



CITY OF DELRAY BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



PLANNING & ZONING BOARD STAFF REPORT

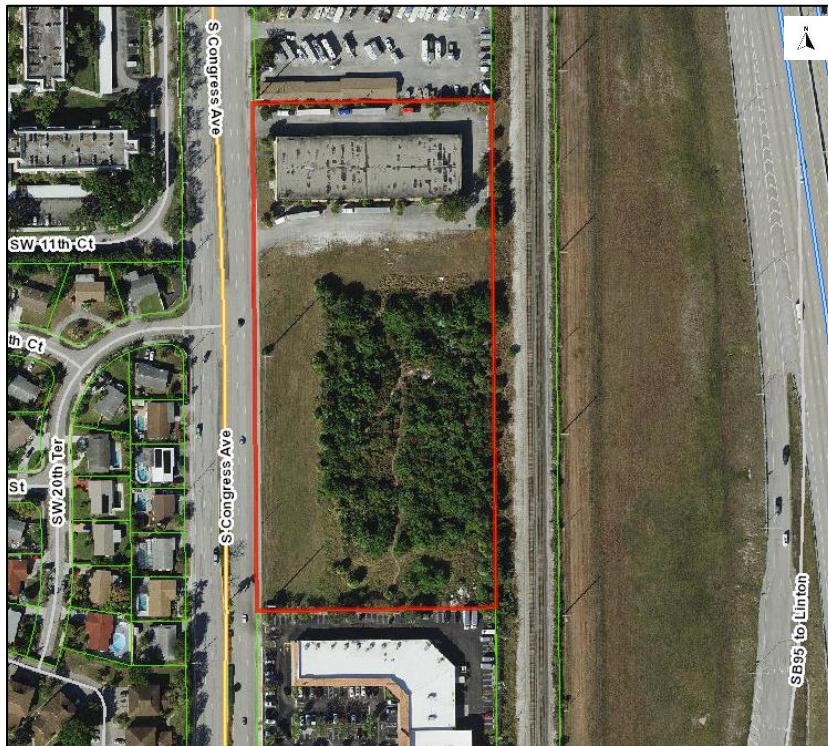
1155 South Congress Avenue – Alexan Delray

Meeting	File No.	Application Type
September 12, 2022	2022-112-REZ-CCA	Rezoning and LDR Amendment Master Development Plan
Applicant	Owner	Authorized Agent
Maple Multi-Family Land SE, L.P.	Eckols '77 Ltd. & Admiral '80, Ltd.	Jeffrey A. Costello, AICP, FRA-RA JC Planning Solutions

Request

Provide a recommendation to the City Commission on Ordinance No. 32-22, a privately-initiated request for the rezoning of a 6.74 acre property located at 1155 South Congress Avenue from Mixed Residential, Office, and Commercial (MROC) to Special Activities District (SAD) with an associated amendment to Land Development Regulations (LDR) Section 4.4.25(H) to add the development to the list of approved SADs, and to approve development standards and the associated Master Development Plan (MDP) to allow a 267-unit multi-family residential development with associated amenities.

Background Information



The subject property is a +/- 6.74-acre lot located on the east side of South Congress Avenue, west of Interstate 95, between West Linton Boulevard and SW 10th Street/Lowson Boulevard. The property is primarily vacant with a 29,250 square foot warehouse/office building that was constructed in 1981. The City does not have a record of any major development improvements to the property since then.

The property is zoned MROC with a land use map (LUM) designation of Congress Avenue Mixed Use (CMU). The CMU land use designation is intended to *accommodate a variety of commercial, office, and residential uses that provide development intensities that advance economic growth, provide incentives for transit oriented development, and create multimodal development patterns along the Congress Avenue corridor, south of West Atlantic Avenue.*

Pursuant to the adopted 1970 Zoning Map, the property was originally zoned Wholesale and Light Industrial (C-3). In 1972, the zoning of the property changed from C-3 to Light Industrial (LI). In 1990, the zoning of the

property changed from LI to Mixed Industrial and Commercial as part of the citywide rezoning. Following the creation of the MROC zoning district, the property was rezoned to MROC in 2007. The MROC District was established to provide for a transit-supportive, pedestrian-

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Attachments:

- Ordinance No. 32-22 (Draft)
- Master Development Plan
- Existing and Proposed Zoning
- Justification Statement

friendly mix of residential, office, and commercial uses in a master-planned environment. MROC zoning regulations allow greater density and higher percentages of residential development in closer proximity to the Tri-Rail transit station (chart at right).

The 2016 “Congress Avenue: Delray Beach’s Next Great Street”

report establishes a vision for the Congress Avenue corridor that includes “*protecting commercial and industrial land uses to maintain and enhance the jobs base; ensuring diverse housing options for varying income levels; attracting higher education institutes; encouraging sustainable redevelopment; and, establishing a balance of uses along the corridor.*” Pursuant to Policy NDC 2.3.7, the City is required to implement the vision of the report.

Distance from Tri-Rail (measured by airline route)	Residential Floor Area	Density		Workforce Housing
		Standard (Max.)	Incentive (Max.)	Required Percentage and Income Level
Within 1,000 linear feet	Up to 100%	40 du/acre	50 du/acre	20%, Moderate income
Between 1,001 and 2,500 linear feet	Up to 80%	40 du/acre	50 du/acre	
Greater than 2,500 linear feet	Up to 75%	40 du/acre	40 du/acre	

Description of Proposal

The applicant is requesting to rezone the subject property from MROC to SAD for the purpose of constructing a 375,355 square foot, 267-unit multi-family development on the subject property. The request also includes an associated amendment to the LDR to adopt the SAD in LDR Section 4.4.25(H). An MDP and Class V Site Plan were concurrently reviewed with the rezoning application. The MDP is an exhibit to the subject rezoning application and the site plan will be reviewed by the Site Plan Review and Appearance board (SPRAB) subject to the approval of the rezoning and Master Development Plan, prior to the rezoning hearing by the City Commission.

Pursuant to LDR Section 4.4.25(D), SADs are regulated by the provisions established by the adopted Ordinance establishing the SAD. The proposed Ordinance No. 32-22 provides a complete list of permitted uses and development standards; an overview of the proposed regulations is provided below:

Uses

- Principal Uses:
 - Multi-family residential uses, excluding duplexes, with a maximum density of 40 du/acre subject to establishment of the Workforce Housing Program referenced in Ordinance No. 32-22.
 - 267 units proposed = 40 (39.7) units per acre
- Accessory Uses:
 - Parking lots and parking garages
 - Refuse, service, and loading areas
 - Meeting and conference facilities when associated with the principal use
 - Provision of services and repair of items incidental to the principal use
 - Recreational facilities incidental to a multi-family residential development. Recreational facilities may include but are not limited to swimming pools and exercise areas.

Development Standards

- Maximum Lot Coverage: 75 percent.
- Minimum Open Space: 25 percent, non-vehicular.
- Minimum Perimeter Setbacks:
 - Front for three stories or less: 15 feet.
 - Front for four stories or more: 25 feet.
 - Side: 15 feet.
 - Rear/Adjacent to CSX Railway: 25 feet.
- Maximum Height: 48 feet.
- Minimum Perimeter Buffer: 15 feet landscaped area; 25 feet landscape area when adjacent to the CSX Railway.
- Minimum Floor Area: The minimum unit square footage requirements are the same as the requirements in the MROC zoning district, LDR Section 4.4.29(H).

Differences have been identified between the requirements in the underlying zoning district, MROC, and the proposed SAD standards, and are discussed in the Review and Analysis section of this report.

Workforce Housing Program

The SAD establishes a workforce housing program to take advantage of the revitalization incentive density established for CMU land use in the Comprehensive Plan. The proposed revitalization incentive provides workforce housing units in exchange for higher density. The following list provides an overview of the program:

- The SAD is comprised of 100 percent multi-family use with 20 percent of the total units being provided as workforce housing units; 267 units proposed = 54 of the total units are required as workforce housing.
- All workforce housing units are proposed at moderate income levels.
- All workforce housing units are provided on-site.
- Workforce housing units are integrated throughout the development and not clustered in one area of the development.
- In addition to providing 54 (20 percent) workforce housing units, funding will be provided by the applicant in the amount of \$350,000 and conveyed to a non-profit organization in the business of providing workforce and affordable housing, housing rehabilitation, and other programs that will expand the provision and rehabilitation of affordable and workforce housing in Delray Beach. Presently, Habitat for Humanity of South Palm Beach County, Inc is identified as the recipient of this contribution.
- In contrast to LDR Section 4.7.9(i), which states “the total number of one bedroom units in any qualifying project shall not exceed 30 percent of the total number of units in the project, including both family/workforce units and market rate units” the SAD states that “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. The project proposes 161 one-bedroom units which is 60 percent of the total number of units.

The request is analyzed below in comparison to the requirements of the existing MROC zoning. Ordinance No. 20-22, adopted on August 9, 2022, establishes revised density regulations and revised density incentives related to workforce housing in the MROC zoning district. However, the amendment does not apply to this request because it was submitted prior to adoption of the amendment.

Review and Analysis

Rezoning

Pursuant to **LDR Section 2.4.5(D)(1), Change of zoning district designation: Rule**, *the City Commission may amend the Official Zoning Map by ordinance after review and recommendation for approval by the Planning and Zoning Board.* The submitted application complies with the submittal requirements in **LDR Section 2.4.3.**

Upon a recommendation of approval by the Planning and Zoning Board, the request can move forward for consideration by the City Commission. If a recommendation of approval is not made or does not pass, the request does not move forward to the City Commission for further consideration.

LDR Section 2.4.5(D)(2), Change of zoning district designation: Required Information, requires that “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.*

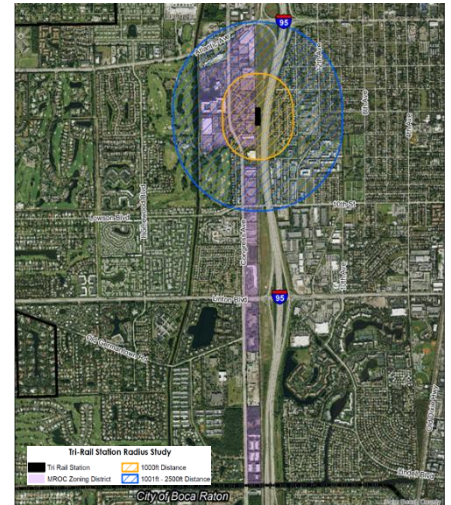
The application is being processed under the second and third criteria, as specified in the applicant's justification statement (attached). The existing MROC zoning anticipates large scale mixed-use development and requires development greater than 2,500 feet from a Tri-Rail transit station to provide a maximum residential floor area of 75 percent. The subject property is located greater than 2,500 square feet from the Tri-Rail station and is therefore subject to the mixed-use requirement under the current zoning. Alternatively, the SAD proposes 100 percent residential floor area, with zero commercial square footage required. The application states that the free-standing multi-family development is of similar intensity permitted under the CMU land use and is more appropriate for the property considering the systemic changes to the way people shop and work. While there is retail and office space in close proximity to the site, the intent of the multi-family floor area restriction is to promote more dense multi-family development closer to transit stations, thereby establishing a

more transit-oriented development pattern that transitions to lesser dense development the further from a transit station (MROC radius map at below).

Similar to the existing MROC zoning, the SAD proposes a maximum density of 40 dwelling units per acre for multi-family residential uses, subject to establishment of the Workforce Housing Program (discussed above), and a floor area ratio (FAR) of 2.5, which is consistent with the CMU land use designation. Under the existing MROC zoning, the subject development would be allowed the same density with the same provision of workforce housing, with the exception that at least 25 percent of the floor area shall be allocated to commercial use. The Board should consider whether the SAD zoning district is more appropriate for this location than MROC and whether the deviations from the MROC zoning regulations result in a project that is harmonious with the corridor and consistent with the intent of the CMU land use designation and the Congress Avenue Master Plan.

Article 3.2, Performance Standards

Pursuant to **Section 3.2.2 - Standards for Rezoning Actions**, rezoning requests must meet five standards, which are described below as they relate 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.

(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.*

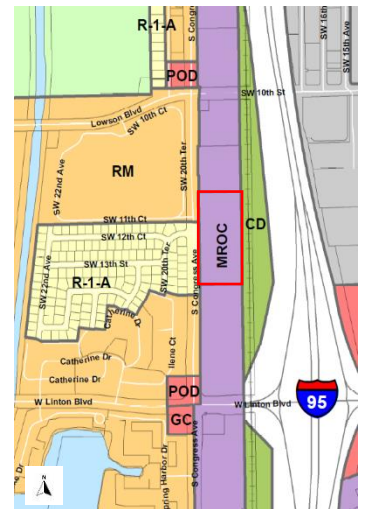
Not applicable.

(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.*

Not applicable.

(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.*

The property is surrounded by a mix of MROC, Conservation (CD), Single Family Residential (R-1-A), and Medium Density Residential (RM) zoning. To the north is a self-storage facility, to the south is a commercial strip plaza, to the east is the CSX Railroad, and to the west is the Delray Beach Highland Neighborhood and Delray Estates Neighborhood consisting of single family and multi-family residences. The surrounding zoning and uses are consistent with the land use designation of CMU and the MROC zoning district. The makeup of the Congress Avenue corridor shifts south of West Atlantic Avenue, where residential uses exist, and are encouraged to facilitate transit-oriented development, given the proximity to the Tri-Rail station. Consideration should be given as to whether the resulting SAD is deemed compatible and, if incompatible, whether sufficient regulations are provided to mitigate any adverse impact.



The proposed development standards deviate from the existing MROC zoning requirements relative to use, parking, special landscape setbacks, side setbacks, and building height. The table below summarizes these deviations, and a more detailed analysis of the differences are detailed in the Master Development Plan analysis of the report. An analysis of the differences in the existing and proposed zoning is provided in the Master Development Plan section of this report.

	Proposed SAD Standard	Existing MROC Standard
Use	100% residential floor area	Maximum 75% residential floor area
Parking	404 parking spaces	476 parking spaces
Special Landscape Buffer	15-foot buffer with a pedestrian pathway	30 foot landscape buffer
Site Setbacks	15 ft. for the entire height of the building	25 ft. for portions of building greater than 42 ft. in height
Building Height	Maximum height of 48 ft.	Maximum height of 85 ft.

(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.

LDR Section 3.1.1, Required Findings

Prior to the approval of development applications, certain findings must be made. These findings relate to the Land Use Map, concurrency, consistency, and compliance with the Land Development Regulations.

(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.*

The subject property has a Land Use Map designation of CMU and a zoning designation of MROC; MROC is a preferred implementing zoning district of CMU. The proposed SAD zoning is listed as a compatible implementing zoning district of CMU in Table NDC-1 of the Always Delray Comprehensive Plan. Pursuant to LDR Section 4.4.25(B)(2), permitted uses in the SAD include developments designated as a large-scale mixed use, a development of regional impact, a full service marina, or a use which is otherwise not accommodated in any other zoning district.

Mixed-use development is a significant component of the character of CMU land use. The Board should consider whether the proposed multi-family residential use is complimentary enough to nearby commercial and mixed-use development to warrant the granting of the rezoning request, or whether it deviates too substantially from the character of the land use.

(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.*

Schools. The applicant has provided a signed School Capacity Availability Determination (SCAD) letter from the School District of Palm Beach County. The District has determined that the proposed development request, including the rezoning, MDP, and site plan will not have a negative impact on the school system. Any new development proposal will require final SCAD review, and any negative impact on the public school system will result in a required contribution to the School District of Palm Beach County to offset the impact prior to issuance of the building permit.

Water and Sewer. Based on the City's 2022 Potable Water and Sewer Maps, water and sewer service is available via an existing eight-inch ductile iron water main and an existing sanitary sewer manhole. Pursuant to the Always Delray Comprehensive Plan, treatment capacity is available at the South Central County Waste Water Treatment Plant for the City at build-out. The Comprehensive Plan also states that adequate water and sewer treatment capacity exists to meet the adopted Level of Service (LOS) at the City's build-out population based on the current LUM designation.

Solid Waste. The subject property is currently developed with a 27,608 square foot warehouse and associated 1,592 square foot office. Based on the Palm Beach County Solid Waste Generation Rates, the existing uses generate approximately 100.92 tons of solid waste per year. The proposed 267 multi-family units are anticipated to generate 138.84 tons of solid waste per year, resulting in an increase of approximately 37.92 tons of solid waste per year. The landfill serving the property is projected to have sufficient capacity to meet the needs of city residents through the depletion year in 2054.

Drainage. Drainage will be accommodated on site via an exfiltration trench system subject to a permit from South Florida Water Management District (SFWMD). While no problems are anticipated with obtaining South Florida Water Management District permits, technical comments and issues pertaining to the drainage will be addressed with the Class V Site Plan. The signed and sealed drainage report provided with the site plan indicates the proposed system's ability to meet storm water requirements in accordance with the SFWMD regulations pursuant to LDR Section 2.4.3(D)(8); requirements in LDR Section 6.1.9 for the surface water management system; and provides signed and sealed calculations indicating current and proposed estimated flows into the City's sewer system.

Parks and Open Space. As new residential units are proposed, park impact fees will be assessed at \$500 per dwelling unit and collected prior to issuance of the building permit; 267 units = \$133,500.00.

Traffic. The submitted traffic impact analysis, prepared by JMD Engineering, Inc. and dated January 4, 2022, analyzes the traffic impacts associated with the current and proposed use. The comparative traffic analysis utilizes the total net existing trips for the current office warehouse development and the total net proposed trips for the multi-family master development. Based on the analysis, the proposed SAD will result in an increase of approximately 1,385 trips.

It is important to note that the intended development will generate approximately 10,000 less trips than that of a project developed to the most intensive use under the MROC zoning. Therefore, while the proposed rezoning results in a net increase in trips over what is currently generated, it does not result in a greater number of trips than a project developed under the maximum thresholds of the existing MROC zoning district.

Further, the Traffic Performance Standards (TPS) letter from Palm Beach County, dated July 20, 2022, states that the proposed development will meet the TPS of Palm Beach County. The County has required the property owner or developer to restrict the proposed driveway on Congress Avenue to a right-in / left-in/ right-out only, prohibiting any left-out movements. The requested restriction is reflected on the MDP.

(C) Consistency *Compliance with performance standards set forth in Chapter 3 and required findings in LDR Section 2.4.5(D)(5) for the Rezoning request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency.*

In consideration of the required findings for the rezoning, the Board must determine if the requested SAD and associated MDP is consistent with the applicable goals, objectives, and policies of the Comprehensive Plan. The following Comprehensive Plan objectives and policies are relevant to the SAD and MDP request:

Neighborhoods, Districts, and Corridors Element

Table NDC-1, Land Use Designation: Density, Intensity, and Implementing Zoning District, identifies the preferred and compatible implementing zoning districts for each land use designation. The existing land use designation of CMU lists SAD as a compatible implementing zoning district.

Policy NDC 1.1.14 *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

Objective NDC 1.3, Mixed-Use Land Use Designations *Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.*

Policy NDC 1.3.17 Allow a maximum floor area ratio of 2.5, and a standard density up to 40 dwelling units per acre with a revitalization/incentive density up to 50 dwelling units per acre for properties with a Congress Avenue Mixed Use land use designation to encourage a mix of uses and continue to transform the Congress Avenue corridor as a destination and great street.

Policy NDC 1.3.18 Use the Congress Avenue Mixed Use future land use designation to accommodate a variety of commercial, office, and residential uses that provide development intensities that advance economic growth, provide incentives for transit-oriented development, and create multimodal development patterns along the Congress Avenue corridor, south of West Atlantic Avenue.

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.

Policy NDC 2.3.7 Implement the vision in the “Congress Avenue: Delray Beach’s Next Great Street” report by protecting commercial and industrial land uses to maintain and enhance the jobs base; ensuring diverse housing options for varying income levels; attracting higher education institutes; encouraging sustainable redevelopment; and, establishing a balance of uses along the corridor. Cross reference Policy ECP 6.4.2.

Policy NDC 2.7.4 Include recommendations in neighborhood and redevelopment plans based on the need, desirability, and level of support for enacting specific planning strategies such as, but not limited to, the creation of a historic or other special purpose district, introduction of new uses or housing types, inclusion of streetscape or landscape design guidelines, or amendment of land use designations.

Policy NDC 2.7.21 Evaluate the Congress Avenue corridor study and consider implementing the strategies and recommendations of the Delray Beach’s Next Great Street report.

A determination regarding compatibility with the land use designations and zoning of the surrounding area is required. The chart below provides an overview of the adjacent properties.

Location	Development Type / Uses	Land Use Designation	Zoning District
North	Self Storage	CMU	MROC
South	Commercial Strip Plaza	CMU	MROC
East	CSX Railway	OS	CD
West	Single Family and Multi-Family Residences	LD and MD	R-1-A and RM

The proposal is comprised exclusively of a residential use, which is not identified as a “remaining land use need” to be fulfilled south of West Atlantic Avenue and west of I-95; the location is specifically identified as being reserved for mixed use, industrial, and commercial character. There is significant housing demand in the City, but the Comprehensive Plan also requires the preservation of industrial and commercial lands.

While the proposed development complies with the maximum floor area ratio and density for the CMU land use designation, the request deviates from the character of CMU land use and the existing implementing MROC zoning. Although the proposed multi-family development contributes to the mix of uses along the corridor, the Board should consider whether the project would be more consistent with the intent of the CMU land use and Always Delray Comprehensive Plan if a mixture of uses are established within the project site.

Housing Element

Policy HOU 6.2.5 Utilize incentives outlined in the workforce housing ordinance to develop additional workforce housing units.

Policy HOU 6.2.6 Allow for future workforce housing development by maintaining the Community Land Trust program and acquiring additional properties as funding permits.

Policy HOU 6.2.7 Support the continued development and provision of workforce housing in the city by allocating funding for housing services on an ongoing basis, including the management of a homebuyer assistance program.

Objective HOU 6.4 Affordable Housing Through Partnerships *Support and provide affordable and workforce housing strategies through the expansion of partnerships with public, quasi-public, non-profit and private agencies and organizations.*

The SAD proposes 20 percent (54 units) of the 267 total units as workforce housing units for moderate income level households. Additionally, the SAD ordinance states that funding will be provided by the applicant in the amount of \$350,000 to a non-profit entity, Habitat for Humanity of South Palm Beach County, Inc. to provide very-low, low, and/or moderate income workforce and affordable housing, for housing rehabilitation as well as any other programs that will promote and expand the provision and rehabilitation of affordable and workforce housing in the City of Delray Beach. The ordinance states that the funds shall be held in escrow by the developer and an agreement between the developer, Habitat for Humanity of South Palm Beach County, Inc. and City of Delray Beach shall provide the reporting of any funding with reasonable terms and conditions to be determined to ensure the funds are utilized in accordance with the agreement. Prior to the issuance of the first building permit, the funds are required to be deposited into an escrow account.

Article 4.7, *Family / Workforce Housing* allows developments to provide workforce housing units using one or more of the three methods: providing the units on-site, providing units off-site, or providing a monetary contribution to the City's Housing Trust Fund. The Trust Funds are used to implement objectives in the City's adopted Housing Plan, which includes a holistic approach and multiple strategies to assist Delray residents. Limiting the funds to a specific organization that is held by the developer is not consistent with the adopted strategies that have proven successful in the past. Staff asked the applicant to consider amending the verbiage to match the language in LDR Section 4.7.2(c), which requires any monetary contributions (in-lieu) to be made to the City's Housing Trust Fund, but the applicant declined to do so. Therefore, the Board should consider whether the existing language is sufficient, or whether the verbiage should be modified to ensure that the funds are committed to the Housing Trust Fund.

(D) Compliance with LDR *Whenever an item is identified elsewhere in these Land Development Regulations (LDR), 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.*

As an SAD establishes the development standards applicable to the development, there are no identified waivers or variances associated with the application. The Class V site plan provides more in-depth details and information on the project such as floor plans, elevations, landscaping specifications, and engineering plans, and is subject to all applicable provisions and requirements of the adopted SAD development regulations and Land Development Regulations. The proposed SAD deviates from the underlying existing MROC zoning district regarding use, parking, special landscape setbacks, side setbacks, and building height (discussed in detail above). Therefore, consideration should be given as to whether the deviations result in a project that meets in the intent of the Always Delray Comprehensive Plan and LDR.

Primarily, the question of the appropriateness of SAD zoning for a use that is allowed in six zoning districts in the City must be analyzed by the Board. **LDR Section 4.4.25(A), Purpose and intent**, states that the *Special Activities District (SAD) is established to provide a zone district appropriate for developments not otherwise classified or categorized in other districts; or, cannot be properly accommodated in any other zone district. The SAD is to be used for large scale and mixed-use developments for which conventional zoning and development standards are not appropriate. The uses, activities, and characteristics of a SAD are to be consistent with the Land Use Map designation, and the Goals, Objectives, and Policies of the adopted Comprehensive Plan to provide a development that is suitable and compatible with surrounding existing development, and with any adopted redevelopment plans for the area.* Further, **LDR Section 4.2.25(B)(2), SAD required**, states that the SAD zoning designation is only required for the following uses:

- (a) Any development which is designated as a Large Scale Mixed Use pursuant to the Comprehensive Plan.*
- (b) Any Development of Regional Impact (DRI).*
- (c) A full service marina.*
- (d) Any use which is otherwise not accommodated in any of the other zone districts.*

The application does not propose a mixed-use development, it is not a DRI, and is not a full-service marina. Therefore, the application is being processed under criterion (d) which is intended to accommodate unique uses and development types not otherwise permitted in conventional zoning districts, but which are compatible with the land use designation.

The proposed multi-family residential development includes 54 (20 percent) workforce housing units. It is noted that stand alone multi-family development is allowed in six zoning districts (including the existing MROC zoning) at varied densities where a framework to

provide workforce housing units in exchange for an additional density bonus is already established. In an effort to qualify as a unique use, the SAD includes the provision of additional funding in the amount of \$350,000 to be given to Habitat for Humanity of South Palm Beach County, Inc. (described above). It should be noted that pursuant to LDR Section 4.7.2(c), the fee for each required workforce housing unit that cannot be accommodated on site is \$160,000.00. Therefore, the funding provided is equivalent to the monetary fee of two off-site workforce housing units. As currently proposed, Ordinance No. 32-22 does not tightly restrict the use of the \$350,000.00 going to Habitat for Humanity of South Palm Beach, Inc. The Board should consider whether the Ordinance should more directly outline the permitted use of funds (e.g. the construction of two off-site workforce housing units in the City of Delray Beach), as opposed to providing a general description for how the funds will be utilized. The language currently proposed could allow the funds to go for a use such as homebuyer education or administrative costs, rather than the construction of housing units. Further, and the ordinance explicitly states that the funds will be held in escrow by the developer, rather than providing the City more direct control through the Housing Trust Fund. Staff has concerns that providing funds to an outside non-profit as opposed to the City's Housing Trust Fund does not provide assurance that it will support the City's goals related to workforce housing. The Board should consider whether the proposed multi-family residential use, 54 workforce housing units, and the monetary contribution provides a certain, unique community benefit, and if that benefit qualifies as a use that cannot be accommodated in any other zoning district.

If the Board does not find that the proposal cannot be accommodated in any other zoning district, the application does not qualify as an SAD.

Master Development Plan

Pursuant to **LDR Section 2.4.5(F)(6), Master Development Plans, Special Provisions**, the Master Development Plan “shall be the guide for any subsequent site plan or subdivision action. A site plan shall be required for any phase or the entire area encompassed by a MDP...Variances and waivers to the requirements of base district standards and supplemental district regulations, referred to herein, may be granted by the Planning and Zoning Board concurrent with approval of the Master Development Plan (MDP) without the requirement of a public hearing.”

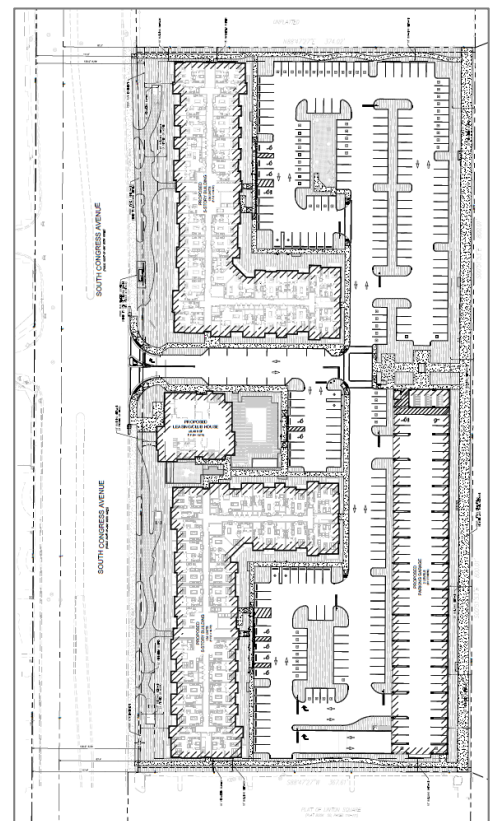
The MDP is provided as an exhibit to the SAD Ordinance (figure at right), which identifies the general details of the site development including placement, uses, parking, landscape area, amenities, etc. The MDP guides the site plan, which provides more in-depth details and information such as floor plans, elevations, landscaping specifications, and engineering plans. The site plan has been submitted, and must be approved by the SPRAB prior to adoption of Ordinance No. 32-22 by City Commission.

LDR Section 2.4.5(F)(5), Findings, requires that *the approving body must make a finding that development of the property as represented by the Class V site plan or MDP will be compatible and harmonious with adjacent and nearby properties and the City as a whole, so as not to cause substantial depreciation of property values.*

Vehicular access to the development is provided from South Congress Avenue via a right-in / left-in turn and opens into a two-way drive aisle leading to the rear parking area and two-level parking structure. The clubhouse, pool, and tot lot are centrally located on the site and accessed by internal sidewalks that connect to South Congress Avenue. The two L-shaped residential buildings line South Congress Avenue and contain 134 units each with a maximum building height of 47 feet and six inches measured to the roof line. The unit types consist of 161 one-bedroom units; 88 two-bedroom units; and 18 three-bedroom units, inclusive of 54 workforce housing units provided at the moderate income level.

Landscaping is provided along the perimeter of the property, throughout the parking lot in the form of landscape islands, and at the rear of the site, north of the parking garage. This open space area will serve as a civic open space amenity.

Through the review process, the applicant has worked with staff to rework the site layout and address diagrammatical concerns. The parking structure is located in the southeast corner of the site, and a bicycle storage locker is incorporated within the parking structure.



A civic open space is provided at the midpoint of the property that aligns with the primary entrance drive and creates a visual focal point of the property. The inclusion of the greenspace bridges the connection between the interior site and the shared use path. Additionally, the placement of the bicycle storage room further activates the space and encourages multi-modal transit use. Overall, the reconfiguration of the site alleviates some of the visibility issues previously identified, increases ingress/egress points to the shared use path at a logical center, and brings activity further towards the shared use path which allows the site to better maintain a safe, visible, and open environment for pedestrians.

Given that the SAD establishes the development standards applicable to the development, there are no identified waivers or variances. However, it should be noted that there are differences between requirements in the LDR for development with the existing MROC zoning and the proposed standards. The deviations are summarized again in the table, and discussed in detail below.

	Proposed SAD Standard	Existing MROC Standard
Use	100% residential floor area	Maximum 75% residential floor area
Parking	404 parking spaces	476 parking spaces
Special Landscape Buffer	15-foot buffer with a pedestrian pathway	30 foot landscape buffer
Site Setbacks	15 ft. for the entire height of the building	25 ft. for portions of building greater than 42 ft. in height
Building Height	Maximum height of 48 ft.	maximum height of 85 ft.

- Use – providing 100 percent of residential floor area in lieu of the allowed maximum of 75 percent of residential floor area.

The existing MROC zoning anticipates large scale mixed-use development and requires development greater than 2,500 feet from a transit station to provide a maximum residential floor area of 75 percent. The SAD proposes 100 percent of residential floor area, with zero commercial square footage included. The application states that the free-standing multi-family development is of similar intensity permitted under the CMU land use and is more appropriate for the property considering the systemic changes to the way people shop and work. While there is retail and office space in close proximity to the site, the intent of the multi-family floor area restriction is to promote more dense multi-family development closer to transit stations, thereby establishing a more transit-oriented development pattern that transitions to lesser dense development the further from a transit station.

- Parking – providing 404 parking spaces in lieu of the required 476 spaces required under the MROC district regulations.

The minimum required parking for multi-family development in MROC is outlined in LDR Section 4.4.29(H). The SAD proposes a lesser parking requirement than MROC, supported by a parking analysis provided by the applicant and dated July 14, 2022. The analysis (provided as an attachment) outlines the required parking for the development under the MROC zoning regulations and provides a parking demand calculation based on a Q1 2022 residential demographic report. Under the existing zoning of MROC, the project would be required to provide a minimum of 476 parking spaces (an average of 1.78 parking spaces per unit). However, based on the parking demand calculations provided, the national average effective parking ratio is 1.19 parking spaces per unit and 0.89 parking spaces per bedroom. The SAD proposes 404 parking spaces, which equates to 1.51 spaces per unit and 1.03 parking spaces per bedroom, exceeding the national average outlined in the report. The analysis states that the reduction in parking would still allow for a minimum of one parking space per bedroom and would conform with the applicant's regional parking distributions as observed in other residential developments within the applicant's portfolio of properties. The table below compares the required parking established in MROC versus the proposed parking in the subject SAD.

Unit Type	MROC Parking Requirement		SAD Parking Proposed
One-bedroom	1.25 spaces/unit		1.15 spaces/unit
Two-bedroom	2 spaces/unit		1.75 spaces/unit
Three or more bedroom	2 spaces/unit		2 spaces/unit
Guest parking	First 20 units	0.5 space/unit	0.1 spaces/unit
	Units 21-50	0.3 spaces/unit	
	Units 51 and above	0.2 spaces/unit	
Total	476 spaces		404 spaces

- Special landscape buffer – providing a 15-foot buffer with a pedestrian pathway in lieu of the required 30 foot landscape buffer.

The proposed SAD directly references the landscape regulations in LDR Section 4.6.16 and LDR Section 4.6.19, and generally adheres to those standards. It is noted, however, that the proposed SAD states the provisions set forth in **LDR Section 4.3.4(H)(6)(b), Special Landscape Setbacks**, are not applicable. Therefore, instead of providing the required 30-foot special landscape setback, the proposed MDP provides a 15-foot front setback with a meandering pedestrian pathway between the principal structures and the public sidewalk. The pathway provides safe pedestrian connectivity from each residential building to the sidewalk along South Congress Avenue, but it deviates from the standards established for this segment of Congress Avenue.

A detailed landscape plan will be reviewed with the Class V Site Plan application, which is being reviewed concurrently with the subject applications.

- Side setbacks – providing a side setback of 15 feet for the entire height of the building in lieu of providing the required 25 foot side setback for portions of building greater than 42 feet in height. As the property is adjacent to commercial and light industrial uses on either side, and only six feet of the building would be subject to the additional setback, staff anticipates minimal impact from allowing a 15 foot side setback for the entire height of the building.
- Building height – the SAD standards establish a maximum height of 48 feet (47.5 feet is provided), while the existing MROC zoning allows a maximum height of 85 feet by right.

Consideration should be given as to whether the deviations result in a project that meets the intent of the Always Delray Comprehensive Plan and LDR.

Considerations

The Board should consider the following in reviewing the subject request:

Rezoning: MROC to SAD with associated LDR Amendment

- Whether the request qualifies as an SAD pursuant to LDR Section 4.4.25.
- Whether the proposal meets in the intent of the SAD zoning district pursuant to LDR Section 4.4.25.
- Whether the requested SAD is consistent with the applicable goals, objectives, and policies of the Comprehensive Plan.
- Whether the requested redevelopment of the property as a 267-unit residential development better implements the character of the CMU land use district as encouraged by Policy NDC 1.3.18 better than the existing MROC zoning.
- Whether there has been a change in circumstances on the site or within the neighborhood that renders the MROC zoning inappropriate.

Master Development Plan

- Whether the proposed SAD zoning provides appropriate regulations to support the character of CMU land use.

Review By Others

The first and second reading dates by the City Commission are anticipated to take place in October and November, 2022, with a hearing by SPRAB between first and second reading.

Board Action Options

- A. Move a recommendation of **approval** to the City Commission of Ordinance No. 32-22, a privately-initiated request to rezone the subject property from Mixed Residential Office and Commercial (MROC) to Special Activities District (SAD), amend LDR Section 4.4.25(H), and approve the Master Development Plan, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval as amended** to the City Commission of Ordinance No. 32-22, a privately-initiated request to rezone the subject property from Mixed Residential Office and Commercial (MROC) to Special Activities District (SAD), amend LDR Section 4.4.25(H), and approve the Master Development Plan, finding that the amendment and approval thereof is consistent with

the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.

- C. Motion to **deny** Ordinance No. 32-22, a privately-initiated request to rezone the subject property from Mixed Residential Office and Commercial (MROC) to Special Activities District (SAD), amend LDR Section 4.4.25(H), and approve the Master Development Plan, finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.

D. **Continue With Direction.**

Public and Courtesy Notices

X Courtesy Notices were sent to the following:

- Chamber of Commerce
- Abbey Delray North
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X Public Notice was posted at the property on Friday, September 2, 2022, at least 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius on Friday, September 2, 2022, at least 10 days prior to the meeting.

X Public Notice was published in the Sun Sentinel on Friday, September 2, 2022, 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website on Friday, September 2, 2022, 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall on Friday, September 2, 2022, 10 calendar days prior to the meeting.

X Agenda was posted on Friday, September 2, 2022, at least 5 working days prior to meeting.