



## Cover Memorandum/Staff Report

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**File #:** 22-1600

**Agenda Date:** 11/15/2022

**Item #:** 9.A.

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Department  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** November 15, 2022

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. (QUASI JUDICIAL / FIRST READING)

**Recommended Action:**

Consider 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 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:**

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 10<sup>th</sup> Street/Lowson Boulevard. The property is primarily vacant with a 29,250SF warehouse/office building that was constructed in 1981 on the north side.

The applicant is requesting to rezone the subject property from Mixed Residential, Office, and Commercial (MROC) to Special Activities District (SAD) for the purpose of constructing a 375,355 SF, 267-unit multi-family development.

The request also includes an associated amendment to the Land Development Regulations (LDR) to add the Alexan Delray to the list of SADs in LDR Section 4.4.25(H). A Master Development Plan (MDP) and Class V Site Plan were concurrently reviewed with the rezoning application. The MDP is an exhibit to the subject rezoning ordinance and the site plan will be reviewed by the Site Plan Review and Appearance board (SPRAB) between first and second reading subject to the approval of

the rezoning and MDP.

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

Pursuant to LDR Section 3.1.1, Required Findings, prior to the approval of development applications, the following findings shall be made:

- (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.*
- (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.*
- (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.*
- (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.*

Pursuant to LDR Section 2.4.5(F)(5), Findings, 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.*

Pursuant to LDR Section 4.4.25(A), the purpose and intent of the SAD is, “*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."*

The attached Planning and Zoning Board Staff Report provides a full analysis of the request.

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.

On September 19, 2022, the applicant, Maple Multi-Family Land SE, L.P., through its authorized agent, Jeffrey Costello of JC Planning Solutions, filed an appeal of the decision of the Planning and Zoning Board to recommend denial of its application.

The City Commission will hear Resolution No. 186-22 to overrule the decision by the Planning and Zoning Board on November 15, 2022. If Resolution No. 186-22 is approved, the rezoning ordinance will be heard on First Reading. If Resolution No. 186-22 is not approved, no action will be taken on this ordinance.

**City Attorney Review:**

Ordinance No. 32-22 has not been approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

*Pursuant to LDR Section 4.4.25(D)(2), an SAD may proceed to first reading based upon a lesser submission provided that, if approved on first reading, prior to second reading a complete site and development plan including landscaping plans and architectural elevations must be processed through, and approved by the Site Plan Review and Appearance Board. However, in no event shall the time between first and second readings of the enacting ordinance exceed a period of 180 calendar days. The hearing date for the Site Plan Review and Appearance Board and the date of adoption reading is to be determined.*