

## **TOWN OF PALM BEACH**

**Information for Town Council Meeting on:**

**August 9, 2023**

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To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

From: Wayne Bergman, MCP, LEED-AP, Director PZ&B

Re: Amendment to the Requirements for Non-Conforming Lots  
**Ordinance No. 10-2023**

Date: July 26, 2023

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### **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve the ordinance on first reading accepting the preliminary findings of the proposed Code language related to non-conforming lots.

### **BOARD OR COMMISSION RECOMMENDATION**

On April 27, 2023, the Planning and Zoning Commission recommended Ordinance No. 10-2023 move forward to first and second reading. The proposed Code language proposes that single-family prior platted lots that do not meet the lot frontage, and/or lot dimensions, and/or lot size, not require processing an application for a Special Exception Approval.

### **GENERAL INFORMATION**

The subject Code amendment has been presented to the PZC several times over the last few years. Most recently on April 27, 2023. Town planning staff was directed to proceed with amending several code amendments identified as those that can be adopted prior to the Town Zoning Code rewrite. The subject code amendment was one (1) of those proposals as non-conforming lots have been vetted through the public hearing and outreach efforts associated with the Code review planning process.

Many of the special exceptions and variance applications that come before the Town Council are required due only due to the existing nonconformity on which development or redevelopment is proposed. Simply stated, the lot frontage, and/or lot dimensions, and/or lot size do not meet the current minimum regulations found in the Town Zoning Code as these lots were platted prior to the current Zoning Code. The specific land development regulations associated with this proposed amendment are found in Chapter 134, Sections 134-446, 134-793(b), 134-843(b) and 134-893(c) of the Zoning Code.

The Town Zoning Code currently requires variances for nonconforming lots in the multi-family and commercial zoning districts, and special exceptions and site plan approvals for nonconforming

lots in the single-family home zoning districts. The subject code amendment will simplify the process for single-family development. Presumably, the lots which are designated nonconforming today, were at one time conforming, as these lots would not have been platted or approved as part of a past subdivision. These lots are most often rendered nonconforming by the adoption of later codes, which changed the bulk zoning requirements within these districts.

The proposed solution retains the required variance on nonconforming lots in the multi-family and commercial districts but amends the required special exception with a site plan approval requirement on nonconforming lots within the single-family districts. With the subject amendment, these non-conforming lots are proposed to be permitted by right, if the nonconforming lots have maintained the metes and bounds (same size and boundaries) as the original lot of record when developed with a single-family dwelling in the past.

### **RECENT ACTIONS**

The ordinance was scheduled for first reading at the July 12, 2023 Local Planning Agency and Town Council meetings. The ordinance was not approved that day as a concern was mentioned whether the nonconforming lots in the R-A and R-AA districts should be included in the proposed exemption. The goal of the ordinance was to remove the special exception process for all single-family nonconforming lots, not just the R-B nonconforming lots. Staff reviewed the number of nonconforming lots in these districts and can report the following data, which you may find helpful in reviewing this matter:

DISTRICT	NUMBER OF TOTAL LOTS	NUMBER OF NONCONFORMING LOTS	% OF LOTS THAT ARE NONCONFORMING
R-A	396	156	40%
R-AA	65	13	20%
R-B	1,856	1,000, +/-	54%, +/-

### **TOWN ATTORNEY REVIEW**

The subject code amendment has been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 10-2023

cc: James Murphy, Assistant Planning Director  
Jennifer Hofmeister-Drew, Planner III, AICP

## ORDINANCE NO. 010-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE IV, NONCONFORMITIES, DIVISION 4. – LAND; ARTICLE VI, DISTRICT REGULATIONS, DIVISION 2. -RAA, DIVISION 3.- R-A AND DIVISION 4.-R-B; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

**Section 1.** Chapter 134, Zoning Article IV, Nonconformities, Division 4.- Land, is hereby amended as follows:

**Sec. 134-446. Development and redevelopment of nonconforming residential lots.**

- (a) ~~Vacant~~ Land located in any zoning district which does not conform to the minimum requirements of lot dimension or lot area as required by the schedule of lot, yard and bulk regulations for the district as given in article VI of this chapter may be developed or redeveloped as allowed in subsections (b) and (c) provided that ~~multi-family residential use and single-family residential use~~ does not exceed the maximum density allowed for the site, as identified in chapter 134 and the Future Land Use Element in the town's comprehensive plan. ~~Development of a single-family residential dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of 30 years is allowed subject to subsection (b) or (c), whichever is relevant.~~
- (b) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B and PUD zoning districts shall be subject to an application to the town council for a variance. A variance to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.
- (c) ~~The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements~~ A single-family dwelling, along with ancillary accessory structures, may be developed on a nonconforming lot in the R-AA, R-A and R-B zoning districts provided that the lot contained a single-family dwelling and the lot retains the same size and configuration as when the previous single-family dwelling was constructed on the lot. ~~shall be subject to an application to the town council for special exception and/or site plan review as provided for in subsections 134-793(b), 134-843(b) and 134-893(b). A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area~~

~~or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

**Section 2.** Chapter 134, Zoning Article VI, District Regulations, Division 2. R-AA, is hereby amended as follows:

**Sec. 134-793. Lot, yard, and area requirements—Generally.**

- (b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-AA zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, said single-family dwelling meets all other Town Codes. ~~however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

**Section 3.** Chapter 134, Zoning Article VI, District Regulations, Division 3. R-A, is hereby amended as follows:

**Sec. 134-843. Lot, yard, and area requirements—Generally.**

- (b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-A zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, said single-family dwelling meets all other Town Codes. ~~however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

**Section 4.** Chapter 134, Zoning Article VI, District Regulations, Division 4. R.B, is hereby amended as follows:

**Sec. 134-893. Lot, yard, and area requirements—Generally.**

- (c) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-B zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, said single-family dwelling meets all other Town Codes. ~~however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.~~

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**Section 5.** Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance

which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

**Section 6.** Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

**Section 7.** Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

**Section 8.** Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this \_\_\_\_ day of \_\_\_\_, 2023; and for the Second and Final Reading on this \_\_\_\_ day of \_\_\_\_, 2023.

\_\_\_\_\_  
Danielle H. Moore, Mayor

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Margaret A. Zeidman, Town Council President

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Bobbie Lindsay, Town Council President Pro Tem

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Julie Araskog, Town Council Member

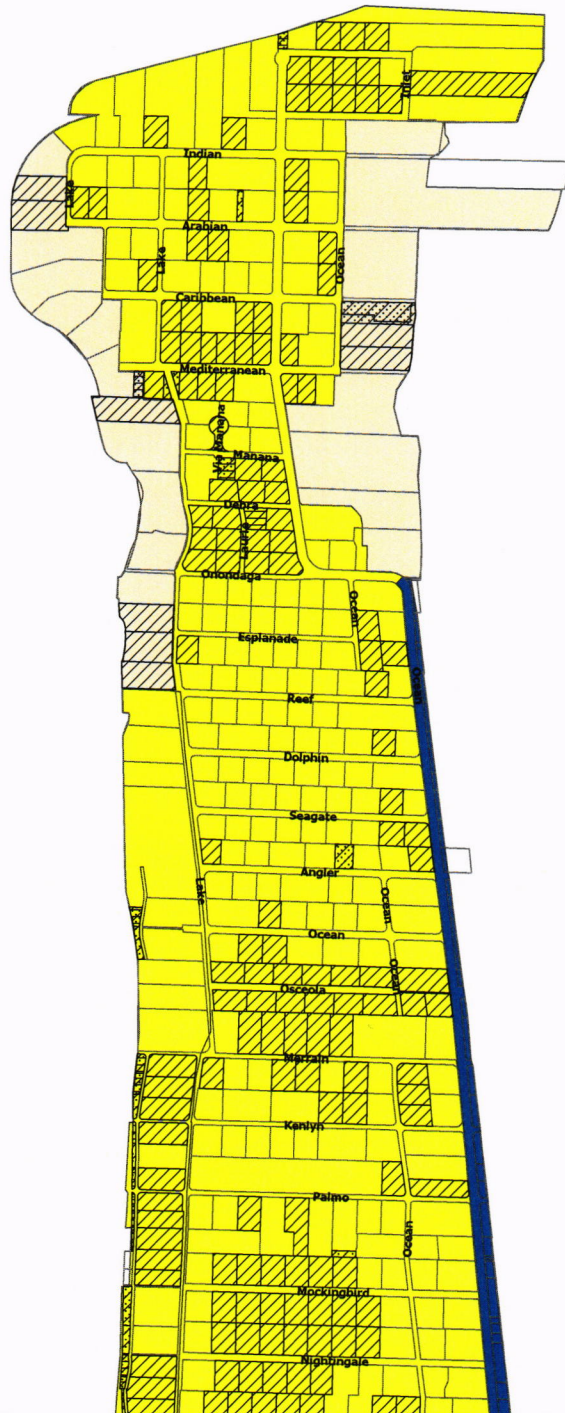
ATTEST:

\_\_\_\_\_  
Edward A. Cooney, Town Council Member

\_\_\_\_\_  
Kelly Churney, Acting Town Clerk

\_\_\_\_\_  
Lewis S.W. Crampton, Town Council Member





## Nonconforming Lots in R-A, R-AA, & R-B

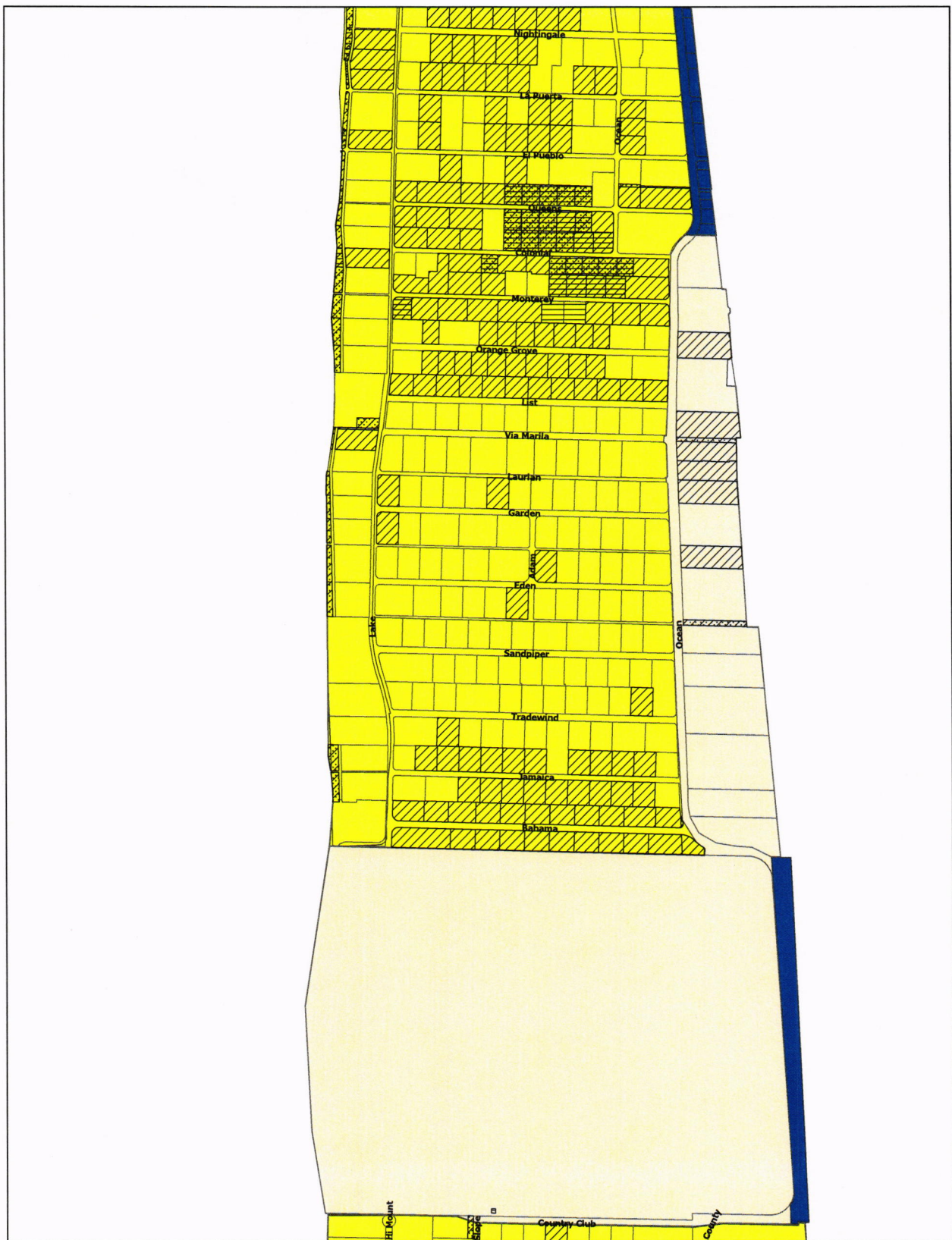
### Nonconforming Standards

- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

### Zoning Districts

- |        |       |
|--------|-------|
| R-AA   | C-TS  |
| R-A    | C-WA  |
| R-B    | C-B   |
| R-C    | C     |
| R-D(1) | PUD-A |
| R-D(2) | PUD-B |
| C-OPI  | PUD-C |
| C-PC   | BA    |

0 0.05 0.1 0.2 Miles



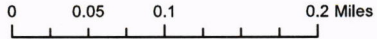
# Nonconforming Lots in R-A, R-AA, & R-B

## Nonconforming Standards

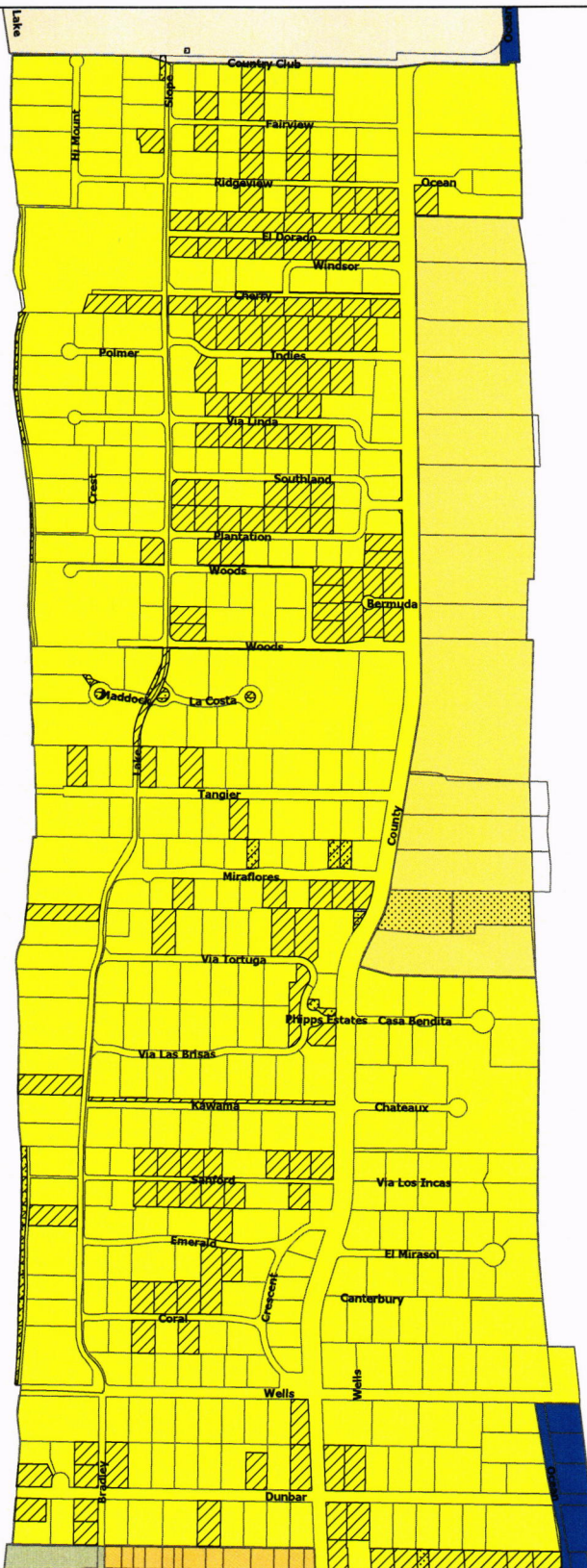
- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

## Zoning Districts

- R-AA
- R-A
- R-B
- R-C
- R-D(1)
- R-D(2)
- C-OP1
- C-PC
- C-TS
- C-WA
- C-B
- C
- PUD-A
- PUD-B
- PUD-C
- BA







## Nonconforming Lots in R-A, R-AA, & R-B

### Nonconforming Standards

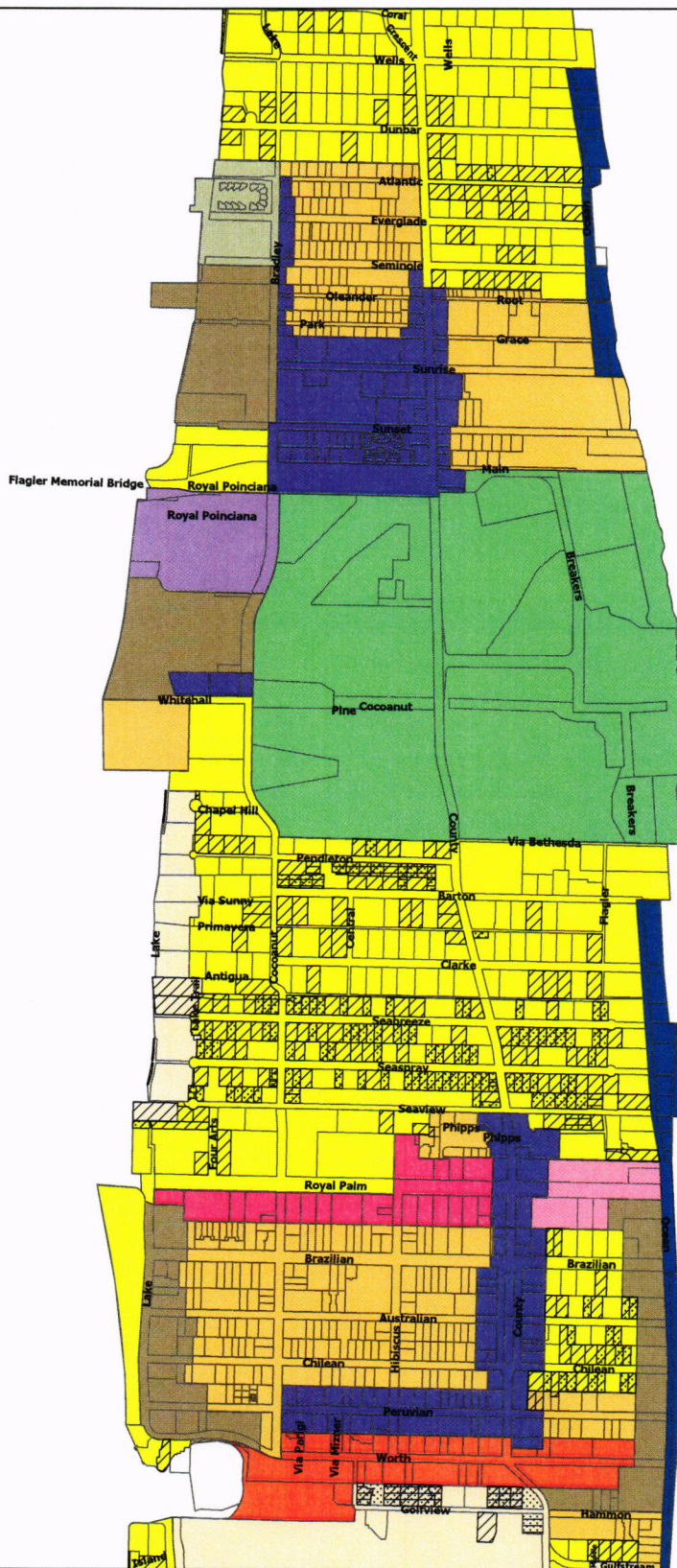
- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

### Zoning Districts

- |        |       |
|--------|-------|
| R-AA   | C-TS  |
| R-A    | C-WA  |
| R-B    | C-B   |
| R-C    | C     |
| R-D(1) | PUD-A |
| R-D(2) | PUD-B |
| C-OPI  | PUD-C |
| C-PC   | BA    |

0 0.05 0.1 0.2 Miles





## Nonconforming Lots in R-A, R-AA, & R-B

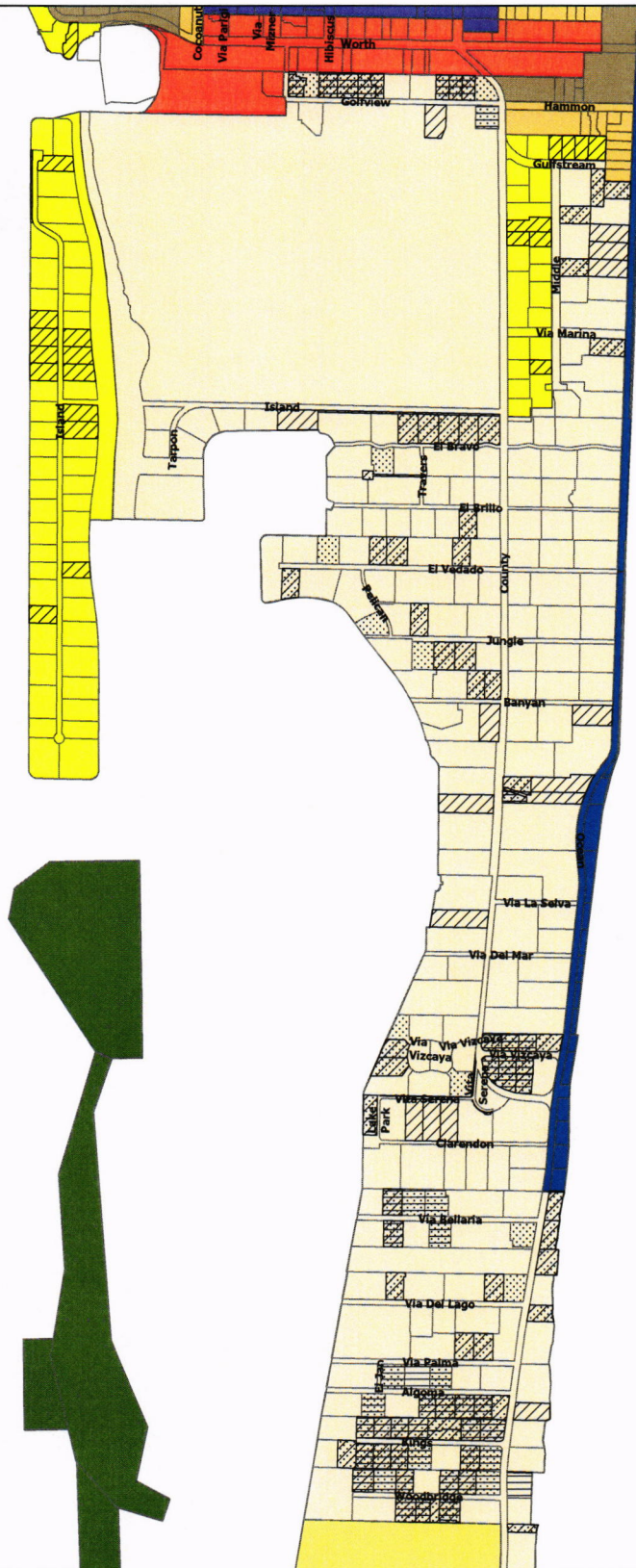
### Nonconforming Standards

- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

### Zoning Districts

- |        |       |
|--------|-------|
| R-AA   | C-TS  |
| R-A    | C-WA  |
| R-B    | C-B   |
| R-C    | C     |
| R-D(1) | PUD-A |
| R-D(2) | PUD-B |
| C-OP1  | PUD-C |
| C-PC   | BA    |

0 0.07 0.15 0.3 Miles



## Nonconforming Lots in R-A, R-AA, & R-B

### Nonconforming Standards

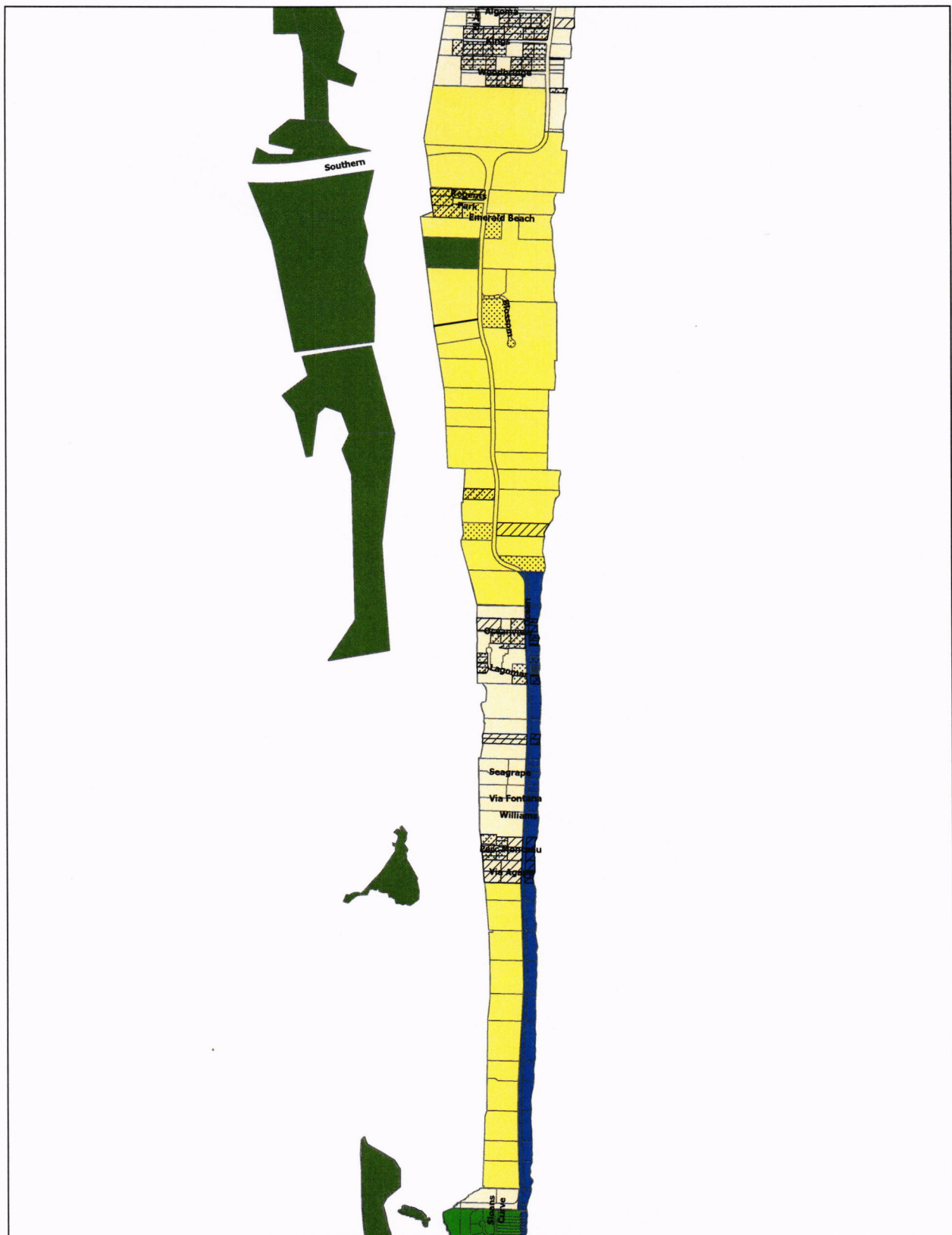
- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

### Zoning Districts

- |        |       |
|--------|-------|
| R-AA   | C-TS  |
| R-A    | C-WA  |
| R-B    | C-B   |
| R-C    | C     |
| R-D(1) | PUD-A |
| R-D(2) | PUD-B |
| C-OPI  | PUD-C |
| C-PC   | BA    |

0 0.07 0.15 0.3 Miles





## Nonconforming Lots in R-A, R-AA, & R-B

### Nonconforming Standards

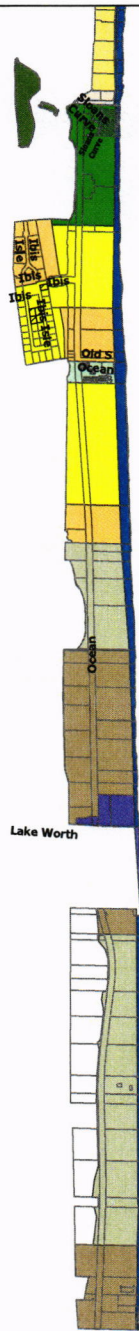
- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

### Zoning Districts

- |        |       |
|--------|-------|
| R-AA   | C-TS  |
| R-A    | C-WA  |
| R-B    | C-B   |
| R-C    | C     |
| R-D(1) | PUD-A |
| R-D(2) | PUD-B |
| C-OP1  | PUD-C |
| C-PC   | BA    |

0 0.1 0.2 0.4 Miles





## Nonconforming Lots in R-A, R-AA, & R-B

### Nonconforming Standards

- Nonconforming Area
- Nonconforming Width
- Nonconforming Depth

### Zoning Districts

- |        |       |
|--------|-------|
| R-AA   | C-TS  |
| R-A    | C-WA  |
| R-B    | C-B   |
| R-C    | C     |
| R-D(1) | PUD-A |
| R-D(2) | PUD-B |
| C-OPI  | PUD-C |
| C-PC   | BA    |

0 0.23 0.45 0.9 Miles