



Cover Memorandum/Staff Report

File #: 25-365

Agenda Date: 4/8/2025

Item #: 9.D.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Terrence R. Moore, ICMA-CM
DATE: April 8, 2025

ORDINANCE NO. 01-25: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING LAND MEASURING APPROXIMATELY 4.27 ACRES LOCATED AT 975 SOUTH CONGRESS AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM MIXED RESIDENTIAL, OFFICE, AND COMMERCIAL TO MIXED INDUSTRIAL AND COMMERCIAL; 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. (QUASI JUDICIAL/FIRST READING)

Recommended Action:

Consider Ordinance No. 01-25, a privately initiated rezoning from Mixed Industrial and Commercial (MROC) to Mixed Industrial and Commercial (MIC) for the 4.27 acre property located at 955-975 South Congress Avenue.

Background:

The subject request is to rezone a 4.27-acre parcel located at 955-975 South Congress Avenue from MROC to MIC. The request is being reviewed and processed concurrently with a small-scale land use map amendment request from Congress Avenue Mixed Use (CMU) to Commerce (CMR).

This property was previously zoned MIC before being rezoned to MROC as part of a City-initiated rezoning of the corridor in 2007 (Ordinance No. 05-07). The property is developed with two commercial/office/warehouse buildings that were established under the previous MIC zoning. As a result, the property owner has experienced challenges to sustain and attract businesses that are permitted under the MROC zoning district. Many of the established uses were deemed nonconforming uses after the 2007 rezoning from MIC to MROC, and LDR Section 1.3.4(B)(2) states that a nonconforming uses may not be re-established if the use ceases for a continuous period of 180 days. This is often a difficult time frame for another business of the same use to establish itself.

Long-standing businesses at the property, such as wholesale flooring, retail of building materials and garden supplies, and hardware stores, are now deemed nonconforming uses under the current MROC zoning; however, such uses are permitted in the MIC zoning district and the building is constructed to support these types of uses.

In late 2022, the City engaged with Streetsense and CBRE (real estate consultants) to perform a study of the corridor (attached). On May 22, 2023, CBRE prepared the Delray Beach Congress Avenue Strategies Plan to provide market-informed development and retail strategy recommendations for the Congress Avenue corridor, with the goal of balancing commercial and housing growth. The Study found that the initial vision of the CMU land use and the companion

MROC district has not been fulfilled, with many office and retail vacancies, limited space for growing industrial businesses, and the increasing pressure to build stand-alone residential development along the corridor due to the increased costs of land (Delray Beach Congress Avenue Strategies Plan, Page 5 and 8).

The current MROC zoning is the predominant zoning district along the Congress Avenue corridor from West Atlantic Avenue to the southern City boundary. MROC provides for a mix of residential, office, and commercial uses at a higher density and intensity to encourage transit-oriented development in proximity to the Tri-Rail station.

The proposed MIC zoning allows a mix of commercial, office, and industrial uses including manufacturing, fabrication, wholesale and distribution, and service industries. MIC limits residential development to 24 dwelling units per acre with workforce housing, and only within the I-95/CSX Railroad Corridor Overlay District. Any other residential development in MIC would require the establishment of a revitalization incentive or other amendment to the LDR. With the existing multi-family development to the west, and the potential of residential redevelopment to the north and south (MROC zoning), consideration may be given as to whether the uses permitted in the MIC zoning district are compatible and do not pose negative impacts to surrounding existing and future development. It is noted that if the adjacent property to the north were to be redeveloped, a full site plan review would be required, which would enforce provisions (e.g. setbacks, special buffers, landscaping, etc.) that are established to mitigate adverse impacts from new and existing uses.

LDR Section 2.4.5(D)(2), Change of zoning district designation: Required Information,

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:

- *That the zoning had previously been changed, or was originally established, in error;*
- *That there has been a change in circumstance which makes the current zoning inappropriate;*
- *That the requested zoning is of similar intensity as allowed under the Future Land Use Map and that it is more appropriate for the property based upon circumstances particular to the site and/or neighborhood.*

The subject application is being processed under the second and third criteria.

Section 3.2.2 - Standards for Rezoning Actions

Rezoning requests must meet five standards, which are described below relative to the proposed rezoning under consideration.

- (A) *The most restrictive residential zoning district that is applicable given existing development patterns and typical lot sizes shall be applied. Requests for rezonings to a different zoning designation, other than Community Facilities, Open Space, Open Space and Recreation, or Conservation shall be denied unless the proposed changes implement an adopted neighborhood or redevelopment plan.*

Not applicable; the current zoning is mixed use.

- (B) *Rezoning of land located west of Interstate-95 to accommodate auto dealerships or to AC (Automotive Commercial) is prohibited pursuant to Policy NDC 2.5.2 of the Neighborhoods,*

Districts, and Corridors Element of the adopted Comprehensive Plan.

Not applicable; AC zoning not proposed.

(C) Zoning changes that would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exists along an arterial street, consideration shall be given to increasing the depth of the mixed-use zoning to provide for more substantive, mixed-use projects that provide compatible transitions in form and use to the surrounding area.

Both the existing and proposed zoning permit uses that could be configured as a strip commercial development. However, no site plan modifications have been submitted in conjunction with this application.

(D) Rezoning of land shall result in allowing land uses deemed compatible with adjacent and nearby land uses both existing and proposed; or that if an incompatibility may occur, that sufficient regulations exist to properly mitigate adverse impacts from the new use.

MROC zoning is located to the north and south of the subject site, with the potential of mixed-use residential redevelopment to the north and south on MROC zoned properties (up to 80 percent residential use is allowed at this location). The property to the east is zoned Conservation (CD), and the properties to the west are Medium Density Residential (RM) and Planned Office Development (POD) zoning to the west. A chart and maps of the surrounding land use and zoning is provided in the LUMA analysis of the Planning and Zoning staff report. The proposed MIC zoning is generally compatible with the surrounding residential, commercial, and light industrial development.

(E) Remaining infill lots within the Coastal High Hazard Area of the Coastal Planning Area shall be developed using zoning which is identical or similar to the zoning of adjacent properties or that results in less intense development.

Not applicable; The property is not located within the Coastal Planning Area.

The Planning and Zoning staff report provides a full analysis. The Planning and Zoning Board (PZB) voted 6-0 (Jeffrey Meiselman absent) to recommend approval of the request at the February 24, 2025, meeting.

City Attorney Review:

Ordinance No. 01-25 was approved to form and legal sufficiency.

Funding Source/Financial Impact:

Not applicable.

Timing of Request:

The date of second reading and adoption is to be determined. The Land Use Map Amendment request will be heard concurrently with Ordinance No. 02-25 for the rezoning.