

ORDINANCE NO. 32-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING APPROXIMATELY 6.74 ACRES LOCATED AT 1155 SOUTH CONGRESS AVENUE FROM MIXED RESIDENTIAL OFFICE AND COMMERCIAL (MROC) TO SPECIAL ACTIVITIES DISTRICT (SAD), SAID LAND GENERALLY LOCATED ON THE EAST SIDE OF SOUTH CONGRESS AVENUE, APPROXIMATELY 970 FEET NORTH OF LINTON BOULEVARD, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.25, "SPECIAL ACTIVITIES DISTRICT (SAD)," SUBSECTION 4.4.25(H), "S.A.D.S," TO ADD THE "ALEXAN DELRAY" SPECIAL ACTIVITIES DISTRICT; AMENDING THE "CITY OF DELRAY BEACH, ZONING MAP, JULY 6, 2021"; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Eckols '77 Ltd., Eckols '78 Ltd., & Admiral '80, Ltd. ("Owner") is the owner of 1155 South Congress Avenue with a Parcel Control Number (PCN) 12-43-46-19-00-000-5037 (the "Property"), generally located on the east side of South Congress Avenue, approximately 970 feet north of Linton Boulevard, as more particularly described in Exhibit "A,"; and

WHEREAS, the Property, measuring approximately 6.74 acres, is shown on the City of Delray Beach Land Use Map, May 4, 2021, with a land use designation of Congress Avenue Mixed Use (CMU); and

WHEREAS, the Property, measuring approximately 6.74 acres, is shown on the City of Delray Beach Zoning Map, July 6, 2021, and zoned Mixed Residential Office and Commercial (MROC) District; and

WHEREAS, on February 4, 2022, Maple Multi-Family Land, SE and Jeffrey A. Costello of JC Planning Solutions (collectively as "Applicant") submitted a Rezoning application (File No. 2022-112-REZ-CCA) with an associated Master Development Plan (File No. 2022-111-MDP-SPR) seeking to rezone the Property from MROC to Special Activity District (SAD) and amend Section 4.4.25, "Special Activities District" of the Land Development Regulations of the City of Delray Beach (LDR) to add the "Alexan Delray"; and

WHEREAS, pursuant to LDR Section 4.4.25(A), SADs are established to provide a zone district for developments not otherwise classified or categorized in other districts or cannot be accommodated in any other zone district and are to be used for large scale and mixed-use developments for which conventional zoning and development standards are not appropriate; and

WHEREAS, Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts, of the Always Delray Comprehensive Plan Neighborhoods, Districts, and Corridors Element

identifies SAD as a compatible implementing zoning district with the CMU Land Use Map designation and limits residential density to 40 dwelling units per acre and maximum floor area ratio (FAR) to 2.5; and

WHEREAS, the permitted uses and development standards for the proposed Alexan Delray SAD are attached hereto as Exhibit “C”, Permitted Uses, Supplemental Standards, and Development Standards for Alexan Delray; and

WHEREAS, the Master Development Plan for the proposed Alexan Delray SAD is attached hereto as Exhibit “D”; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as Local Planning Agency, considered this request at a public hearing on September 12, 2022, and did not recommend approval of the application to rezone the property from MROC to SAD, the associated MDP, and related amendments to the LDR by a vote of 4 to 2; and

WHEREAS, on September 19, 2022, pursuant to LDR Section 2.4.7(E), the Applicant filed an appeal of the decision of the Planning and Zoning Board; and

WHEREAS, on November 15, 2022, the City Commission overruled the Planning and Zoning Board decision by approving Resolution No. 186-22; and

WHEREAS, on November 15, 2022, the City Commission considered the request to rezone the property from MROC to SAD, the associated MDP, and related amendments to the LDR at a public hearing; and

WHEREAS, it is appropriate that SAD is hereby deemed the designation for the Property on the Zoning District Map of the City of Delray Beach, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. The Zoning District Map of the City of Delray Beach, Florida, be, and the same is, hereby amended to reflect the Alexan Delray SAD for the property described in Exhibit “A”, Legal Description, and shown on the map in Exhibit “B”, Proposed Zoning Map, attached hereto and incorporated herein.

Section 3. The Alexan Delray SAD is subject to compliance with Exhibit “C”, Permitted Uses, Supplemental Standards, and Development Standards for Alexan Delray, and Exhibit “D”, Master Development Plan, attached hereto and incorporated herein.

Section 4. Section 4.4.25(H), “S.A.D.s”, of the Land Development Regulations shall be amended to add the following:

- (1) – (16) (These subsections shall remain in full force and effect as previously adopted)

(17) Alexan Delray, located at 1155 South Congress Avenue, by Ordinance No. 32-22.

Section 5. Upon the effective date of this Ordinance, the City of Delray Beach, Zoning Map, July 6, 2021, shall be amended to conform to the provisions of Section 2 hereof.

Section 6. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 7. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

Section 8. This Ordinance shall become effective upon approval of the second reading of this Ordinance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before it has become effective.

PASSED AND ADOPTED in regular session on second and final reading on this ___ day of _____, 2022.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____

**EXHIBIT A
LEGAL DESCRIPTION**

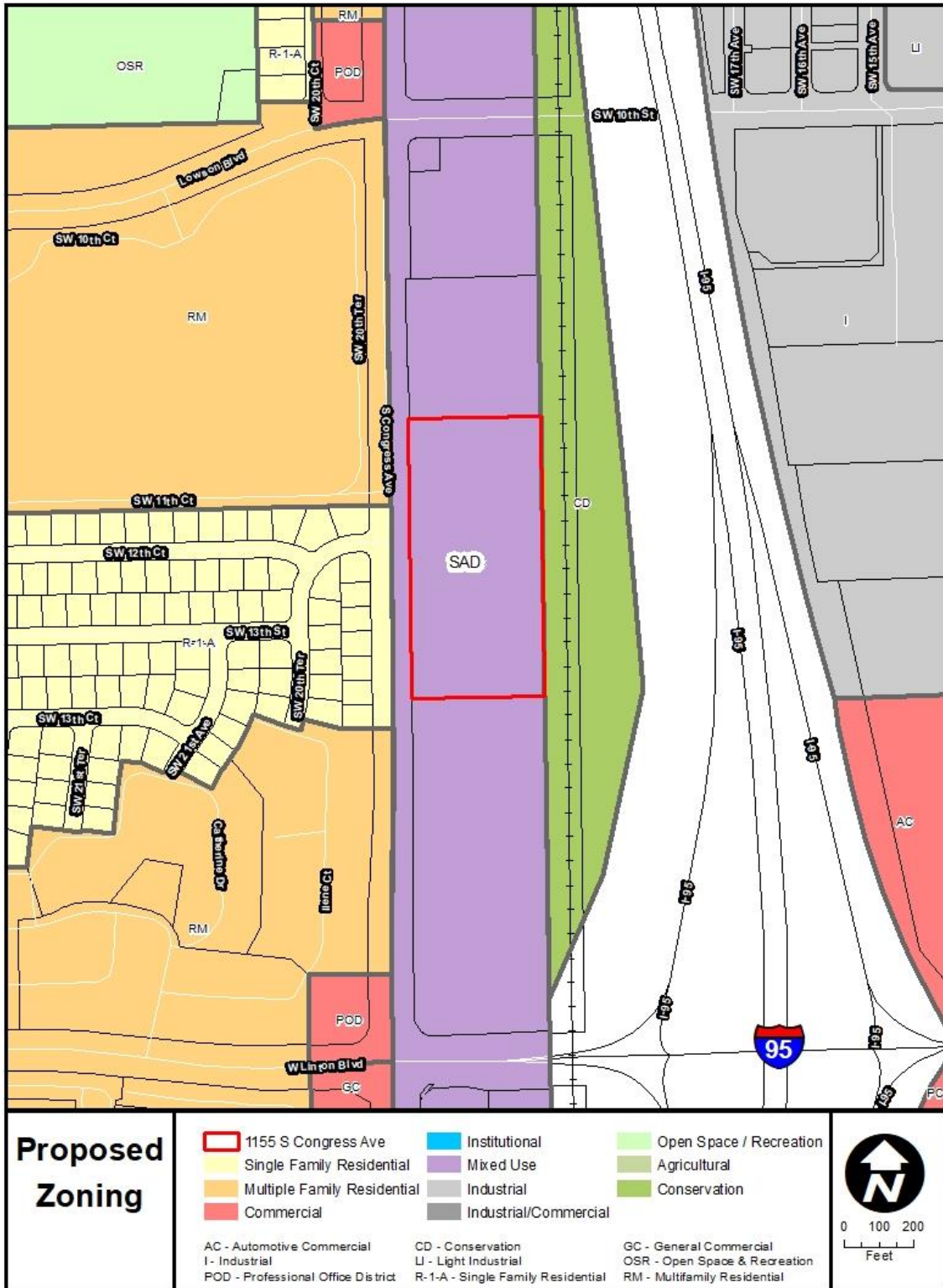
THE NORTH 800 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE EAST 425 FEET OF THAT PART OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 19, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF THE SEABOARD AIRLINE RAILWAY; LESS AND NOT INCLUDING THE NORTH 855 FEET AND SOUTH 253 FEET THEREOF, LESS RIGHT-OF-WAY FOR S. CONGRESS AVENUE, LESS AND EXCEPT THAT PORTION TAKEN IN THAT CERTAIN STIPULATED ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 5134, PAGE 1316 AND IN THE ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 5827, PAGE 1631, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 293,785 SQUARE FEET, 6.7444 ACRES, MORE OR LESS.

SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA.

EXHIBIT B PROPOSED ZONING MAP



Date: 8/22/2022

Document Path: S:\Planning & Zoning\DBMS\GIS\GIS Projects\2022\03_Map Requests\2022_Rezonings_& Land_Use_Changes\01_Mxd\1155_S_Congress_Ave_Zoning.mxd

EXHIBIT C
PERMITTED USES, SUPPLEMENTAL STANDARDS,
AND DEVELOPMENT STANDARDS FOR ALEXAN DELRAY

A. PURPOSE AND INTENT

The Alexan Delray SAD regulations provide for transit-supportive, pedestrian-friendly multifamily residential development in a master planned environment. The district encourages standalone residential buildings adjacent to the transit corridor along Congress Avenue and in close proximity to the major Interstate 95 thoroughfare, civic and recreation uses, and general commercial uses in order to promote a more walkable and sustainable residential development to support existing and proposed businesses along the Congress Avenue Corridor.

B. PRINCIPAL USES AND STRUCTURES ALLOWED

The following use is allowed within the Alexan Delray SAD as a permitted use:

Multi-family Dwelling Units: Multi-family residential uses excluding duplexes with a maximum density of 40 units per acre subject to establishment of the Workforce Housing Program referenced in Section E. (12) below.

C. ACCESSORY USES AND STRUCTURES PERMITTED

The following uses are allowed when a part of, or accessory to, the principal use:

- (1) Parking lots and parking garages.
- (2) Refuse, service and loading areas.
- (3) Meeting and conference facilities when associated with allowed uses in the Master Plan.
- (4) Provision of services and repair of items incidental to the principal use.
- (5) Recreational facilities attendant to a multi-family residential development, which may include but are not limited to swimming pools, exercise areas, leasing facilities, club rooms, makerspace/tech lounge/coworking space, offices, and meeting rooms.

D. MASTER PLAN & SITE PLAN APPROVAL

- (1) **Review and Approval Process:** In addition to the requirements of Section 4.4.25(D), Review and approval process, the following shall apply:
 - (a) All Site Plan applications for new development, including site plan modifications, must receive approval by Site Plan Review and Appearance Board (SPRAB) and be consistent

with the approved Master Development Plan (MDP).

- (b) In accordance with Section 2.4.5(F)(6), upon final approval of the Master Plan, such plan shall be stamped and certified by the Development Services Department as to its status and shall serve as the baseline for any subsequent submittals. All subsequent submissions shall conform in every respect to the Master Plan as may be modified as provided below.

(2) **Master Plan Modifications**

- (a) An approved Master Plan may be modified either by administrative approval or by review by the Planning & Zoning Board through the public hearing process, depending on the degree of modification proposed to the Master Plan. If the modification relates to number of dwelling units, parking count, intensity or the dimensional standards, including setbacks (“Standards”) and is less than or equal to a 5% deviation from such standard, the modification shall be processed administratively or reviewed by the Planning and Zoning Board as a MDP modification, at the discretion of the Development Services Director. All other modifications to the MDP, development standards, timing obligations (i.e. the sequencing plan, phasing, etc.) or other requirements contained herein, and those modifications of Standards in excess of 5% shall be processed and approved by the Planning and Zoning Board in accordance with 2.4.4 E(6), except for changes that increase density and intensity, (including additional uses not previously adopted as part of the SAD) which shall be processed and approved by the City Commission as an amendment to the SAD Ordinance.

E. **DEVELOPMENT STANDARDS**

(1) **Minimum floor area.**

- (a) Residential units are subject to the minimum square footage per the chart below.

UNIT SIZES (MINIMUM REQUIREMENTS)	
Unit Type	Size
Efficiency	400 sq. ft.
One Bedroom	600 sq. ft.
Two Bedroom	900 sq. ft.
Three Bedroom	1,250 sq. ft.

- (b) There are no minimum floor area requirements for non-residential uses.

(2) **Lot coverage and open space**

- (a) Lot coverage by building, pavement and hardscape site improvements excluding sidewalks, multipurpose paths, or any hardscape within the civic open space shall not exceed 75 percent of the gross area of the Master Plan.
- (b) Land area, equal to at least 25 percent of the total district including the perimeter landscaped boundary, shall be in open space including sidewalks, multi-purpose paths and any hardscape within the civic open space.
- (c) Civic open space. Civic open spaces are privately maintained outdoor spaces which are accessible by the general public, improve the pedestrian environment, are aesthetically pleasing, and serve as an amenity for the city as a whole as well as for occupants of the building which the open space serves. Civic open spaces shall be provided in accordance with the following:
 - i. The civic open space shall adjoin a street front property line for no less than ten percent of the linear frontage width.
 - ii. Civic open spaces must be accessible to the public during all daylight hours.
 - iii. Civic open spaces must be situated to allow easy ingress and egress by pedestrians and may not be fenced.
 - iv. Civic open spaces must be located at the sidewalk level.
 - v. Civic open spaces must be open to the sky; however, open-air garden structures such as gazebos or trellises are permitted within civic open spaces.
 - vi. Each civic open space shall provide street furniture elements, including seating/benches and bicycle racks, and trash receptacles.

(3) **Perimeter Buffer.** A landscape buffer shall be provided around the development. Parking, structures, perimeter roadways, and other paving is not permitted within this buffer except for bicycle paths, sidewalks, jogging trails, hardscape within the civic open space, and driveways or access streets which provide ingress and egress for traffic and which are generally perpendicular to the buffer. The perimeter buffer shall be landscaped to provide a boulevard effect along Congress Avenue, but may also include civic open space with hardscape.

• When adjacent to Congress Avenue ¹ .	15 feet min.
• All other perimeters	15 feet min.
• Adjacent to CSX Railway	25 feet min.

1. The provisions set forth in LDR Section 4.3.4(H)(6)(b)(Special Landscape Setbacks) are not applicable.

(4) **Building Setbacks**

(a) **Minimum Setbacks**

• Congress Avenue Frontage/Front yard	
- Buildings with a maximum height of 38'/3 stories or less	15 feet min.
- Buildings with a height greater than 38'/ 4 stories or more	25 feet min.
• Side yard	15 feet min.
• Rear yard/Adjacent to CSX Railway	25 feet min.

(b) **Building separations.** Building separations shall be a minimum of 25 feet. For the purpose of this section parking structures are not considered to be buildings.

(5) **Height.** The maximum height of all buildings shall not exceed 48 feet.

(a) Residential uses shall have a minimum floor height of nine feet floor to floor on all floors.

(b) Elevator overruns and stairways are not limited by the number of stories and shall not exceed 10 feet above the maximum overall building height.

(c) Flat roofs shall be screened from the lateral view of adjacent properties by a parapet. New or replacement rooftop appurtenances, including mechanical equipment, shall be screened by a parapet, enclosure, or other method equal in height to the appurtenance. The screening must be integrated and compatible with the building architecture.

(d) Parapets and architectural features shall not exceed 10 feet in height above the roof.

(6) **Recreation Facilities.** Recreation facilities shall include but are not limited to the following:

(a) The Clubhouse is a private recreational facility which shall be equipped with but is not limited to the following amenities to serve residents:

- i. Restrooms
- ii. Makerspace/ Tech Lounge/Coworking Space
- iii. Fitness Center with yoga/aerobics room
- iv. Club Room
- v. Leasing and management offices

(b) The outdoor component, distributed within the residential areas of the master plan, shall include, but will not be limited to the following elements:

- i. Main private outdoor pool
- ii. Play/Tot Lot Area

(7) **Parking.**

- (a) Parking adjacent to Congress Avenue. There shall be no direct parking provided along Congress Avenue, with the exception of the access driveway. Parking shall be located to the rear of buildings having direct frontage along Congress Avenue.
- (b) Parking shall be provided for the multifamily residential buildings as follows:

One bedroom dwelling unit	1.15 spaces/unit
Two bedroom dwelling unit	1.75 spaces/unit
Three or more bedroom dwelling unit	2.0 spaces/unit
Guest parking	0.10 space/unit

- (c) Parking areas shall be designed in accordance with Section 4.6.9 of the City of Delray Beach Land Development Regulations.

(8) **Landscape Regulations.** Landscaping shall be provided in accordance with Section 4.6.16 Landscape Regulations and Section 4.6.19. Tree Preservation, Protection, Enforcement, and Maintenance of the City of Delray Beach Land Development Regulations.

(9) **Greenway Easement.** Within the 25-foot buffer along the east side of the property abutting the CSX Railroad Right-of-Way, an easement shall be dedicated for the proposed City Pedestrian, Bicycle, and Trail Network (CSX Railroad Greenway).

(10) **Bus Shelter.** A Bus Shelter shall be installed at the Palm Tran Bus Stop abutting the development, enhancing mobility/transit options along the Congress Avenue providing service to the Tri-Rail Station.

(11) **Green Building Design.** The building designs shall be in accordance with National Green Building Standards.

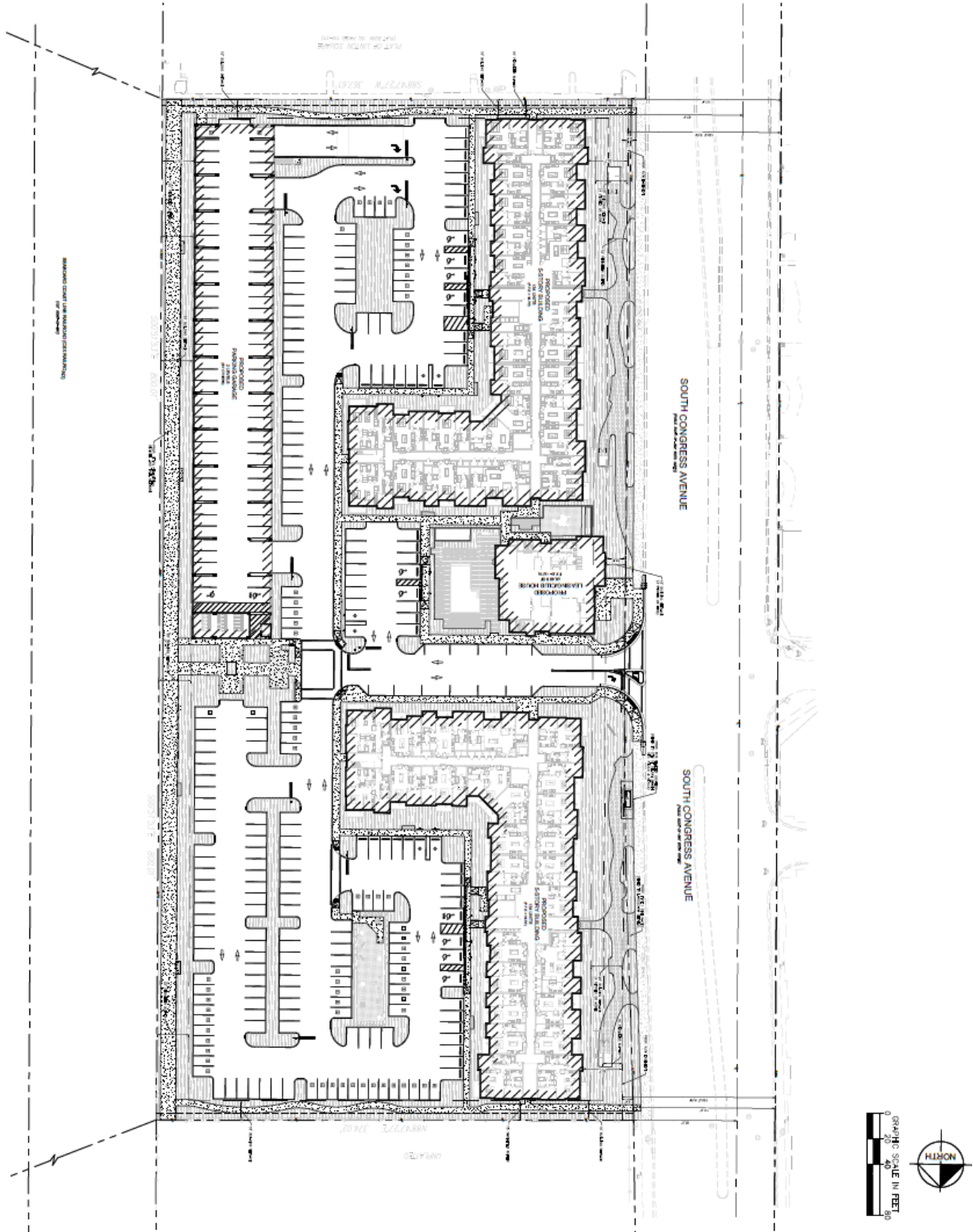
(12) **Workforce Housing Program.** A Workforce Housing Incentive Program shall be provided as follows:

- (a) A minimum of 20 percent of the project density shall be provided on-site as Workforce Housing Units for Moderate Income Households as defined herein.
- (b) A monetary contribution in the amount of \$350,000 to the City of Delray Beach Housing Trust Fund to provide for new or rehabilitation of very-low, low and/or moderate income workforce and affordable housing units as provided for in LDR Article 4.7 (Family/Workforce Housing), and/or any other applicable City program, prior to issuance of a building permit.
- (c) The proportion of workforce housing units by bedroom count must be approximately the same (within 10%) as the proportion of market rate units by bedroom count to total market rate units with the exception of efficiency or studio

units, which shall not be allowed under the City of Delray Beach family/workforce housing program.

- (d) Moderate income household. A household with a gross, combined income between 81 percent and 120 percent of the Palm Beach County Adjusted Median Income, published annually for Palm Beach County by the U.S. Department of Housing and Urban Development, for a 2-person household for 1 BR units, for a 3-person household for 2 BR units and for a 4-person+ household for 3 BR+ units.
- (e) Rent ranges shall be based on the monthly rent ranges published annually by Palm Beach County based on the Florida Housing Finance Corporation Multi-Family Rental Programs, by number of bedrooms, as annually adjusted.
- (f) For the purposes of annual price updates, the Workforce Housing Unit prices initially established for the rental unit's income category at the time of approval of the subject development shall be the rental floor throughout the affordability period. No Workforce Housing Unit is required to be rented at a price below the rental floor, though an owner may opt to do so.
- (g) The exteriors of Workforce Housing Units shall be designed compatible with market rate units in the development; however, the developer shall not be required to provide interior design finishes consistent with the market rate units provided within the development.
- (h) Workforce Housing Units shall be distributed throughout the development, and not clustered in any one location.
- (i) The breakdown of unit type shall be based upon market demand and there shall be no restriction from providing a certain type of unit, provided that the Workforce Housing Units are provided in the same proportion as the Market Rate Units.

**EXHIBIT D
ALEXAN DELRAY MASTER DEVELOPMENT PLAN**



ORDINANCE NO. 32-22

