map Amendment

The Applicant is requesting a rezoning from the Mixed Industrial and Commercial (MROC) to the Mixed Industrial and Commercial (MIC) for the Property. Pursuant to the Code Sec. 2.4.5(B)(3) – Changes in zoning designation and required information includes the following:

(a) Traffic analysis that addresses the development of property under reasonable intensity pursuant to the existing and proposed zoning

Applicant Response: A traffic analysis has been provided by Kimley-Horn for the proposed rezoning from MROC to MIC. Although the Property is completely built-out, the maximum intensity of the proposed CMR future land use designation results in a net reduction in potential traffic trips from the maximum intensity permitted under the CMU future land use designation.

Under the existing CMU future land use designation and MROC zoning, up to a 2.5 FAR is permitted for certain commercial uses, such as office, medical office, research and development, and limited retail uses and up to 40 residential units per acre are allowed. This results in a maximum of 827,313 square feet of medical office use (most intense) and 303 multifamily residential units are permitted for the 7.597-acre site under the existing CMU future land use and MROC zoning.

Under the proposed CMR future land use designation and MIC zoning, up to a 0.6 FAR is permitted for certain commercial uses, such as warehousing, industrial, and general office use. Other uses are allowed but are limited to a small portion of the primary uses. Residential would no longer be permitted. The general office use is the most intense use for purposes of traffic

generation. This results in a maximum of 198,555 square feet of general office use is permitted for the 7.597-acre site under the proposed future land use designation.

Therefore, there is a net reduction in trips with the change in zoning from MROC to MIC. The proposed change results in a net decrease of 31,302 daily trips, a decrease of 2,146 AM peak hour trips, and a decrease of 2,782 PM peak hour trips.

(b) A statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning are:

- 1. The zoning had previously been changed, or was originally established, in error;*

Applicant Response: The City amended the Property's zoning district from MIC to MROC, effectively rendering some of the industrial type uses of the Property nonconforming. The Applicant has experienced many challenges retaining tenants and attracting new tenants. While the existing industrial type uses are legal nonconformities, when those businesses leave, new tenants seeking to occupy the same bays with similar uses are facing challenges, as those uses are no longer permitted. All new proposed uses are regulated under the MROC zoning district. Therefore, the current MROC zoning is inappropriate for both the long-established industrial type businesses that occupy the Property today and for any new industrial type business that desires to locate to the Property.

- 2. There has been a change in circumstance which makes the current zoning inappropriate;*

Applicant Response: As stated above, the City initiated rezoning of the Property's zoning district from MIC to MROC, effectively rendering some of the industrial type uses of the Property nonconforming. The current MROC zoning is inappropriate for both the long-established industrial type businesses that occupy the Property today and for any new industrial type business that desires to locate to the Property.

- 3. The requested zoning is of similar intensity as allowed under the Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

Applicant Response: The proposed MIC zoning district is more appropriate for light industrial uses currently on the Property and for future industrial type businesses that can utilize the existing buildings already established for these types of uses. The Study recommended the preservation of the industrial clusters along the corridor and this

rezoning seeks to accomplish that by reestablishing the MIC zoning on the Property. The MIC zoning district is more appropriate for the Property based upon the existing light industrial buildings that already exist on the site.

Conclusion

The proposed amendments to the Property's future land use and zoning to revert back to the superseding future land use and zoning seek to bring existing uses back into compliance with the Code and allow for new industrial type uses to establish businesses on the property. These amendments are consistent with Goals, Objectives and Policies of the Always Delray Comprehensive Plan, Land Development Regulations, and the strategies and recommendations of the Streetsense - Delray Beach Congress Avenue Strategies Study. Therefore, the Applicant is requesting the City's approval of a small-scale Land Use Map Amendment from CMU to CMR and a rezoning from the MROC to MIC for the Property.

**Justification Statement
Delray Corporate Centre
Future Land Use Map Amendment and Rezoning Applications
City of Delray Beach, Florida
Original Submittal: August 5, 2025
Resubmitted: October 14, 2025**

Introduction

On behalf of the applicant and property owner, DELRAY CORPORATE CENTER, LLC. ("Applicant"), Miskel Backman, LLP ("Agent") respectfully requests your approval of these Future Land Use Amendment and Rezoning applications for an assemblage of three (3) properties located in the City of Delray Beach, Florida. The 7.596-acre subject property is composed of three (3) parcels (PCNs: 12-43-46-30-20-001-0000, 12-43-46-30-21-001-0000 & 12-43-46-30-28-000-0010) located on the east side of S Congress Avenue at its intersection with SW 29th Street ("Property"). These applications are being submitted to address existing uses on the Property that are deemed "nonconforming" under the current City's Land Development Regulations (the "Code") as well as proposed uses that are no longer permitted under the current zoning district. The five (5) existing buildings on the Property were designed and constructed to accommodate light industrial type uses consistent with the future land use and zoning in place when they were approved and occupied. These hindrances are a direct result of the City-initiated Land Use and Rezoning changes approved for the Property back in 2007. It should be noted that there is no proposed development as part of this application therefore, several items on the application checklists are not applicable.

Requests

The Applicant is requesting the following:

- A small-scale Land Use Map Amendment from the Congress Avenue Mixed Use (CMU) to the Commerce (CMR) for the Property; and
- A Rezoning from the Mixed Industrial and Commercial (MROC) to the Mixed Industrial and Commercial (MIC) for the Property.

Currently, the subject property supports a Future Land Use designation of Congress Avenue Mixed Use (CMU) and is within the Mixed Residential, Office and Commercial (MROC) zoning district. The current uses on the Property are a variety of commercial, office and light industrial uses. The Applicant is not proposing any land development building construction changes with these applications however, approval of these applications allows for better marketing of this project and how it was intended to be utilized when the buildings were constructed back in the 1980's.

Below is a summary of surrounding properties:

Adjacent Lands	Uses	FLU	Zoning
Subject Property	A variety of commercial, office and light industrial uses (Major tenants include: Call 4 Health; CJ Design and Build; NJB Construction; Polair; & Signarama)	CMU	MROC
North	Vacant	CMU	MROC
South	Light Industrial/Office & Self-Storage (Kaufman Lynn Construction & CubeSmart)	CMU	MROC
East	Transportation ROW & Open Space (Seaboard Coastline Railroad, I-95 & Tropic Palms ROW buffer)	OS	OS
West	Conservation & Multi-family Residential (Delray Oaks Natural Area & Delray Oaks)	CON & MD	OS & RM

Background

On February 6, 2007, the Delray Beach City Commission (“City Commission”) approved Ordinance No. 38-06 that amended the Property’s future land use from Commerce (CMR) to the newly created Congress Avenue Mixed Use (CMU). Subsequently following that adoption, the City Commission approved Ordinance No. 05-07 on February 20, 2007, which amended the Property’s zoning district from Mixed Industrial and Commercial (MIC) to Mixed Residential Office and Commercial (MROC). As previously stated, the Applicant is requesting to amend the Property’s future land use and zoning to revert back to the superseding future land use and zoning in order to bring existing uses back into compliance with the City’s Code. Therefore, these two (2) requests are directly related to the previously approved, City-initiated Future Land Use Amendment and a Rezoning that resulted in the creation of existing non-conforming uses and uses that are no longer permitted under the current zoning and cannot utilize the existing buildings, which were originally constructed for these types of uses.

Since the adoption of Ordinances 38-06 and 05-07, the industrial flex space type developments along the S Congress Avenue corridor, including the Property, have experienced many challenges retaining tenants, as well as attracting new tenants. Specifically, the Property has vacancy within the buildings located on the Property and lost potential tenants due to businesses with uses that were previously permitted in the MIC but are no longer allowed under the MROC zoning district. Some of the existing uses are nonconforming under the MROC, but have remained, as there was no sunset requirements under the aforementioned Ordinances.

When comparing the Property's previous MIC zoning to the current MROC zoning, the most glaring difference is the elimination of the Industrial type uses that include manufacturing, fabrication, and wholesale of items and other uses as described in Sec. 4.4.20 (B) (1), (2) and (3) of the Code. All these uses were permitted by-right under the MIC zoning. Some of these specific uses include:

- Household furnishings and goods (Home décor, curtains, tile, bath, and kitchen suppliers where some manufacturing and fabrication is completed on-site);
- Moving and related storage (Moving companies with on-site storage of vans and trucks as well as customers goods);
- Assembly of mechanical and/or component parts (Electronic repair of radios, televisions, cameras, etc.);
- Machine shops (HVAC duct repair and assembly and other businesses that use milling machines, grinders, and drill presses);
- Millwork (Woodworking, cabinets, and furniture); and
- Welding shops

The five (5) buildings located on the Property were designed and constructed with these industrial type uses in mind, which were permitted in the MIC. The various bays have customer service areas, showrooms, and/or office space in the front and large workspace, warehouse areas with high volume ceilings with accessible bay doors in the rear. The elimination of these industrial type uses when the Property was rezoned from MIC to MROC in 2007 has hindered the Applicant's ability to attract new tenants to utilize the buildings for which they were intended.

In May of 2023, CBRE analyzed the four-mile Congress Avenue corridor located west of I-95 from the northern city border with Boynton Beach to the southern border with Boca Raton and prepared a study referred to as the Streetsense - Delray Beach Congress Avenue Strategies (the "Study"). The Study comprised of a needs assessment and made several recommendations and strategies to the City. Below are some of the strategies and recommendations outlined in the Study that are relevant to these application requests:

Page 14 – Guiding Principles:

"Maintain the non-residential tax base by supporting existing home improvement/ light industrial clusters along the entire corridor and encourage commercial property improvement/ redevelopment through branding and marketing, incentives, and corrections to the regulatory framework."

Applicant Response: These application requests seek to maintain the existing home improvement/light industrial cluster on the Property to maintain and increase the non-residential tax base in the City.

Page 15 – Branding & Marketing:

“Enhance existing home improvement and light-industrial industry clusters by developing a brand identity and increasing marketing efforts to improve the customer base awareness of the clusters.”

Applicant Response: These application requests seek to maintain the existing home improvement/light industrial cluster on the Property in hopes of attracting new businesses to the City.

Page 15 – Regulatory Reform:

“Increase land use flexibility within the MROC zone to enable growth in the light-industrial cluster.”

Applicant Response: These application requests seek to increase land use flexibility by rezoning the Property back to MIC on the Property to enable growth in the light-industrial cluster.

Page 15 – Regulatory Reform:

“Streamline, simplify, and clarify allowable uses to reduce regulatory hurdles to market entry.”

Applicant Response: These application requests seek to streamline, simplify, and clarify allowable industrial type uses permitted on the Property to reduce regulatory hurdles to market entry by rezoning the Property back to MIC.

Page 23 - Recommendations:

“The MROC zone is home to existing light-industrial businesses that, due to the zoning, are no longer allowed by-right. Instead, they are considered nonconforming uses, which renders them incompatible with uses allowed by the zone and disallows property and businesses owners from improving their property for these uses through physical expansion. This substantially limits the existing light industrial clusters from thriving into the future when many uses may actually be residentially compatible. Uses like recreational establishments, theaters, light manufacturing, fabrication, and assembly, breweries and distilleries, on-site repair of electronics, and other similar uses are currently unacknowledged or prohibited by the zone. Broadening allowances around uses for which there is demand reduces risk of vacancy in existing and future development, especially considering the low demand for retail and office use.”

Applicant Response: These application requests seek to rezone the Property back to MIC to attract new light-industrial businesses that are no longer allowed by-right on the Property due to the current MROC zoning.

Future Land Use Map Amendment

The Applicant is requesting a small-scale Land Use Map Amendment from the Congress

Avenue Mixed Use (CMU) to Commerce (CMR) for the Property. Pursuant to the Code Sec. 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 which has the authority to approve or deny the development application.*

- (A) *Land Use Map. 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.*

Applicant Response: The proposed MIC zoning district is consistent with the proposed Commerce (CMR) future land use designation. The Commerce land use designation is categorized as an Industrial-type land use designation and is intended to accommodate a mix of industrial, service, and commercial uses according to the Neighborhoods, Districts, and Corridors element of the comprehensive plan. The Property was previously designated CMR consistent with other properties located along or adjacent to the S Congress Avenue corridor prior to 2007. The existing uses of the Property are commercial warehouse, business and professional office, and light industrial which are consistent with the proposed CMR designation and proposed MIC zoning district.

- (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.*

Applicant Response: There are no proposed development changes, changes in use, or increases in intensity requested as part of this application. Therefore, the proposed future land use map amendment meets concurrency requirements. As it relates to traffic concurrency requirements, the Applicant submitted a traffic analysis by Kimley-Horn to address the change in future land use from CMU to CMR. The zoning change from CMU to CMR would result in a net decrease of 31,302 daily trips, a decrease of 2,146 AM peak hour trips, and a decrease of 2,782 PM peak hour trips based on a comparison of the theoretical maximum intensities for the existing and proposed designations. It should be noted that CMU allows up to 40 dwelling units per acre and 2.5 floor area ration ("FAR"), whereas the CMR only allows a maximum of 0.6 FAR no residential density.

(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 (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

Applicant Response: The proposed future land use amendment is generally consistent with the applicable Goals, Objectives and Policies of the Always Delray Comprehensive Plan as provided below:

Neighborhoods, Districts, And Corridors Element

Objective NDC 1.4 Industrial Land Use Designations

Apply the industrial land use designations of Industrial and Commerce to those areas where industrial type uses, such as fabrication and assembly of goods, warehousing, and vehicle repair, are the primary economic strategy for the district, to ensure that those industries, which are essential to the local economy, are appropriately accommodated in the city.

Policy NDC 1.4.7

Use the Commerce land use designation for property located along or adjacent to the Congress Avenue corridor, where it is appropriate to accommodate a mix of industrial, service, and commercial uses, and limited residential development opportunities.

Policy NDC 1.4.8

Recognize the importance of maintaining the Commerce land use designation for long term economic prosperity by discouraging amendments to the Future Land Use Map that diminish the quantity of property with Commerce land use designation.

Policy NDC 1.4.9

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.

Economic Prosperity Element

Policy ECP 6.3.4

Discourage the reduction of Commerce land use designations, which involve a mix of light industrial, commercial uses, and research and development, and Industrial land use designations, which are needed to grow Delray Beach's job base.

(D) Compliance with LDRs. Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.

Applicant's Response: The requested land use designation of CMR is compliant with the provisions and requirements of the Code. The proposed future land amendment to CMR is being processed pursuant to the Code Sec. 2.4.5(A). There are no development or site plan modifications being proposed as part of this application. The property is fully developed with five (5) existing buildings, and any future redevelopment of the site would be subject to Code under the proposed MIC zoning district being requested. All existing and proposed uses will comply with the Code and the MIC zoning district.

Official Zoning Map Amendment

The Applicant is requesting a rezoning from the Mixed Industrial and Commercial (MROC) to the Mixed Industrial and Commercial (MIC) for the Property. Pursuant to the Code Sec. 2.4.5(B)(3) – Changes in zoning designation and required information includes the following:

(a) Traffic analysis that addresses the development of property under reasonable intensity pursuant to the existing and proposed zoning

Applicant Response: A traffic analysis has been provided by Kimley-Horn for the proposed rezoning from MROC to MIC. Although the Property is completely built-out, the maximum intensity of the proposed CMR future land use designation results in a net reduction in potential traffic trips from the maximum intensity permitted under the CMU future land use designation.

Under the existing CMU future land use designation and MROC zoning, up to a 2.5 FAR is permitted for certain commercial uses, such as office, medical office, research and development, and limited retail uses and up to 40 residential units per acre are allowed. This results in a maximum of 827,313 square feet of medical office use (most intense) and 303 multifamily residential units are permitted for the 7.597-acre site under the existing CMU future land use and MROC zoning.

Under the proposed CMR future land use designation and MIC zoning, up to a 0.6 FAR is permitted for certain commercial uses, such as warehousing, industrial, and general office use. Other uses are allowed but are limited to a small portion of the primary uses. Residential would no longer be permitted. The general office use is the most intense use for purposes of traffic

generation. This results in a maximum of 198,555 square feet of general office use is permitted for the 7.597-acre site under the proposed future land use designation.

Therefore, there is a net reduction in trips with the change in zoning from MROC to MIC. The proposed change results in a net decrease of 31,302 daily trips, a decrease of 2,146 AM peak hour trips, and a decrease of 2,782 PM peak hour trips.

(b) A statement of the reasons for which the change is being sought must accompany the application. Valid reasons for approving a change in zoning are:

- 1. The zoning had previously been changed, or was originally established, in error;*

Applicant Response: The City amended the Property's zoning district from MIC to MROC, effectively rendering some of the industrial type uses of the Property nonconforming. The Applicant has experienced many challenges retaining tenants and attracting new tenants. While the existing industrial type uses are legal nonconformities, when those businesses leave, new tenants seeking to occupy the same bays with similar uses are facing challenges, as those uses are no longer permitted. All new proposed uses are regulated under the MROC zoning district. Therefore, the current MROC zoning is inappropriate for both the long-established industrial type businesses that occupy the Property today and for any new industrial type business that desires to locate to the Property.

- 2. There has been a change in circumstance which makes the current zoning inappropriate;*

Applicant Response: As stated above, the City initiated rezoning of the Property's zoning district from MIC to MROC, effectively rendering some of the industrial type uses of the Property nonconforming. The current MROC zoning is inappropriate for both the long-established industrial type businesses that occupy the Property today and for any new industrial type business that desires to locate to the Property.

- 3. The requested zoning is of similar intensity as allowed under the Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

Applicant Response: The proposed MIC zoning district is more appropriate for light industrial uses currently on the Property and for future industrial type businesses that can utilize the existing buildings already established for these types of uses. The Study recommended the preservation of the industrial clusters along the corridor and this

rezoning seeks to accomplish that by reestablishing the MIC zoning on the Property. The MIC zoning district is more appropriate for the Property based upon the existing light industrial buildings that already exist on the site.

Conclusion

The proposed amendments to the Property's future land use and zoning to revert back to the superseding future land use and zoning seek to bring existing uses back into compliance with the Code and allow for new industrial type uses to establish businesses on the property. These amendments are consistent with Goals, Objectives and Policies of the Always Delray Comprehensive Plan, Land Development Regulations, and the strategies and recommendations of the Streetsense - Delray Beach Congress Avenue Strategies Study. Therefore, the Applicant is requesting the City's approval of a small-scale Land Use Map Amendment from CMU to CMR and a rezoning from the MROC to MIC for the Property.