

**TOWN OF PALM BEACH**

**Information for Town Council Meeting on:**

**March 12, 2024**

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To: Mayor and Town Council Members, Serving as the Local Planning Agency & Town Council

Via: Kirk W. Blouin, Town Manager

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

*WB*

Re: Comprehensive Plan and Zoning Map and Text Amendments for a new Planned Unit Development at 239-255 South County Road

Date: March 1, 2024

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**STAFF RECOMMENDATION**

Staff recommends the Town Council, acting as the Local Planning Agency, conduct the public hearings for Ordinance No. 001-2024 through Ordinance No. 004-2024 at the Town Council meeting prior to 5:00 p.m. The Ordinance will be heard at the first reading on March 13, 2024.

**GENERAL INFORMATION**

Pursuant to Chapter 166.041, F.S. the local governing body is required to hold two (2) advertised public hearings on a proposed ordinance. At least one hearing held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least seven (7) days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least five (5) days prior to the public hearing.

**TOWN ATTORNEY REVIEW**

The subject Ordinances have been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 001-2024 through Ordinance No. 004-2024

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

**ORDINANCE NO. 001-2024**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA; AMENDING THE ADOPTED 2017 TOWN OF PALM BEACH'S COMPREHENSIVE PLAN PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE DESIGNATION FOR PARCELS OF LAND MORE PARTICULARLY DESCRIBED IN EXHIBIT A, FROM "COMMERCIAL" AND "SINGLE FAMILY" TO "APPROVED PUD"; PROVIDING FOR INCLUSION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITHIN; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Palm Beach has adopted a Comprehensive Plan pursuant to Chapter 163, Part II, Florida Statutes, known as the Community Planning Act (the "Act"); and

**WHEREAS**, on August 9, 2017, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan based on the Town's Evaluation and Appraisal of the Comprehensive Plan with the adoption of Ordinance No. 9-2017; and

**WHEREAS**, pursuant to Town Code Section 86-51, in accordance with Section 163.3174, Florida Statutes, the Town Council of the Town of Palm Beach is hereby designated and established as the Local Planning Agency for the incorporated territory of the Town of Palm Beach; and

**WHEREAS**, pursuant to Section 163.3184, Florida Statutes, a small-scale development amendment may be adopted pursuant to this section if the proposed amendment involves a use of 50 acres or fewer and if the proposed text changes to the Goals, Objectives and Policies relate directly to and are adopted simultaneously with the small-scale future land use map amendment; and

**WHEREAS**, on January 29, 2024, the Town of Palm Beach received a privately initiated development review application to amend the Town of Palm Beach Comprehensive Plan Future Land Use Map and Future Land Use Element Goals, Objectives and Policies that relate directly to the small-scale future land use map amendment; and

**WHEREAS**, on March 5, 2024, the Town of Palm Beach Planning and Zoning Commission reviewed the proposed text amendments (“Amendments”) to the Future Land Use Element of the Comprehensive Plan and recommended to the Town Council that the Amendments be approved; and

**WHEREAS**, on March 13, 2024, pursuant to Section 163.3174(4)(a), Florida Statutes, the Town Council acting as the Local Planning Agency conducted a public hearing wherein it considered the recommendations of the Planning, Zoning and Building Department and the Planning and Zoning Commission regarding the Amendments to the Future Land Use Element of the Town of Palm Beach Comprehensive Plan; and

**WHEREAS**, the Town Council has determined that the proposed Amendments to the Comprehensive Plan Future Land Use Element promote the public health, safety and welfare and are consistent with the requirements in Florida Statutes, and all elements of the adopted Comprehensive Plan; and

**WHEREAS**, pursuant to Section 163.3184(11), the Town Council has affirmatively voted to transmit the Amendments to the Florida Department of Commerce and appropriate reviewing agencies for their respective review(s).

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

**Section 1.** Incorporation of Recitals.

The above recitals are incorporated as fully set forth herein.

**Section 2.** Amendment of the Comprehensive Plan.

The Town of Palm Beach Future Land Use Map of the Comprehensive Plan, set from in Ordinance No. 9-2017 of the Town of Palm Beach, is hereby amended from Single Family Residential and Commercial to Approved PUD as described on Exhibit “A” and displayed on Exhibit “B” attached hereto and incorporated herein by reference.

**Section 3.** Transmittal.

The Town Clerk is hereby directed to transmit the required copies of the Amendments to the Town’s Comprehensive Plan to the Florida Department of Commerce and all other parties as required by Section 163.3184(3)(c)2, Florida Statutes.

**Section 4.** 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 5.** 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 6.** Codification.

This Ordinance shall be codified and made a part of the official Comprehensive Plan of the Town of Palm Beach.

**Section 7.** Effective Date.

This Ordinance shall take effect 31 days subsequent to its enactment on second and final reading, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this (date) day of (Month), (year), and for second and final reading this (date) day of (Month), (year).

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Danielle H. Moore, Mayor

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Margaret A. Zeidman, Town Council President

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Bobbie Lindsay, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Edward A. Cooney, Town Council Member

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Kelly Churney, Acting Town Clerk

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Lewis S.W. Crampton, Town Council Member

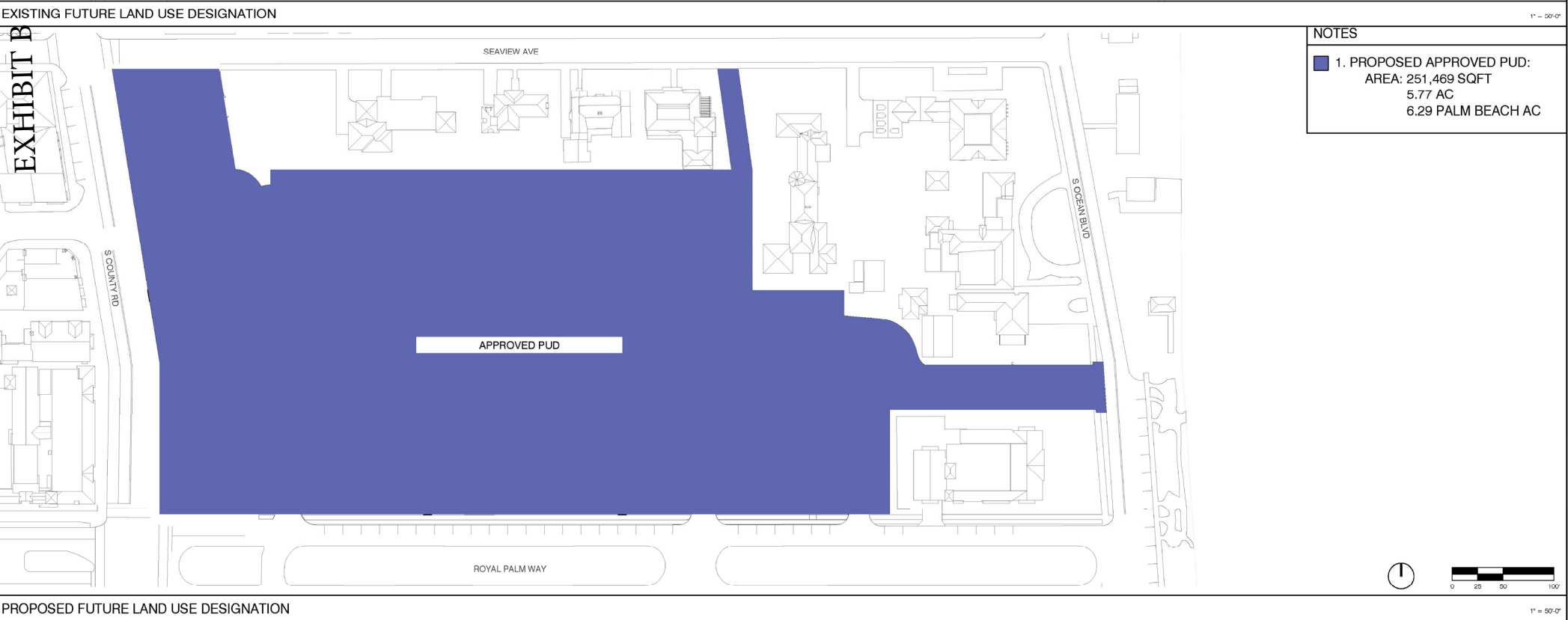
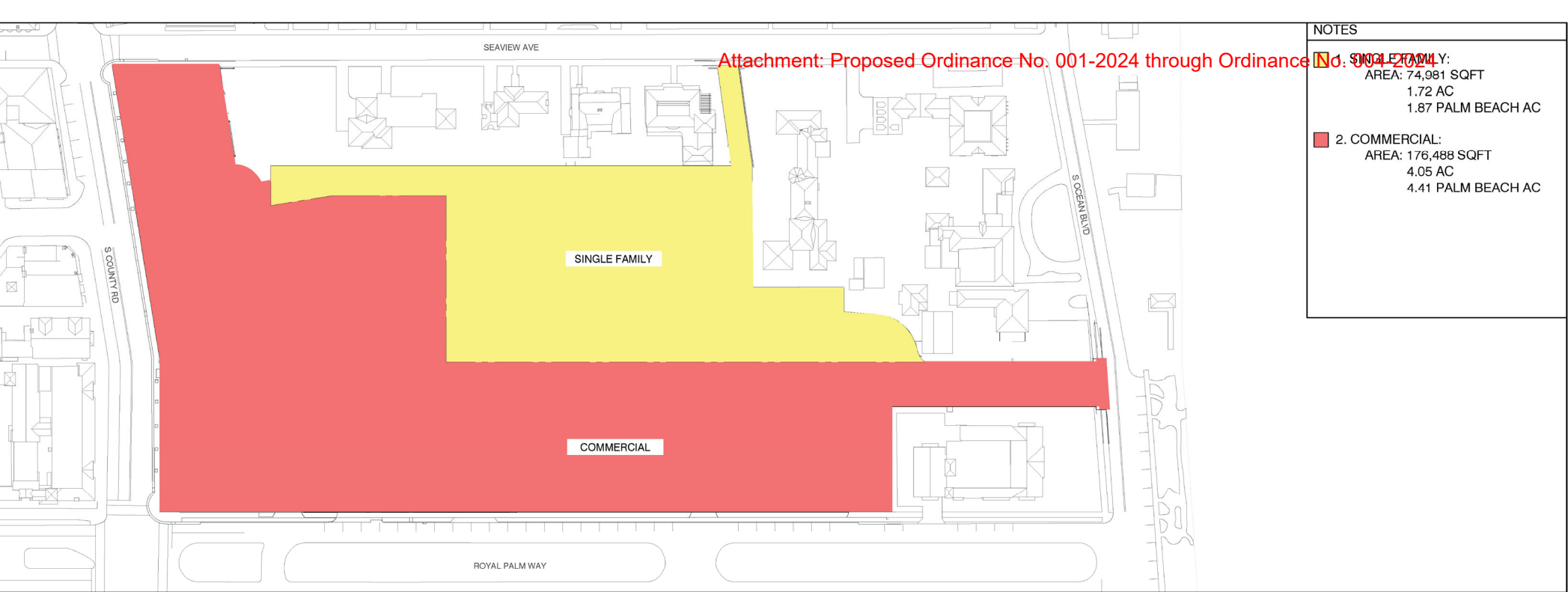
**Exhibit A**

**LEGAL DESCRIPTION:**

COMMENCING at the Southwest corner of Lot 22, Block B, Royal Park Addition to Palm Beach, Palm Beach County, Florida, as recorded in Plat Book 4, Page 1, Palm Beach County Public Records; thence run Easterly along the South line of said Lot 22 and the South lines of Lots 23, 24, 25, 59 and 26 of said Block B, a distance of 600 feet to the southwest corner of Lot 27 of said Block B; thence continue Easterly along the South line of said Lot 27 a distance of 116.93 feet to the southwest corner of property as described in Warranty Deed from First National Bank to Bryan L. Ramsing and Wiley R. Reynolds, Jr., dated march 27, 1953 and recorded in Deed Book 1013, Page 359, Palm Beach County Public Records; thence Northerly and parallel to the West line of said Lot 27 a distance of 103.09 feet; thence Easterly and parallel to the North line of said Lot 27 a distance of 202.89 feet (per prior deed; 202.67 actual measurement) to the West boundary line of Ocean Boulevard; thence Southerly along said West boundary line of Ocean Boulevard a distance of 3.02 feet; thence Easterly and parallel to the North line of said Lot 27 a distance of 10.02 feet to the Easternmost line of said Lot 27, Block B as shown on said Plat of Royal Park Addition; thence Northerly along said Easternmost line of Lot 27, said Easternmost line also being the East line of the North 50 feet of said Lot 27, as described as Parcel IV on Warranty Deed from John Nuveen, Jr. and Grace Bennet Nuveen to First National Bank in Palm Beach dated June 2, 1951 and recorded in Deed Book 949, Page 340, Palm Beach County Records, for a distance of 50 feet more or less to the Northeast corner of said Lot 27; thence Westerly along the North line of said Lot 27 for a distance of 10.02 feet; thence Southerly and parallel with the said Easternmost line of Lot 27 for a distance of 3.01 feet to the Southeast corner of Parcel I, as described in Warranty Deed from First National Bank in Palm Beach to Claire A. Stiles, dated February 22, 1952 and recorded in Deed Book 972, Page 392, the description of said Parcel I was later corrected and recorded in Official Record Book 29, Page 407, Palm Beach County Public Records; thence Westerly, parallel with and 3.0 feet South of, measured at right angles to the North line of said Lot 27, and along the South line of said Parcel I, a distance of 166.24 feet (per prior deed; 165.83 by actual measurement) to the point of intersection with the arc of a nontangent curve, concave to the Northeast, having a radius of 20.03 feet and a central angle of 40° 54' 21", and its chord bears Northwesterly when measured counter clockwise 120° 28' 59" from the preceding course; thence Northwesterly along the arc of said curve for a distance of 14.30 feet to a point of reversed curvature; thence along the arc of a curve concaved to the Southwest, having a radius of 40.84 feet and a central angle of 74° 57' 31" for a distance of 53.43 feet to the point of tangency; thence continue Westerly (per prior description; actual bearing North 85° 00' 50" West), tangent to the last described curve a distance of 35.1 feet; thence Northerly, measuring an angle of 95° 00' 40" from the preceding course to the North a distance of 24.30 feet to a point in the North line of Parcel III as described in said Warranty Deed from John Nuveen, Jr. and Grace Bennet Nuveen to First National Bank in Palm Beach, dated June 2, 1951, and recorded in Deed Book 949, Page 340, Palm Beach County Records; thence Westerly along the North line of said Parcel III and at right angles to the preceding course for a distance of 90.42 feet to a point in the East boundary line of "The East Plaza" as recorded in Plat Book 16, Page 78, Palm Beach County Public Records, a part of said East boundary line also being the East line of Parcel I as described in said Warranty Deed from John Nuveen, Jr. and Grace Bennet Nuveen to First National Bank in Palm Beach, dated June 2, 1951 and recorded in Deed Book 949, Page 340, Palm Beach County Public Records; thence Northerly along said East boundary line for a distance of 117.86 feet; thence measuring an angle

**Exhibit A**

of 172° 10' 20" clockwise from the preceding course to the North and run for a distance of 100.94 feet to a point in the South line of Seaview Avenue as shown on said Plat of "The East Plaza"; thence turn an angle of 97° 49' 40" measured clockwise from the preceding course to the West and run along the South line of said Seaview Avenue for a distance of 20 feet to the Northwest corner of the Private Road shown as part of Lot 8 on the said Plat of "The East Plaza"; thence turn an angle of 82° 10' 20" measured clockwise from the preceding course to the South and run along the West line of said Private Road for a distance of 100.00 feet; thence turn an angle of 82° 10' 20" measured counter clockwise from the preceding course to the West and run along the South line of the marked "NOT INCLUDED" and the South lines of Lots 7, 6, 5 and 4 of said plat of "The East Plaza" a distance of 393.62 feet to the Southeast corner of Lot 3 of the said plat of "The East Plaza"; thence continue Westerly along the South line of said Lot 3 a distance of 58.94 feet to the Northwest corner of that part of Lot 11 of the said plat of "The East Plaza" lying North of the area shown as "Private Road"; thence run Southerly along the West line of said Lot 11 for a distance of 14.36 feet to point in the North line of said "Private Road"; said point also lying in the Easterly boundary of Parcel I as described in Deed from Bessemer Properties, Incorporated to the First National Bank in Palm Beach dated May 13, 1947 and recorded in Deed Book 818, Page 324, Palm Beach County Public Records; thence Westerly along the North line of said "Private Road" for a distance of 10.74 feet to its intersection with the circumference of a circle, concave to the Southwest at this point and having a radius of 30 feet, said circle being part of said herein referred to "Private Road"; thence Northwesterly along the arc of said circle, a distance of 31.52 feet to the Southeast corner of a strip of land as described in Quit Claim Deed from Elizabeth S. Fetterolf and Morton H. Fetterolf to First National Bank in Palm Beach, dated May 21, 1951 and recorded in Deed Book 945, Page 460, Palm Beach County Public Records; thence Northerly along the East line of said strip and parallel to and 1.5 feet Easterly of as measured at right angles to Westerly line of Lot 2 of said Plat of "The East Plaza" for a distance of 99.98 feet to the South line of said Seaview Avenue; thence Westerly along the South line of said Seaview Avenue a distance of 104.76 feet (more or less) to the Northwest corner of Lot 1 of said Plat of "The East Plaza"; thence Southerly along the West lines of Lots 1 and 2 of said Plat of "The East Plaza" and the West lines of Lots 1, 2 and 3 of the revised Plat of Columbus Colonade as recorded in Plat Book 10, Page 7, Palm Beach County Public Records, a distance of 291.65 feet to the Southwest corner of Lot 3 of said Columbus Colonade and the Northwest corner of Lot 22, Block B of said Plat of Royal Park Addition; thence run Southerly along the West line of said Lot 22, a distance of 150.00 feet to the POINT OF BEGINNING. Containing in all, 250,976 square feet or 5.76 acres, more or less.





**ORDINANCE NO. 002-2024**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE AMENDED OFFICIAL ZONING MAP OF THE TOWN OF PALM BEACH UPDATED JULY 26, 2022; REZONING PARCELS OF LAND MORE PARTICULARLY DESCRIBED IN EXHIBIT A, FROM “R-B LOW DENSITY RESIDENTIAL” DISTRICT, “C-TS TOWN-SERVING COMMERCIAL” DISTRICT, AND “C-B COMMERCIAL” DISTRICT TO “PUD-D”; PROVIDING FOR INCLUSION ON THE ZONING MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITHIN; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Code Section 134-261, the Town Council of the Town of Palm Beach may from time to time on its own motion or on petition, signed by the fee simple property owner of the property involved or authorized designee, agent or representative of the owner by power of attorney filed with the director of the planning, zoning and building department or designee, amend, supplement, change, modify or repeal the regulations, restrictions or district boundaries; and

**WHEREAS**, on January 29, 2024, the Town of Palm Beach received a privately initiated development review application to amend the Amended Official Zoning Map of the Town of Palm Beach Updated July 26, 2022 to rezone the subject property legally and as particularly described in Exhibit A from “R-B Low Density Residential” District, “C-TS Town Serving Commercial” District and “C-B Commercial District” to “PUD-D”; and

**WHEREAS**, on March 5, 2024, the Town of Palm Beach Planning and Zoning Commission reviewed the rezoning of the Subject properties and recommended to the Town Council that the rezoning be approved; and

WHEREAS, on March 13, 2024, the Town Council conducted a public hearing wherein it considered the recommendations of the Planning, Zoning and Building Department and the Planning and Zoning Commission regarding the recommended rezoning of the Subject properties.

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

**Section 1.** Incorporation of Recitals.

The above recitals are incorporated as fully set forth herein.

**Section 2.** Amendment of the Amended Official Zoning Map of the Town of Palm Beach Updated July 26, 2022

The Town Council directs the Zoning Map be amended to “PUD-D” as described on Exhibit “A” and displayed on Exhibit “B” attached hereto and incorporated herein by reference.

**Section 3.** 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 4.** 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 5.** Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

**Section 5.** Effective Date.

This Ordinance shall take effect 31 days subsequent to its enactment on second and final reading, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this (date) day of (Month), (year), and for second and final reading this (date) day of (Month), (year).

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Danielle H. Moore, Mayor

\_\_\_\_\_  
Margaret A. Zeidman, Town Council President

\_\_\_\_\_  
Bobbie Lindsay, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Edward A. Cooney, Town Council Member

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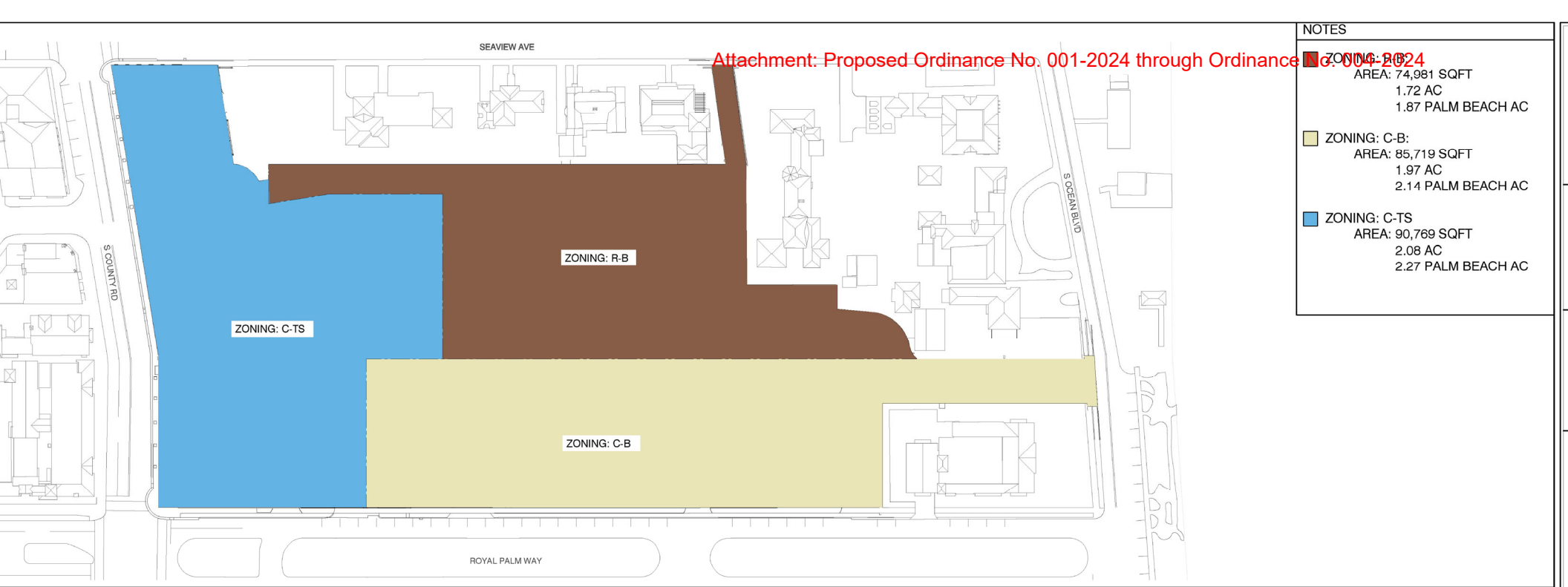
**Exhibit A**

**LEGAL DESCRIPTION:**

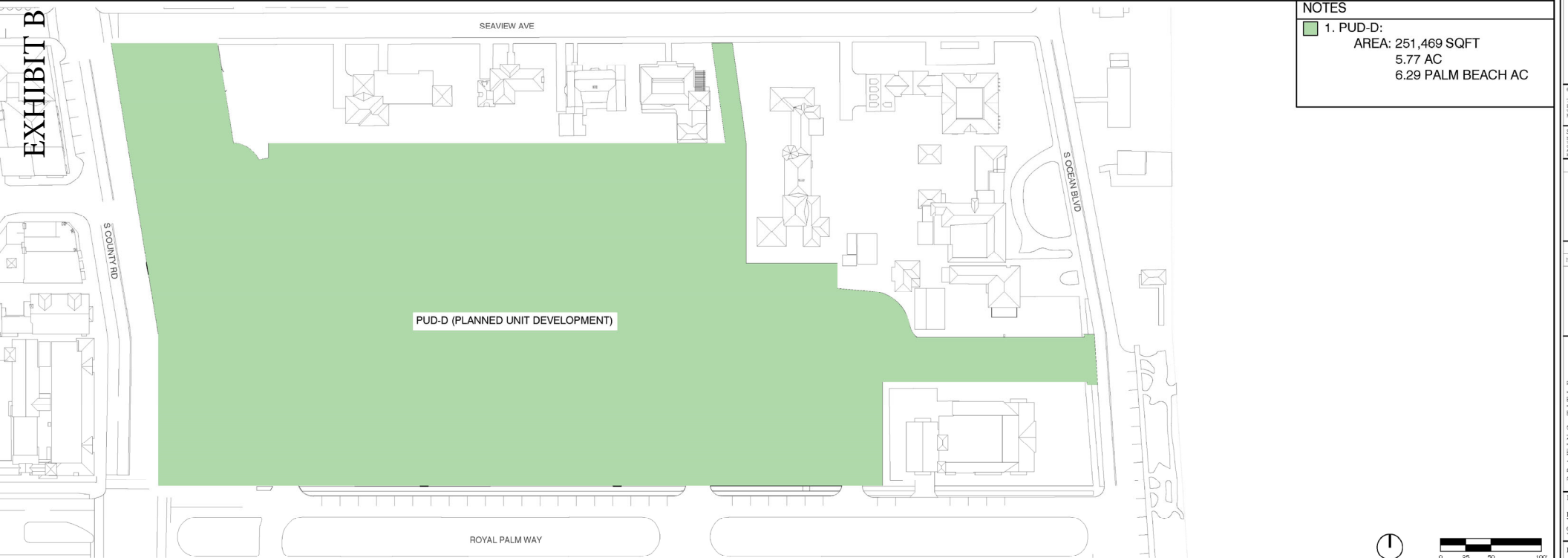
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**Exhibit A**

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EXISTING TOWN OF PALM BEACH ZONING



PROPOSED TOWN OF PALM BEACH ZONING

**ORDINANCE NO. 003-2024**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE ADOPTED 2017 TOWN OF PALM BEACH'S COMPREHENSIVE PLAN, PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AMENDING THE GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT WITHIN THE COMPREHENSIVE PLAN; AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT POLICY 2.2.1 TO INCORPORATE MIXED-USE PUDS AS SET FORTH IN POLICY 11.1.5 AS AN APPROPRIATE USE IN THE SINGLE FAMILY FUTURE LAND USE DESIGNATION; AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT POLICY 2.3.3 A. TO INCORPORATE MIXED-USE PUDS AS SET FORTH IN POLICY 11.1.5 AS AN APPROPRIATE USE IN THE COMMERCIAL FUTURE LAND USE DESIGNATION; AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT TO CREATE A NEW POLICY 11.1.5 TO ESTABLISH A TYPE OF PLANNED UNIT DEVELOPMENT IN THE TOWN OF PALM BEACH FOR MIXED-USE DEVELOPMENT WITHIN THE SINGLE FAMILY AND COMMERCIAL LAND USE CATEGORIES ALLOWING FOR A MIX OF RESIDENTIAL USES NOT EXCEEDING THE MAXIMUM ALLOWABLE DENSITY WITHIN THE LAND USE CATEGORIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITHIN; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Palm Beach has adopted a Comprehensive Plan pursuant to Chapter 163, Part II, Florida Statutes, known as the Community Planning Act (the "Act");

**WHEREAS**, on August 9, 2017, the Town of Palm Beach amended its Comprehensive Plan based on the Town's Evaluation and Appraisal of the Comprehensive Plan with the adoption of Ordinance No. 9-2017; and

**WHEREAS**, pursuant to Town Code Section 86-51, in accordance with Section 163.3174, Florida Statutes, the Town Council of the Town of Palm Beach is hereby designated and

established as the Local Planning Agency for the incorporated territory of the Town of Palm Beach; and

**WHEREAS**, pursuant to Section 163.3184, Florida Statutes, a small-scale development amendment may be adopted under the provisions of this subsection if the proposed amendment involves the use of 50 acres or few and if the proposed text changes to the Goals, Objectives and Policies relate directly to, and are adopted simultaneously with the small-scale future land use map amendment; and

**WHEREAS**, on January 29, 2024, the Town of Palm Beach received a privately initiated development review application to amend the Town of Palm Beach Comprehensive Plan Future Land Use Map and Future Land Use Element Goals, Objectives and Policies that relate directly to the small-scale future land use map amendment; and

**WHEREAS**, on March 5, 2024, the Town of Palm Beach Planning and Zoning Commission reviewed the proposed text amendments (“Amendments”) to the Future Land Use Element of the Comprehensive Plan and recommended to the Town Council that the Amendments be approved; and

**WHEREAS**, on March 13, 2024, pursuant to Section 163.3174(4)(a), Florida Statutes, the Town Council acting as the Local Planning Agency conducted a public hearing wherein it considered the recommendations of the Planning, Zoning and Building Department and the Planning and Zoning Commission regarding the Amendments to the Future Land Use Element of the Town of Palm Beach Comprehensive Plan; and



**WHEREAS**, the Town Council has determined that the proposed Amendments to the Comprehensive Plan Future Land Use Element promote the public health, safety and welfare and are consistent with the requirements in Florida Statutes, and all elements of the adopted Comprehensive Plan; and

**WHEREAS**, pursuant to Section 163.3184(11), the Town Council has affirmatively voted to transmit the Amendments to the Florida Department of Commerce and appropriate reviewing agencies for their respective review(s).

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

**TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** Incorporation of Recitals.

The above recitals are incorporated as fully set forth herein.

**Section 2.** Amendment of the Comprehensive Plan.

The Town of Palm Beach Comprehensive Plan, set forth in Ordinance No. 9-2017 of the Town of Palm Beach, is hereby amended to amend Future Land Use Element Policy 2.2.1 and 2.3.3 and create a new Policy 11.1.5, as follows and as set forth in Exhibit “A”, a copy of which is attached hereto and incorporated herein:

**Section 1.** POLICY 2.2

Development orders shall be issued by the Town only for new residential development or redevelopment that is consistent with the Future Land Use Map and associated Future Land Use Designations set forth in the following policies.

2.2.1 Single-Family Residential – Intended to accommodate and preserve estates and single- family residential development at a maximum density

of four dwelling units per gross Palm Beach acre (40,000 square feet) and a maximum height of two stories.

Appropriate uses include single-family dwellings, residential PUD's as set forth in Policies 11.1.1 and 11.1.4, **mixed use PUDs as set forth in POLICY 11.1.5**, cluster development, public uses and facilities, public and private schools, private group uses, group homes and foster care facilities, and essential services.

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2.3.3 Commercial – Intended to create, preserve, and enhance areas of attractive, small-scale, retail, personal and professional/business services, and mixed commercial/ residential use, developed either as a unit or in individual parcels, providing primarily for the frequently recurring needs of Town persons with limited provision for more intensive commercial uses that are proven to be compatible with the Future Land Use Plan and the character of the Town.

a. Appropriate uses include a wide range of commercial retail, service, professional and business uses for residents and visitors; hotels/motels up to 26 rooms per gross Palm Beach acre (40,000 square feet); timesharing uses up to 9 units per gross Palm Beach acre (40,000 square feet); offices; public uses and facilities; public and private schools; private group uses; **mixed-use PUDs as set forth in Policy 11.1.5**, and residential uses located above the ground floor.

b. Except for uses located in the Worth Avenue zoning district (C-WA), one residential unit may be located above the ground floor, or up to a maximum density of six dwelling units per gross Palm Beach acre, whichever is greater. In the Worth Avenue zoning district the maximum allowable density shall be 10 dwelling units per gross Palm Beach acre provided the Worth Avenue Design Guidelines are met.

c. Maximum lot coverage for non-residential uses shall be 75%.

d. In limited circumstances, the maximum building height shall be three stories.

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**11.1.5 Mixed-Use PUDs located within the Single Family and Commercial Future Land Use Categories allowing for a mix of residential uses not to exceed the maximum allowable density within the Future Land Use Categories.**

**Section 3.** Transmittal.

The Town Clerk is hereby directed to transmit the required copies of the Amendments to the Town's Comprehensive Plan to the Florida Department of Commerce and all other parties as required by Section 163.3184(3)(c)2, Florida Statutes.

**Section 4.** 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 5.** 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 6.** Codification.

This Ordinance shall be codified and made a part of the official Comprehensive Plan of the Town of Palm Beach.

**Section 7.** Effective Date.

This Ordinance shall take effect 31 days subsequent to its enactment on second and final reading, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this (date) day of (Month), (year), and for second and final reading this (date) day of (Month), (year).

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Danielle H. Moore, Mayor

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Margaret A. Zeidman, Town Council President

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Bobbie Lindsay, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Edward A. Cooney, Town Council Member

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Kelly Churney, Acting Town Clerk

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Lewis S.W. Crampton, Town Council

## **FUTURE LAND USE ELEMENT GOALS, OBJECTIVES AND POLICIES**

### **GOAL 1**

**TO MAINTAIN THE TOWN'S UNIQUE IDENTITY AND ITS HIGH QUALITY  
OF LIFE THROUGH THE EFFICIENT DISTRIBUTION OF COMPATIBLE  
LAND USES.**

#### **OBJECTIVE 1**

Future growth and development within the Town shall be managed to maintain and enhance the Town's unique physical and historic character with emphasis on its visual qualities, and compatibility and harmony among its diverse land uses. The measurement of this objective shall be the extent to which the following policies are implemented.

##### **POLICY 1.1**

Continue enforcement of the Town's Charter and Code of Ordinances containing specific and detailed provisions which are required to implement the adopted Comprehensive Plan, and which, at a minimum:

- a. Regulate the subdivision of land;
- b. Regulate the use of land and water consistent with this Element, ensure the compatibility of adjacent land uses, and provide for open space;
- c. Protect lands designated for Conservation;
- d. Regulate signage;
- e. Regulate areas subject to seasonal or periodic flooding and provide for drainage and stormwater management;
- f. Ensure safe and convenient on-site traffic flow and vehicle parking needs; and,
- g. Provide that no development order or permit shall be issued which results in a reduction of services for the affected public facilities below the level of service standards adopted in this Comprehensive Plan; and
- h. Reasonably ensure that newly planted trees are located in a manner that will require no more than minimal trimming in order to avoid contact with power lines.

##### **POLICY 1.2**

Conduct a staff review of each proposed new development or redevelopment project for the purpose of determining compliance with the Town's Code of Ordinances.

## OBJECTIVE 2

Maintain the character of the Town as a predominantly residential community having only the type and amount of businesses and other support services necessary to meet the needs of Town residents.

### POLICY 2.1

The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate.

- 2.1.1 Where essential services are indicated as an appropriate use, essential services shall include public utility facilities related to water supply, telephone (excluding wireless telecommunication facilities), cable television, gas, electrical distribution systems and town-owned services such as sanitary sewer, stormwater drainage, and solid waste collection and disposal systems, including any necessary appurtenant structures serving the Town.

### POLICY 2.2

Development orders shall be issued by the Town only for new residential development or redevelopment that is consistent with the Future Land Use Map and associated Future Land Use Designations set forth in the following policies.

- 2.2.1 Single-Family Residential – Intended to accommodate and preserve estates and single-family residential development at a maximum density of four dwelling units per gross Palm Beach acre (40,000 square feet) and a maximum height of two stories.

Appropriate uses include single-family dwellings, residential PUD's as set forth in Policies 11.1.1 and 11.1.4, **mixed-use PUDs as set forth in Policy 11.1.5**, cluster development, public uses and facilities, public and private schools, private group uses, group homes and foster care facilities, and essential services.

- 2.2.2 Multi-Family Moderate Density – Intended to accommodate and preserve residential development at a maximum density of six dwelling units per gross Palm Beach acre (40,000 square feet) and a maximum height of two stories.

Appropriate uses include single-family, two-family, townhouses and multi-family dwellings; residential PUD's as set forth in Policy 11.1.2; mixed-use PUD's as set forth in Policy 11.1.3; public uses and facilities; public and private schools;

private group uses; group homes and foster care facilities; and essential services.

- 2.2.3 Multi-Family High Density – Intended to accommodate residential development at a - maximum density of 13 dwelling units per gross Palm Beach acre (40,000 square feet) and, under limited circumstances, a maximum height of five stories.

Appropriate uses include single-family, two-family, townhouses and multi-family dwellings; residential PUD's as set forth in Policy 11.1.2; mixed-use PUD's as set forth in Policy 11.1.3; hotel and motel uses up to 26 rooms per gross Palm Beach acre (40,000 square feet) and associated accessory commercial uses (hotel and motel rooms are considered to be equivalent to 0.5 dwelling units); timesharing uses up to nine units per gross Palm Beach acre (40,000 square feet); public uses and facilities; public and private schools; private group uses; group homes and foster care facilities; and essential services.

### POLICY 2.3

Development orders shall be issued by the Town only for new non-residential development or redevelopment that is consistent with the Future Land Use Map and descriptions and intensities of land use as set forth in the following policies.

- 2.3.1 The following definitions shall pertain to the application of the non-residential land use designations and associated policies:
- a. "Town-serving" shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments (other than those in the "Commercial – Office, Professional & Institutional" (C-OPI) zoning district, which are not required to meet town-serving requirements) of 3,000 square-feet or less of gross leasable area in the C-PC, C-TS and C-B zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition.
  - b. "Town persons" shall mean all full-time and seasonal residents of the Town as well as visitors staying at accommodations in, or employees working in establishments located within, the Town.
- 2.3.2 Conservation – Intended to preserve and protect unique natural areas and submerged land from development and the negative impacts of public use. No development or redevelopment is permitted on or over land designated in this category, with the exception of docks, essential services or parks owned and operated by the Town.
- 2.3.3 Commercial – Intended to create, preserve, and enhance areas of attractive, small-scale, retail, personal and professional/business services, and mixed commercial/

residential use, developed either as a unit or in individual parcels, providing primarily for the frequently recurring needs of Town persons with limited provision for more intensive commercial uses that are proven to be compatible with the Future Land Use Plan and the character of the Town.

- a. Appropriate uses include a wide range of commercial retail, service, professional and business uses for residents and visitors; hotels/motels up to 26 rooms per gross Palm Beach acre (40,000 square feet); timesharing uses up to 9 units per gross Palm Beach acre (40,000 square feet); offices; public uses and facilities; public and private schools; private group uses; **mixed-use PUDs as set forth in Policy 11.1.5,** and residential uses located above the ground floor.
  - b. Except for uses located in the Worth Avenue zoning district (C-WA), one residential unit may be located above the ground floor, or up to a maximum density of six dwelling units per gross Palm Beach acre, whichever is greater. In the Worth Avenue zoning district the maximum allowable density shall be 10 dwelling units per gross Palm Beach acre provided the Worth Avenue Design Guidelines are met.
  - c. Maximum lot coverage for non-residential uses shall be 75%.
  - d. In limited circumstances, the maximum building height shall be three stories.
- 2.3.4 Public – Intended to recognize existing locations of, and provide sites for, public uses, structures and facilities.
- a. Appropriate uses include public schools, low intensity public buildings and facilities such as fire and police stations, Town Hall, etc., of a scale and intensity necessary to primarily serve the needs of Town persons. Only public uses owned, operated, franchised, or supervised by a governmental agency are given this designation.
  - b. The designation of a property for Public use on the Future Land Use Plan Map recognizes the current use of the property; and, further, that such properties may also be appropriate for residential or commercial development with uses identified under the Single-Family Residential and Commercial land use categories.
  - c. Maximum lot coverage shall be 40%.
  - d. In limited circumstances, the maximum building height shall be three stories.
- 2.3.5 Public Recreation – Intended to provide for low intensity public recreational uses or activities, natural resource and scenic resources of a scale and intensity necessary to primarily serve the needs of Town persons. Only public facilities owned, operated, franchised, or supervised by a public governmental entity are given this designation.



- 2.3.6 Private Group Use – Intended to provide for low intensity uses such as private clubs, golf and country clubs, public and private schools, houses of worship, museums, and non- commercial recreation-type or cultural uses at a scale and intensity intended to primarily serve the needs of Town persons.
- a. The designation of a property for Private Group Use on the Future Land Use Plan Map recognizes the current use of the property; and, further, that such properties may also be appropriate for residential or commercial development with uses identified under the Single-Family Residential, Multi-family Moderate Density, and Commercial future land use categories.
  - b. Maximum lot coverage shall be 40%.
  - c. In limited circumstances (Commercial Worth Avenue (C-WA) zoning district), the maximum building height shall be three stories.
- 2.3.7 Approved PUD – Intended to recognize existing or previously approved PUD's and provide for new PUD's within the density limits of the land use category in which they are located prior to approval of the PUD. PUD densities shall not exceed 13 dwelling units per gross Palm Beach acre.

#### POLICY 2.4

To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character, and to overall property values of the community, the Town will take all technical and administrative measures legally available, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.

#### POLICY 2.5

Continue to enforce the provisions of the Town's Zoning Ordinance which are directed toward the encouragement of Town-serving commercial uses and the discouragement of those uses which are likely to attract patronage on a regional level.

#### POLICY 2.6

The Town shall provide the amount, location, and type of on-street parking and street furniture, signage, beautification measures and traffic control that is sufficient to assure efficient functioning of the Town's business centers at Town-serving levels, and shall require off-street parking as necessary.

### **OBJECTIVE 3**

Development orders or permits for new development or redevelopment shall be issued for construction in the floodplain or coastal high hazard area only if they meet the building elevations identified in the Flood Insurance Rate Maps (FIRM).

#### **POLICY 3.1**

Prior to the issuance of a development order or permit, the Town shall make and record the following determinations:

- a. The proposed building elevations meet or exceed elevations identified on the Flood Insurance Rate Maps (except when sufficient justification of extenuating circumstances may be shown).

### **OBJECTIVE 4**

No new development shall be permitted on or over submerged lands or lands predominantly characterized by Tidal Swamp (TM) soils as identified in the Soil Survey of Palm Beach County.

#### **POLICY 4.1**

Areas identified as predominantly characterized by Tidal Swamp (TM) soils or identified as submerged lands shall be designated on the Town's Future Land Use Map for Conservation, and the Town's land development regulations shall prohibit urban development on such lands.

### **OBJECTIVE 5**

Development orders and permits for new development or redevelopment, or building permits for developments that have been issued development orders prior to the adoption of the Comprehensive Plan, shall be issued only if public facilities and services necessary to meet the Town's adopted level of service standards are available concurrent with the impacts of the development.

#### **POLICY 5.1**

A concurrency analysis shall be conducted prior to the approval of any application for a development order, and no final development order shall be issued unless:

- a. Existing facilities and services meet the Town's adopted level of service standards as set forth in the Capital Improvements Element, or
- b. The final development order is conditioned on such facilities and services being available at the time the impact of development will occur, consistent with the

Town's Concurrency Management System and implemented policies of the Capital Improvements Element.

POLICY 5.2

In order to ensure the availability of public facilities and services necessary to support development concurrent with its impacts, prior to the issuance of a development order or permit, the Town shall make and record the following determinations:

- a. Flooding will not occur during a one-year storm for systems served by pumping stations or during a three-year storm for systems with gravity outfalls, and the minor flooding associated with a five-year storm shall be carried off within sixty minutes.
- b. Negative impacts of stormwater discharge upon water quality in Lake Worth are ameliorated by the retention of the first two inches of rainfall prior to discharge into the Town system; or, the post-development runoff does not exceed predevelopment runoff for a three-year one-hour storm, whichever is greater; or,
- c. For all commercial, or residential development or redevelopment where:
  - i. The proposed value of the improvement exceeds 25% of the market value of the property;
  - ii. A new swimming pool is constructed;
  - iii. There is redevelopment of more than 20% of landscaped open space, 20% of the impervious area of the site including buildings, patios, etc. or a combination thereof which exceeds 20%;
  - iv. New driveways or parking areas are constructed;
  - v. The proposed work includes replacement or reconstruction of parking areas other than parking areas designed for less than three residential units; or
  - vi. Other development as may be deemed appropriate by the Town Engineer.
- d. There is adequate potable water supply capacity to continue providing the level of service standard established by the City of West Palm Beach, the Town's water provider. The City's current Potable Water Level of Service (LOS) is 272 gallons/per person/day (gpd);
- e. There are adequate recreation facilities to maintain a standard of 6 acres/1000 population;
- f. The traffic generation of the project will not reduce the level of service on roadways in the

Town to a category lower than that established in this Plan;

- g. There is adequate sanitary sewer capacity to continue providing the level of service standard established by the City of West Palm Beach, the Town's water provider. The City's current LOS is as follows:

### **Wastewater Collection**

<b>Development Type</b>	<b>Avg. Daily Water Flow, gallons per day (gpd)</b>
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Single Family	350 gpd/DU
Multifamily	250 gpd/DU
Commercial	0.20 gpd/SF
Industrial	0.15 gpd/Sf
Hotel	100 gpd/room

DU=dwelling unit

SF=Square feet

gpd=gallons per day

AC=acre

### **Pumping Station**

<b>Peaking Factor</b>	<b>Avg. Daily Flow Million Gallons per Day (MGD)</b>
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3.5	0.01 to 0.05
3.0	0.05 to 0.25
2.5	0.25 to 2.0
2.0	>2.0

Peaking factors for other facilities shall be determined using historical flow record.

- h. There is adequate capacity to continue collecting and disposing of least 2.55 pounds of solid waste per person per day;
- i. The project will not increase the time necessary to evacuate the Town, in the event of a hurricane, to greater than twelve hours; or,
- j. The development order or permit is specifically conditioned on the availability of the necessary facilities and services for each of the above and that said facilities are authorized when the project is authorized.

### **POLICY 5.3**

Prior to the issuance of a development order or permit, the Town shall make and record a determination that the project provides open space, on-site traffic flow and parking commensurate with the requirements of the Town's land development regulations.

## **OBJECTIVE 6**

Efforts shall continue to be made to control blighting influences or other negative impacts to the Town, and redevelopment will be encouraged in areas experiencing deterioration, when appropriate.

#### **POLICY 6.1**

The Town's Code of Ordinance proactively allows potential problems to be cited and requires property owners of cited property to take remedial action.

### **OBJECTIVE 7**

The number of uses incompatible with the range and location of land uses, identified in the Town's Future Land Use Plan Map, shall be reduced by attrition; and, no new uses shall be permitted that are inconsistent with the community's character and the Town's Future Land Use Plan Map.

#### **POLICY 7.1**

The Town shall amend its land development regulations, when necessary to be compatible and consistent with the range and location of land uses identified on the Town's Future Land Use Plan.

#### **POLICY 7.2**

The Town shall prohibit replacement or expansion of uses found to be incompatible or inconsistent with the range and location of land uses identified on the Town's Future Land Use Map and Official Zoning Map.

#### **POLICY 7.3**

The Town shall continue to allow designated landmark structures, single-family dwellings, two-family, townhouse, multi-family, commercial, and public structures or public/private group uses which are unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature to be rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced provided FDEP standards are met when building east of the CCCL. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

### **OBJECTIVE 8**

The Town shall protect its natural resources. The measurement of this objective is the extent to which natural resources are preserved and the degree to which the following policies are implemented.

#### **POLICY 8.1**

The Town shall protect the quality of its air from degradation by continuing to prohibit industrial uses within the Town.

#### **POLICY 8.2**

The Town shall protect designated native vegetation areas and their associated wildlife by prohibiting removal of vegetative species listed as threatened or endangered by State or Federal agencies on publicly owned property and new private development; and, by prohibiting planting of pestilent exotics and requiring removal of pestilent exotic species from sites of new construction or development.

#### **POLICY 8.3**

The Town shall stipulate that no development or construction which destroys wetland vegetation, including seagrass beds, shall be permitted in the Town unless loss is 100% mitigated.

#### **POLICY 8.4**

The Town shall require that all new development and redevelopment on the Atlantic shore restore dunes, where restoration potential exists and is necessary, as determined by the Town and FDEP.

#### **POLICY 8.5**

The Town will require soil erosion control techniques be used during construction.

#### **POLICY 8.6**

No development or redevelopment shall occur on or over submerged land other than docks, essential services or parks owned and operated by the Town.

### **OBJECTIVE 9**

The Town shall protect its inheritance of structures and neighborhoods having historic or architectural merit. The measurement of this objective is the extent to which historic or architectural structures or neighborhoods are preserved, and the degree to which the following

policies are implemented.

#### **POLICY 9.1**

Continue to protect the Town's historically significant properties and aesthetic character through the active participation of the Architectural and Historic Landmarks Preservation Commissions in the development review and approval process, as authorized by the Town's Code of Ordinances.

#### **POLICY 9.2**

The Town shall enforce its archaeological requirements as authorized by the Town's Code of Ordinances.

### **OBJECTIVE 10**

The Town will coordinate and comply with any resource planning and management plan prepared pursuant to Chapter 380 FS, as amended.

#### **POLICY 10.1**

Coordinate with State, regional, county and local agencies to ensure mutual cooperation in the development of all appropriate resource planning and management plans prepared pursuant to Chapter 380, F.S. as amended. The Town will continue to monitor all other local governments' activities when notice is provided. The Town will continue to provide notice as required to other local governments and agencies on upcoming large development projects. The Town will continue to work closely with the Treasure Coast Regional Planning Council, Palm Beach County and School Board and the State of Florida on regional issues. The Town will continue to maintain mutual aid agreements with other local governments with reference to fire service, police and disaster preparedness.

#### **POLICY 10.2**

Continue to coordinate with other governments in securing full resources by the State and other agencies for programs of their design, creation and/or benefit, and continue to ensure the protection of local self-determination in matters which are not demonstrated to be of actual regional significance.

### **OBJECTIVE 11**

Provide for Planned Unit Developments, and other innovative regulations and techniques that will assist the Town in maintaining its high standards, quality of life, and appropriate mix and location

of land use types and structures; and, in ensuring that new development is compatible with existing surrounding properties.

#### POLICY 11.1

The following types of Planned Unit Developments shall be allowed in the Town:

- 11.1.1 Single-family PUD's located within the Single Family Residential Land Use Category not exceeding four dwelling units per gross Palm Beach acre.
- 11.1.2 Mixed residential development located within the Multi-Family Moderate or Multi-Family High Density Land Use Categories, not exceeding the maximum density allowable within the Land Use Category.
- 11.1.3 Mixed-use development within the Multi-Family Moderate Density or Multi-Family High Density Land Use Categories, allowing for a mix of residential uses not exceeding the maximum allowable density within the Land Use Category and nonresidential development not exceeding 20% of the gross floor area of the PUD.

The following equivalencies shall be used in determining the intensity of the nonresidential components:

Land Use Type	Unit of Measurement	Equivalence to One Dwelling Unit of Gross Density
Hotels, motels or similar transient facilities	Number of bedrooms	Two bedrooms
Principal Commercial Uses	Total floor area	750 square feet
Accessory Commercial Uses	Total floor area	1,500 square feet
Other Nonresidential Uses	Total floor area	1,000 square feet

- 11.1.4 In order to encourage preservation of historic residential structures, such single-family structures may be permitted to be converted through a historic preservation PUD to contain multiple residential units, within the confines of the existing structure, provided the density does not exceed four dwelling units per gross Palm Beach acre.

**11.1.5 Mixed-Use PUDs located within the Single Family and Commercial Land Use Categories allowing for a mix of residential uses not exceeding the maximum allowable density within the Future Land Use Categories.**



## **OBJECTIVE 12**

The Town shall coordinate its coastal area population with the Regional Hurricane Evacuation Plan. The measurement of this objective will be the degree to which the Town coordinates with the appropriate Evacuation Plan, and the extent to which the following policy is implemented.

### **POLICY 12.1**

The Town will review, and revise if necessary, its coastal area densities to ensure that they do not result in hurricane evacuation or shelter capacity deficiencies.

### **POLICY 12.4**

The Town shall expand the Town's education and notification process to emphasize the unpredictability of the power of an approaching storm and the need to evacuate early upon an evacuation warning-

## **OBJECTIVE 13**

Public access shall be maintained to all recreational facilities, including recreational and commercial working waterfronts as defined in F.S. 342.07, under the jurisdiction of the Town of Palm Beach.

### **POLICY 13.1**

The Town of Palm Beach shall establish priorities for siting appropriate water dependent and water related land uses consistent with F.S. 342.07, while at the same time protecting shoreline and conservation areas from degradation.

### **POLICY 13.2**

The Town of Palm Beach shall continue to implement corrective measures on all access points identified by the Town as inadequate.

### **POLICY 13.3**

The Town will, on an annual basis, inspect public access points at public facilities located within the Town of Palm Beach, but not under the Town's jurisdiction, to identify any impediments to access. It will notify respective governing agencies of impediments within three months of their identification.

#### POLICY ~~13~~44.4

In evaluating applications for marinas or marina siting all of the following shall be addressed: land use compatibility; availability of upland support services; existing protective status or ownership; hurricane contingency planning; protection of water quality; water depth; environmental disruptions and mitigation actions; availability for public use; and, economic need and feasibility. The criteria shall be reviewed by the Planning Department on an annual basis and updated as necessary.

#### **OBJECTIVES AND POLICIES NOT APPLICABLE**

No objectives or policies pertaining to the discouragement of the proliferation of urban sprawl are necessary or applicable in the Town of Palm Beach because it is virtually fully developed, and the only areas for potential development are located on "in-fill" parcels.

No objectives or policies encouraging the availability of suitable land for utility facilities are necessary or applicable. The City of West Palm Beach provides the potable water supply to the Town from its facility on the mainland. Wastewater treatment is provided by the East Central Regional Sewage Treatment Plant, also located on the mainland. Solid waste disposal sites are all located on the mainland with the North County Regional Resource Recovery plant, also located on the mainland, to come on line in the near future.

No policies are necessary or applicable to the protection of potable water wellfields since there are now no such facilities in the Town, nor are any expected in the future.

**ORDINANCE NO. 004-2024**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE VI, DIVISION 4. R-B LOW DENSITY RESIDENTIAL DISTRICT; DIVISION 8. C-TS TOWN-SERVING COMMERCIAL DISTRICT; DIVISION 12. C-B COMMERCIAL DISTRICT; AMENDING SECTION 134-616, DISTRICTS WHERE PERMITTED, TO CREATE A “PUD-D” DISTRICT AS A DISTRICT WHERE PLANNED UNIT DEVELOPMENTS ARE PERMITTED; AMENDING SECTION 134-617, COMPLIANCE, TO CREATE A PUD-D DISTRICT AS A DISTRICT THAT WHEN DEVELOPED AS A PERMITTED USE MUST CONFORM TO THE REGULATIONS IN THIS SUBDIVISION; AMENDING SECTION 134-618, MINIMUM AREA, TO CREATE A PUD-D DISTRICT AS A DISTRICT WHOSE MINIMUM AREA REQUIREMENT SHALL BE AT LEAST SIX (6) CONTIGUOUS ACRES; AMENDING SECTION 134-620, RESIDENTIAL DENSITY, TO CREATE A PUD-D DISTRICT THAT WHEN DEVELOPED AS A PERMITTED USE MUST CONFORM TO A DENSITY OF FOUR UNITS PER ACRES FOR THE PORTION OF THE PROPERTY WITH A SINGLE FAMILY FUTURE LAND USE DESIGNATION AND SIX UNITS PER ACRE FOR THE PORTION OF THE PROPERTY WITH A COMMERCIAL FUTURE LAND USE DESIGNATION; CREATING SECTION 134-625, PERMITTED LAND USES IN THE PUD-D DISTRICT; AMENDING RESERVED SECTIONS 134-626 – 134-650; AMENDING SECTION 134-651, ESTABLISHMENT OF SPECIAL EXCEPTION PLANNED UNIT DEVELOPMENTS, TO CREATE A PUD-5 MIXED USE DEVELOPMENT SPECIAL EXCEPTION PLANNED UNIT DEVELOPMENT DISTRICT; AMENDING SECTION 134-652, DISTRICTS WHERE PERMITTED, TO CREATE A PUD-5 MIXED USE DEVELOPMENT PLANNED UNIT DEVELOPMENT DISTRICT THAT MAY BE PERMITTED BY SPECIAL EXCEPTION ONLY IN THE PARCEL OF LAND MORE PARTICULARLY DESCRIBED IN EXHIBIT A; AMENDING SECTION 134-653, MINIMUM AREA, TO CREATE A PUD-5 MIXED USE DISTRICT AS A DISTRICT WHOSE MINIMUM AREA REQUIREMENT SHALL BE AT LEAST SIX (6) CONTIGUOUS ACRES; AMEND SECTION 134-654, RESIDENTIAL DENSITY, TO CREATE A PUD-5 MIXED USE DISTRICT THAT WHEN DEVELOPED AS A PERMITTED USE MUST CONFORM TO THE RESIDENTIAL DENSITIES OF FOUR UNITS PER ACRE FOR THE PORTION OF THE PROPERTY ZONED R-B AND SIX UNITS PER ACRE FOR THE PORTION OF THE PROPERTY ZONED C-TS AND C-B; AMENDING SECTION 134-656, PERMITTED LAND USE, TO CREATE A PUD-5 DISTRICT AND OUTLINES THE PERMITTED USES IN THE PUD-5 DISTRICT; AMENDING ARTICLE VI, DIVISIONS 4, SECTION 134-890,**

**SPECIAL EXCEPTION USES TO ESTABLISH PUD-D AS A SPECIAL EXCEPTION USE IN THE R-B LOW DENSITY RESIDENTIAL ZONING DISTRICT; AMENDING ARTICLE VI, DIVISIONS 8, SECTION 134-1109, SPECIAL EXCEPTION USES TO ESTABLISH PUD-D AS A SPECIAL EXCEPTION USE IN THE C-TS TOWN SERVING COMMERCIAL ZONING DISTRICT; AMENDING ARTICLE VI, DIVISIONS 12, SECTION 134-1304, SPECIAL EXCEPTION USES TO ESTABLISH PUD-5 AS A SPECIAL EXCEPTION USE IN THE C-B COMMERCIAL ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITHIN; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Code Section 134-261, the Town Council of the Town of Palm Beach may from time to time on its own motion or on petition, signed by the fee simple property owner of the property involved or authorized designee, agent or representative of the owner by power of attorney filed with the director of the planning, zoning and building department or designee, amend, supplement, change, modify or repeal the regulations, restrictions or district boundaries; and

**WHEREAS**, on January 29, 2024, the Town of Palm Beach received a privately initiated development review application to amend Chapter 134, the Town of Palm Beach Zoning Code, of the Town's Code of Ordinances to create a new PUD-D Zoning District (the "Amendment") as a district where planning unit developments are permitted and to create the corresponding PUD-5, mixed-use development as a special exception planned unit development district subject to applicable requirements of district; and

**WHEREAS**, on March 5, 2024, the Town of Palm Beach Planning and Zoning Commission reviewed the proposed text amendments to the Code of Ordinances and recommended to the Town Council that the Amendment be approved; and

**WHEREAS**, on March 13, 2024, the Town Council conducted a public hearing wherein it considered the recommendations of the Planning, Zoning and Building Department and the Planning and Zoning Commission regarding the text amendment to the Code of Ordinances; and

**WHEREAS**, the Town Council has determined that creation of a new PUD-D Zoning District would be consistent with the adopted Town of Palm Beach Comprehensive Plan as amended on November 9, 2022.

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

**Section 1.** Incorporation of Recitals.

The above recitals are incorporated as fully set forth herein.

**Section 2.** Amendment of the Zoning Code of the Town of Palm Beach Code of Ordinances.

The Town Council directs that the Town of Palm Beach Code of Ordinances be amended at Chapter 134, to create a new PUD-D Zoning District as described on Exhibit “A” and displayed on Exhibit “B” attached hereto and incorporated herein by reference.

**Section 3.** 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 4.** 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 5.** Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

**Section 6.** Effective Date.

This Ordinance shall take effect 31 days subsequent to its enactment on second and final reading, as provided by law.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this (date) day of (Month), (year), and for second and final reading this (date) day of (Month), (year).

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

\_\_\_\_\_  
Margaret A. Zeidman, Town Council President

\_\_\_\_\_  
Bobbie Lindsay, Council President Pro Tem

\_\_\_\_\_  
Julie Araskog, Town Council Member

ATTEST:

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

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

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

Exhibit A

PART II - CODE OF ORDINANCES  
Chapter 134 - ZONING  
ARTICLE VI. - DISTRICT REGULATIONS  
DIVISION 4. R-B LOW DENSITY RESIDENTIAL DISTRICT

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***DIVISION 4. R-B LOW DENSITY RESIDENTIAL DISTRICT***

**Sec. 134-886. Purpose.**

The purpose of the R-B low density residential district is to provide for low density single-family residential use, as that term is defined in section 134-2, of moderately spacious character together with publicly operated recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect and preserve existing development of this character and contains vacant land considered appropriate for such development in the future.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

**Sec. 134-887. Permitted uses.**

The permitted uses in the R-B low density residential district are as follows:

- (1) Single-family dwellings.
- (2) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 2-05, § 10, 5-10-05; Ord. No. 10-2012, § 3, 9-11-12; Ord. No. 16-2012, § 3, 12-12-12)

**Sec. 134-888. Accessory uses.**

The accessory uses in the R-B low density residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.

**Exhibit A**

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- (5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the town's municipal limits provided such parking is located a minimum of 75 feet from a single-family home and is separated from a street by a landscape island.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business except such uses as may be associated with the town's operation of its municipal dock, golf course and tennis court facilities.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 1-01, § 2, 2-19-01; Ord. No. 2-05, § 11, 5-10-05; Ord. No. 26-10, § 18, 12-15-10; Ord. No. 04-2018, § 14, 4-11-18)

**Sec. 134-889. Prohibited uses.**

The specific prohibited uses of buildings or land in the R-B low density residential district are as follows:

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the town. No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited.
- (3) Executive/employee/group, vacation/retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 04-2018, § 15, 4-11-18)

**Sec. 134-890. Special exception uses.**

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-B low density residential district are as follows:

- (1) Planned unit development, PUD(1) and PUD (5) (see article V of this chapter for standards).
- (2) Public structures, including essential services west of Lake Trail.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Beach houses intended for the use of family and guests.
- (5) Public and private academic schools.



## Exhibit A

- (6) Private social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996.
- (7) Churches and synagogues and other houses of worship.
- (8) Required off-street parking in accordance with subsection 134-2177(3) and supplemental parking, allowed only in a manner consistent with the zoning of the district in which it is located.
- (9) Nonprofit cultural centers.
- (10) Municipally owned or operated parking areas.
- (11) Museums occupying buildings of unique value as historical landmarks, as determined by the landmarks preservation commission and the town council, and for which it is demonstrated that no permitted use is economically viable.
- (12) Group home with up to six occupants.
- (13) Foster care facility with up to six occupants.
- (14) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental.
- (15) Municipally owned and operated parks and recreation centers.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 5, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 16-2012, § 11, 12-12-12; Ord. No. 04-2018, § 16, 4-11-18; Ord. No. 02-2019, § 5, 3-19-19)

**Sec. 134-891. Accessory structures.**

- (a) *Accessory structures in R-B district.* Accessory structures in the R-B low density residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-B district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
  - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.

Lot Size (square feet)	Maximum Story Height	Maximum Building Height
Up to 20,000	1	15 feet overall
20,000 [and more]	2	25 feet overall, provided unity of title deed restriction is furnished prohibiting any

## Exhibit A

		division of the lot which would leave less than 20,000 square feet
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- (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
- (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear setback with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
- (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and enclosed accessory structures as for the principal structure, with the exception of a one-story garage in a street side yard based on section 134-1576 of this chapter and garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
- (5) In the R-B district, nothing contained in this section shall prohibit the construction of an enclosed accessory building containing bedrooms with bath facilities to be used in connection with and as a part of the main residence within the building lines as provided in this chapter. Such enclosed accessory building shall be used only for the occupancy of nonpaying guests of the owners of the main residence or bona fide members of the family or servants, and no kitchen or cooking facilities shall be constructed or used therein except by submission of a written agreement with the town stating that such accessory structure will be used only by family members or household staff and approval of the planning, zoning and building director or his designee.
- (6) Accessory structures in the R-B district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed two meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on a building lot. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed eight feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed eight feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small

**Exhibit A**

identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-57 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 1-02, § 5, 3-12-02; Ord. No. 2-05, § 7, 5-10-05; Ord. No. 17-2019, § 3, 6-12-19; Ord. No. 16-2021, § 4, 8-11-21)

### **Sec. 134-892. Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.**

In the R-B low density residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

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

- (a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling and/or accessory buildings on a lot 75 feet or less in width are exempt from the lot, yard, and area requirements as set forth in this section if redeveloped substantially on the same footprint as existed prior to demolition provided the following conditions are met:

- (1) The proposed single-family dwelling and/or accessory buildings are of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the architectural commission.
- (2) The proposed single-family dwelling and/or accessory building(s) shall meet the requirements in subsection (c) of this section.
- (3) If the existing footprint of the single-family dwelling and/or accessory building(s) lay within five feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum five foot side and rear lot line setback is created, and further the redeveloped home must be situated at least ten feet apart from any structure on a neighboring lot.
- (4) The height and overall height from the point of measurement of the proposed single-family dwelling and/or accessory buildings are no higher than the dwelling and/or accessory buildings being demolished.
- (5) Any square footage added to the proposed single-family dwelling and/or accessory buildings shall meet all lot, yard and bulk zoning requirements in the Code.

**Exhibit A**

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- (6) If using the provisions of this subsection (a) above, no variances can be requested for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory buildings.
- (b) *Schedule of regulations.* In the R-B low density residential district, the schedule of lot, yard and area requirements is as given in this section:
- (1) *Lot area.* The minimum lot area is 10,000 square feet. For lots of 20,000 or more square feet in the R-B district, except for those lots between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth, the following shall apply:
- a. When the width of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum side yard setback and angle of vision provisions of the R-A district.
  - b. When the width of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the angle of vision provisions of the R-AA district, and lots of 150 feet or more in width shall have the following side yard setbacks: Lots of 150-154 feet in width are required to have a 17.5 foot setback; lots of 155—159 feet in width are required to have a 20-foot setback; and for lots of 160 feet or more in width the setback shall be 22 feet plus two feet for each additional ten feet in width in excess of 169 feet, to a maximum side yard setback of 30 feet.
  - c. When the depth of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-A district.
  - d. When the depth of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-AA district.
  - e. When the area of a lot in the R-B district is equal to or greater than 20,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-A district, except that the maximum allowable lot coverage for single-story development shall be 30 percent.
  - f. When the area of the lot is equal to or greater than 60,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-AA district, except the minimum allowable lot coverage for single-story development shall be 30 percent.
  - g. The provisions in subsections (1)a. through f. above do not apply to lots 20,000 square feet or greater in area between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth.
- (2) *Lot width.* The minimum lot width is 100 feet.
- (3) *Lot depth.* The minimum lot depth is 100 feet.
- (4) *Density.* The maximum density is four dwelling units per acre.
- (5) *Front yard.*
- a. The minimum front yard setback for the first story is 25 feet, however the front yard setback may be reduced to a minimum of 20 feet, or portion thereof, provided the required rear yard setback for the first story is increased by the amount of reduction in the front yard.

**Exhibit A**

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- b. The minimum front yard setback for the second story is 30 feet, however the front yard setback may be reduced to a minimum of 25 feet, or portion thereof, provided the required rear yard setback for the first and second story is increased by the amount of reduction in the front yard.
- (6) *Angle of vision.*
- a. The building angle of vision (front setback) for one-story buildings is 100 degrees.
  - b. The building angle of vision (front setback) for two-story buildings is 100 degrees.
  - c. Building angle of vision is not applicable to lots fronting on cul-de-sacs.
  - d. No portion of any individual building shall extend beyond a line drawn from the front property line 50 degrees either side of a line drawn perpendicular or radial to the front yard property line. For lots exceeding the minimum required width, the base angle of vision (50 degrees on either side of the line) shall be increased by two degrees for each ten feet of increased lot width over the minimum up to a maximum additional width of 40 feet in the R-B district.
  - e. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building angle of vision shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
  - f. In the case of other corner or through lots, the building angle of vision shall be applied only to the front yard as determined by the orientation of the building.
  - g. For exceptions to these regulations, see section 134-895.
  - h. For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than 25 feet. When an accessory structure is separated by a distance of 25 feet or more from the principal structure, it shall be treated as separate structure and individually subject to the building angle of vision.
- (7) *Side yard.*
- a. The minimum side yard setback for the first story shall be 12½ feet.
  - b. The minimum side yard setback for the second story shall be 15 feet.
- (8) *Rear height plane setback.* 25 feet.
- (9) *Rear yard.*
- a. The minimum rear yard setback for the first story is ten feet except as provided for in subsection (5)a.
  - b. The minimum rear yard setback for the second story is 15 feet except as provided for in subsection (5)b.
- (10) *Height and overall height.*
- a. For one-story buildings, the maximum building height is 14 feet.
  - b. For two-story buildings, the maximum building height is 22 feet.
  - c. Maximum overall height of a building in the R-B district shall be the maximum allowable building height plus three feet for a flat roof and eight feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height

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**Exhibit A**


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will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(11) *Lot coverage.*

- a. The maximum lot coverage for one-story buildings is 40 percent.
- b. The maximum lot coverage for two-story buildings is 30 percent.

(12) *Landscape open space.*

- a. The minimum landscaped open space is 45 percent, of which 50 percent of that percentage is required to be perimeter landscaping within ten feet of the property line. The perimeter landscaped open space requirement shall not apply to lots 20,000 square feet or more in area.
- b. Additionally, not less than 40 percent of the required front yard must be landscaped open space in the R-B district.

(13) *Cubic content ratio.*

- a. The maximum cubic content ratio shall be as follows:
  - 1. For lots of less than 10,000 square feet, the maximum allowable CCR shall be calculated as follows:  $4.00 + [(10,000 - \text{the lot size}) \div 10,000]$ .
  - 2. For lots between 10,000 and 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be calculated as follows:  $3.50 + [(60,000 - \text{the lot size}) \div 50,000] \times 0.5$ .
  - 3. For lots of greater than 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be 3.50.
  - 4. For lots of 20,000 square feet or greater which are adjacent to the waters of Lake Worth from Dunbar Road to Reef Road, the maximum allowable CCR shall be 4.50. For purposes of determining whether a lot is adjacent to the waters of Lake Worth, the traversing of all or a portion of the lot by Lake Trail shall not be considered when determining that adjacency.
- (5) Exceptions. One architectural tower feature involving no habitable space, as otherwise permitted under subsection 134-896(b), shall not be counted in calculating the cubic content of the structure. Unenclosed loggias, pergolas, porches, terraces and covered patios located on the first floor shall be excluded from the calculation of total cubic content up to 5% of allowable cubic content. Portions of unenclosed structures in excess of the 5% maximum, as well as those located above the first floor, shall be included in the calculation of total cubic content. Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable cubic content ratio.
- b. For purposes of calculating the cubic content ratio, lot size shall be rounded to the nearest 100 square feet. For purposes of computing the resultant cubic content, the cubic content ratio shall be rounded to two decimal places. A table illustrating the cubic content ratio and associated cubic content for varying lots sizes resulting from the application of the above formulas is provided as attachment A to this chapter. This table also provides approximations of the likely floor areas achievable at varying average building heights.

- (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

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than the minimum area and/or dimension required for building lots in this district; provided, 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.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

(Ord. No. 2-74, schedule A, §§ 5.11, 5.15(c), 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 1-93, § 3(a), 2-8-93; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 10-95, § 1(a), 1-23-95; Ord. No. 1-96, §§ 8, 11, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 6, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-99, §§ 12—16, 4-5-99; Ord. No. 1-01, §§ 1, 3, 4, 2-19-01; Ord. No. 1-02, § 7, 3-12-02; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-03, §§ 16, 20, 3-11-03; Ord. No. 1-05, § 4, 3-8-05; Ord. No. 5-09, § 37, 4-15-09; Ord. No. 12-09, §§ 1, 2, 6-10-09; Ord. No. 16-09, § 2, 11-12-09; Ord. No. 4-10, § 3, 2-10-10; Ord. No. 3-2012, § 2, 4-11-12; Ord. No. 4-2016, §§ 3, 4, 4-13-16; Ord. No. 16-2016, § 1, 12-14-16; Ord. No. 15-2017, § 4, 7-12-2017; Ord. No. 04-2018, § 17, 4-11-18)

**Sec. 134-894. Same—Existing single-family dwelling development.**

- (a) A single-family dwelling located in the R-B low density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district, may be enlarged with a first story and/or second story addition, provided:
  - (1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and
  - (2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.
- (b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.
- (c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04)

**Sec. 134-895. Same—Exceptions to yard regulations.**

In the R-B low density residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Chimneys, cornices, eaves, bay windows and balconies may extend 24 inches from the main and/or accessory building into the yard area. Chimneys and bay windows shall not exceed ten feet in the horizontal, measured parallel to the building wall, and the total linear dimension for such projection shall not exceed 25 percent of the total dimension along the building wall from which such chimney and/or bay window may project.



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- (2) A first floor unenclosed front entry ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed first floor entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback
- (3) First floor main entrance covered ramps porches, open terraces, and/or steps may extend six feet into the required front yard setback. In addition, entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required setback.
- (4) In this district an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Said awnings and/or trellises so erected shall not count in the cubic content ratio calculations and shall not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.
- (5) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (6) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.

(Ord. No. 2-74, § 5.31, 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 04-2018, § 18, 4-11-18; Ord. No. 19-2021, § 2, 9-13-21)

**Sec. 134-896. Special exceptions to height limitations.**

- (a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-B low density district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar [material] shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.
- (b) In the R-B zoning district, one architectural tower feature may be constructed as an integral part of a single-family dwelling provided that it does not exceed the allowable overall building height by five feet and is setback an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed two percent of the gross floor area of the dwelling. It is the intention of this section to allow only one tower as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house in the R-B zoning district. It is also the intent that this subsection not apply to entry facades or parapets.

(Ord. No. 2-74, § 5.22(a), 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-79, § 9, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(c), 3-31-82; Ord. No. 2-83, § 4(c), 2-23-83; Ord. No. 1-84, § 3(a), 3-1-84; Ord. No. 1-85, § 3(a), 2-11-85; Ord. No. 1-90, § 3(b)—(d), 2-5-90; Ord. No. 1-96, §§ 12, 13, 2-5-96; Ord. No. 1-98, § 7, 2-9-98; Ord. No. 1-99, § 17, 4-5-99; Ord. No. 7-09, §§ 3, 6, 5-13-09; Ord. No. 16-09, § 9, 11-12-09; Ord. No. 04-2018, § 20, 4-11-18)



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Editor's note(s)—Section 6 of Ord. No. 7-09, adopted May 13, 2009, states the following: "Section 6. The newly adopted provisions contained herein relating to flag poles and flags shall not be applicable retrospectively to flags or flag poles permitted prior to the adoption of Ordinance No. 7-09 or, in the event not granted by permit, which have been in continuous existence for a period of three years or more prior to the adoption of this ordinance."

**Sec. 134-897. Special exceptions to height regulations.**

- (a) In the R-B low density residential district, in order to encourage meritorious architectural design, variety in the setback of structures, increased open space and landscaped open space, reduced lot coverage, and reduced cubic content ratio, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height requirements in sections 134-1606 and 134-1607 in the R-B zoning district, provided the special exception meets the standards of sections 134-227 through 134-233 and the goals, standards, and guidelines set forth in this section. The town council shall find that:
  - (1) The proposed increase in height for a contemplated special exception structure is in the public interest.
  - (2) The structure is compatible with the site, adjacent properties and the neighborhood after consideration of:
    - a. The general form of the land before and after development or redevelopment;
    - b. The spatial relationships of the structures and open spaces to nearby land uses, including positioning of the building, transition in height and number of stories, garage placement, landscaping, and other site improvements;
    - c. The appearance, including building bulk, proportion, scale, massing, materials, colors, and architectural details, of buildings and open spaces as they contribute to the surrounding area; and
    - d. The protection of neighboring owners and uses by ensuring that reasonable provision has been made for such matters as surface water drainage, sound and sight buffers, the preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.
- (b) The maximum allowable overall height under this section shall be 35 feet for a two-story structure with a pitched roof and 30 feet for a two-story structure with a flat roof, provided the following standards are met:
  - (1) A maximum of 50 percent of the second story may be requested for a special exception to permitted overall height requirements. In addition, a minimum of 50 percent of the first floor shall be retained as one story, with the height not to exceed 20 feet overall for pitched roofs and 17 feet overall for flat roofs. (Note: It is not the intent of this section to discourage other portions of the second story to be built at 30 feet for pitched roofs and 27 for flat roofs or less, which would permit three or more roof levels.)
  - (2) The minimum rear yard setback for all parts of the second-story portion of construction shall be 15 feet. The minimum rear yard setback for first-story portions shall be ten feet.
  - (3) The minimum side yard setback for all parts of the second-story portion of construction shall be 17.5 feet. The minimum side yard setback for first-story portions shall be 12.5 feet.
  - (4) The minimum front yard, street side yard, and street rear yard setbacks shall be 35 feet for the second-story portion over 30 feet overall height for pitched roofs and over 27 feet overall height for flat roofs.

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- (5) Lot coverage for lots in excess of 15,000 square feet in area shall be limited to a maximum 22.5 percent.
- (6) Garages shall be designed so that the opening will not face a street or shall be sight-screened by landscaping.
- (7) The maximum permitted cubic content ratio (CCR) shall be one percent less than the permitted FAR for the R-B zoning district.
- (8) All other R-B zoning district regulations shall apply.

(Ord. No. 2-74, § 5.48(II), 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 1-97, § 4, 2-17-97; Ord. No. 1-99, § 2, 4-5-99)

**Sec. 134-898. Lot grade topography and drainage.**

In the R-B, low density residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 26-10, § 35, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

**Sec. 134-899. Supplementary district regulations.**

The supplementary district regulations which may be applicable to the R-B low density residential district are contained in article VIII of this chapter.

**Sec. 134-900. Off-street parking and loading.**

The off-street parking or loading requirements which may be applicable in the R-B low density residential district are contained in article IX of this chapter.

**Sec. 134-901. Signs.**

The sign regulations which may be applicable in the R-B low density residential district are contained in article XI of this chapter.

**Sec. 134-902. Air conditioning and generator equipment.**

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

**Secs. 134-903—134-940. Reserved.**

EXHIBIT A

PART II - CODE OF ORDINANCES  
Chapter 134 - ZONING  
ARTICLE VI. - DISTRICT REGULATIONS  
DIVISION 12. C-B COMMERCIAL DISTRICT

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***DIVISION 12. C-B COMMERCIAL DISTRICT<sup>1</sup>***

**Sec. 134-1301. Purpose.**

The purpose of the C-B commercial district is to create an environment especially suited to a group of professional and administrative offices compatible in appearance with single-family housing.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

**Sec. 134-1302. Permitted uses.**

- (a) Enumeration; maximum gross leasable area. The permitted uses in the C-B commercial district require a site plan and review as required in article III of this chapter.
- (b) The permitted uses in the C-B commercial district are as follows:
  - (1) Business and professional offices/services and executive office suites, excluding veterinarians.
  - (2) Banks and financial institutions.
  - (3) Churches, synagogues or other houses of worship.
  - (4) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
  - (5) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-04, § 26, 3-9-04; Ord. No. 2-2011, § 8, 7-13-11; Ord. No. 7-2014, § 9, 5-14-14; Ord. No. 8-2017, § 4, 4-12-17; Ord. No. 12-2021, § 9, 6-9-21)

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<sup>1</sup>Cross reference(s)—Businesses, ch. 22.

**Sec. 134-1303. Accessory uses.**

- (a) The accessory uses in the C-B commercial district require a site plan and review as provided in article III of this chapter.
- (b) The accessory uses in the C-B commercial district are as follows:
  - (1) Off-street parking and loading.
  - (2) Signs.
  - (3) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 14, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

**Sec. 134-1304. Special exception uses.**

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:
  - (1) Public or private parking lots or storage garages.
  - (2) Auto rental lot.
  - (3) Supplemental parking.
  - (4) Public or private academic schools.
  - (5) Hotels at a maximum of 26 units per acre.
  - (6) Timesharing uses at a maximum of nine units per acre.
  - (7) Roof-deck automobile parking.
  - (8) Permitted uses, or uses not specifically enumerated under permitted uses in section 134-1302 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 square feet gross leasable area.
  - (9) Nonprofit cultural centers.
  - (10) Outdoor cafe seating for only hotels, condo-hotels, dining rooms, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
  - (11) Condo-hotels at a maximum of 17 units per acre, in accordance with section 134-2110.
  - (12) Essential services related to town-owned municipal buildings and structures.
  - (13) Dining rooms when not more than 15 percent of the gross floor area of a building; no exterior or external advertising to be permitted.
  - (14) Planned unit development, PUD (5) (see article V of this chapter for standards).

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- (b) An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)–(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)–(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)–(h), 3-1-84; Ord. No. 1-85, § 2(g)–(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)–(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)–(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1–7, 2-9-93; Ord. No. 1-03, § 6, 3-11-03; Ord. No. 5-09, §§ 15, 22, 4-15-09; Ord. No. 2-2011, § 9, 7-13-11; Ord. No. 3-2012, § 7, 4-11-12; Ord. No. 02-2019, § 13, 3-19-19; Ord. No. 17-2019, § 11, 6-12-19; Ord. No. 12-2021, § 10, 6-9-21; Ord. No. 16-2021, § 14, 8-11-21)

### Sec. 134-1305. Reserved.

Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-134-1305, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 5-09, § 16, 4-15-09.

### Sec. 134-1306. Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-B commercial district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate).

Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

**Sec. 134-1307. Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.**

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1302 which involve more than 2,000 square feet of building floor area of buildings in the C-B commercial district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

**Sec. 134-1308. Lot, yard and area requirements—Generally.**

In the C-B commercial district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 15,000 square feet.
- (2) *Lot width.* The minimum lot width is 100 feet.
- (3) *Lot depth.* The minimum lot depth is 150 feet.
- (4) *Density.*
  - a. The maximum density for hotels within C-B commercial district shall be 26 dwelling units per acre.
  - b. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
  - a. For one-story buildings, the minimum front yard setback is ten feet.
  - b. For two-story buildings, the minimum front yard setback is ten feet.
  - c. The minimum front yard setback is 25 feet when applied to hotel uses and timesharing uses permitted as a special exception in a C-B district.
  - d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (6) *Side yard.*
  - a. For one-story buildings, the minimum side yard setback is ten feet.
  - b. For two-story buildings, the minimum side yard setback is ten feet.
  - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (7) *Rear yard.*
  - a. For one-story buildings, the minimum rear yard setback is 15 feet.
  - b. For two-story buildings, the minimum rear yard setback is 15 feet.

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- c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (8) *Height and overall height.*
- a. For one-story buildings, the maximum building height is 15 feet.
  - b. For two-story buildings, the maximum building height is 25 feet.
  - c. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (9) *Lot coverage.*
- a. For one-story buildings, the maximum lot coverage is 60 percent.
  - b. For two-story buildings, the maximum lot coverage is 30 percent.
  - c. The maximum lot coverage for two-story buildings is 50 percent when applied to hotel uses and timesharing uses permitted as a special exception in a C-B district.
- (10) *Length.*
- a. For one-story buildings, the maximum building length is 150 feet.
  - b. For two-story buildings, the maximum building length is 150 feet.
  - c. Sub-basements are exempt from the maximum building length, requirement. Individual building elements extending above ground from a single sub-basement shall each, be considered as a separate building for the purpose of calculating building length.
- (11) *Landscaped open space.*
- a. For one-story buildings, the minimum landscaped open space is 20 percent.
  - b. For two-story buildings, the minimum landscaped open space is 30 percent.
  - c. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-B district.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)–(e), 3-1-84; Ord. No. 1-85, § 2(b)–(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)–(d), 2-6-89; Ord. No. 1-90, § 2(a)–(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2–4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 5-09, § 16, 4-15-09; Ord. No. 16-2016, § 5, 12-14-16; Ord. No. 04-2018, § 21, 4-11-18)

Editor's note(s)—See note at section 134-1305.

### **Sec. 134-1309. Same—Exceptions.**

- (a) In the C-B commercial district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.

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- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
  - (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
  - (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
  - (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
  - (f) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area; and, does not block a sidewalk or walkway.
  - (g) First floor ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.
- (Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02; Ord. No. 5-09, § 16, 4-15-09; Ord. No. 19-2021, § 4, 9-13-21)

Editor's note(s)—See note at section 134-1305.

### **Sec. 134-1310. Commercial buildings.**

In addition to the site plan review required by article III of this chapter, the town council shall consider the following guidelines and development requirements in connection with such review of commercial buildings in the C-B commercial zoning district:

- (1) *Maximum dimension.* The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.
- (2) *Distance between buildings.* The side of any building shall be no closer to the side, front, or rear of any other building than 20 feet.

(Ord. No. 2-74, § 6.55(a), 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

### **Sec. 134-1311. Supplementary district regulations.**

The supplementary district regulations which may be applicable to the C-B commercial district are contained in article VIII of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.



**Sec. 134-1312. Off-street parking and loading.**

The off-street parking or loading requirements which may be applicable in the C-B commercial district are contained in article IX of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

**Sec. 134-1313. Signs.**

The sign regulations which may be applicable in the C-B commercial district are contained in article XI of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

**Sec. 134-1314. Air conditioning and generator equipment.**

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

**Sec. 134-1315. Architectural tower features.**

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

**Sec. 134-1316. Lot grade topography and drainage.**

In the C-B commercial district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

( Ord. No. 19-2021 , § 5, 9-13-21)

**Secs. 134-1317—134-1350. Reserved.**

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PART II - CODE OF ORDINANCES  
Chapter 134 - ZONING  
ARTICLE VI. - DISTRICT REGULATIONS  
DIVISION 8. C-TS TOWN-SERVING COMMERCIAL DISTRICT

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***DIVIDIVISION 8. C-TS TOWN-SERVING COMMERCIAL DISTRICT<sup>1</sup>***

**Sec. 134-1106. Purpose and limitations.**

The purposes of the C-TS town-serving commercial district are to:

- (1) Create, preserve and enhance areas of attractive, small-scale, retail, personal and professional/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons.
- (2) Enhance the general character of the district and its compatibility with its residential surroundings, and, therefore, signs are limited to those accessory to businesses conducted on the premises, including the number, area and types; retail drive-in facilities are not permitted, and, in order to maintain the town-serving nature of the district, limitations on gross leasable floor (GLA) area are imposed.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

**Sec. 134-1107. Permitted uses.**

- (a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:
  - (1) Retail and service establishments, such as hardware stores, food stores, clothing stores, drugstores, barbershops, beauty salons and jewelry stores.
  - (2) Offices, executive office suites, professional services, business services, excluding veterinarian offices, and securities and financial brokerage and trust companies above the first floor.
  - (3) Offices, professional services, business services and securities and financial brokerage and trust companies in the 200 block of Peruvian Avenue and Bradley Place.
  - (4) Nonprofit cultural centers.
  - (5) Professional and studio type schools.
  - (6) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.

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<sup>1</sup>Cross reference(s)—Businesses, ch. 22.

- (7) Essential services.
  - (8) Public parks.
  - (9) Residence(s) above the first floor.
  - (10) Supplemental off-site shared parking as provided for in sections 134-2177 and 134-2182. This use will sunset on March 13, 2024, unless extended or modified by town council.
- (b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in the C-TS district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 4, 2-5-96; Ord. No. 1-98, § 5, 2-9-98; Ord. No. 1-02, § 9, 3-12-02; Ord. No. 1-04, §§ 17, 22, 3-9-04; Ord. No. 1-05, § 2, 3-8-05; Ord. No. 4-08, § 8, 4-7-08; Ord. No. 5-2011, § 3, 3-9-11; Ord. No. 2-2011, § 3, 7-13-11; Ord. No. 7-2014, § 5, 5-14-14; Ord. No. 13-2015, § 1, 5-13-15; Ord. No. 8-2017, § 1, 4-12-17; Ord. No. 17-2019, § 5, 6-12-19; Ord. No. 01-2021, § 2, 2-10-21; Ord. No. 12-2021, § 1, 6-9-21; Ord. No. 20-2021, § 2, 9-13-21)

Editor's note(s)—Ord. No. 7-2014, § 5, adopted May 14, 2014, set out provisions amending subsection 134-1108(a)(2). To correct a scrivener's error, and at the editor's discretion, these provisions have been included as amending subsection 134-1107(a)(2).

### **Sec. 134-1108. Accessory uses.**

The accessory uses in the C-TS town-serving commercial district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.

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(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 5, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

### **Sec. 134-1109. Special exception uses.**

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:
- (1) Public or private parking lots or storage garages.
  - (2) Auto rental lots.
  - (3) Private social, swimming, golf, tennis and yacht clubs.
  - (4) Service stations.
  - (5) Public structures/uses.
  - (6) Essential services related to town-owned municipal buildings and structures.
  - (7) Supplemental parking per sections 134-2177 and 134-2182.
  - (8) Public or private academic schools.
  - (9) Drive-in business service facilities.
  - (10) Churches, synagogues or other houses of worship.
  - (11) Permitted uses, or uses not specifically enumerated under permitted uses in section 134-1107 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 square feet gross leasable area.
  - (12) Banks and financial institutions, excluding securities or financial brokerage and trust companies.
  - (13) Roof-deck automobile parking.
  - (14) Outdoor cafe seating is permitted only for restaurants, retail specialty food including the sale of prepared food for takeout only, and private, social, swimming, golf, tennis and yacht clubs, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
  - (15) Veterinarian offices above the first floor.
  - (16) Museums occupying building of unique value as designated historical landmarks, as determined by the landmarks preservation commission and the town council.
  - (17) Nightclubs.
  - (18) Except as provided for in subsection 134-1107(3), offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there are at least 50 percent existing office uses on all floors of the building in which the office use is proposed and more than 50 percent existing office uses on the first floor within 300 feet of the proposed office use within the same zoning district.
  - (19) Private parks.

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- (20) Medical marijuana treatment centers and medical marijuana dispensaries are prohibited, however, should state law preempt said prohibition, said uses shall be permitted subject to the requirements in sections 134-2113 through 134-2114 of this chapter.
- (21) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.
- (22) Restaurants, excluding formula restaurants, as defined in section 134-2 and bars/lounges.
- (23) Planned unit development, PUD (5) (see article V of this chapter for standards).

- (b) An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 3, 2-5-96; Ord. No. 1-98, § 5, 2-9-98; Ord. No. 1-02, § 8, 3-12-02; Ord. No. 1-03, § 2, 3-11-03; Ord. No. 1-04, § 28, 3-9-04; Ord. No. 1-07, § 3, 4-10-07; Ord. No. 5-09, § 6, 4-15-09; Ord. No. 5-2011, § 4, 3-9-11; Ord. No. 2-2011, § 4, 7-13-11; Ord. No. 3-2012, § 4, 4-11-12; Ord. No. 7-2014, § 5, 5-14-14; Ord. No. 13-2015, § 2, 5-13-15; Ord. No. 24-2016, § 2, 1-11-17; Ord. No. 30-2017, § 2, 1-10-18; Ord. No. 02-2019, § 9, 3-19-19; Ord. No. 17-2019, § 6, 6-12-19; Ord. No. 01-2021, § 3, 2-10-21; Ord. No. 12-2021, § 2, 6-9-21; Ord. No. 16-2021, § 12, 8-11-21)

Editor's note(s)—Ord. No. 13-2015, § 2, adopted May 13, 2015, set out provisions intended for use as subsection 134-1109(a)(15). To maintain the current subsection 134-1109(a)(15) as added by Ord. No. 7-2014, § 5, adopted May 14, 2014, and at the editor's discretion, these provisions have been included herein as subsection 134-1109(a)(19).

### **Sec. 134-1110. Accessory structures.**

- (a) *Generally.* Enclosed accessory structures in the C-TS town-serving commercial district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and

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ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate).

Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99)

### **Sec. 134-1111. Reserved.**

Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-111, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 2-74, § 6.61, 3-26-74; Ord. No. 3-77, § 14, 3-29-77; Ord. No. 1-89, 4(f), 2-6-89; Ord. No. 1-04, § 15, 3-9-04; Ord. No. 5-09, § 7, 4-15-09.

### **Sec. 134-1112. Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.**

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1107 which involve more than 2,000 square feet of building floor area of buildings in the C-TS town-serving commercial district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85)

### **Sec. 134-1113. Lot, yard and area requirements—Generally.**

In the C-TS town-serving commercial district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 4,000 square feet.
- (2) *Lot width.* The minimum lot width is 30 feet.
- (3) *Lot depth.* The minimum lot depth is 90 feet.
- (4) *Density.* A single dwelling unit, or multiple dwelling units not to exceed six dwelling units per gross acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
  - a. For one-story buildings, the minimum front yard setback is five feet.
  - b. For two-story buildings, the minimum front yard setback is five feet.
  - c. All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curbline and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and addition-ally,

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to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible.

- d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (6) *Side yard.*
- a. There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided. When the side yard of a C-TS property adjoins property zoned in any R district, a ten-foot side yard is required on that side.
  - b. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (7) *Rear yard.*
- a. For one-story buildings, the minimum rear yard setback is ten feet.
  - b. For two-story buildings, the minimum rear yard setback is ten feet.
  - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (8) *Height and overall height.*
- a. For one-story buildings, the maximum building height is 15 feet.
  - b. For two-story buildings, the maximum building height is 25 feet.
  - c. In this district, the maximum building height allows one story, with provision for a special exception for two stories. See special exception provisions in sections 134-227 through 134-233 (special exception use), section 134-1115 relating to allowable height and lot coverage, and article III of this chapter (site plan review).
  - d. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (9) *Lot coverage.*
- a. For one-story buildings, the maximum lot coverage is 70 percent.
  - b. For two-story buildings, the maximum lot coverage is 70 percent.
- (10) *Length.*
- a. For one-story buildings, the maximum building length is 150 feet.
  - b. For two-story buildings, the maximum building length is 150 feet.

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- c. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each, be considered as a separate building for the purpose of calculating building length.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 15 percent.
- b. For two-story buildings, the minimum landscaped open space is 25 percent.
- c. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-TS district.

(12) *Floor area.*

- a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- c. Sub-basements shall be exempt from the maximum floor area requirements. Individual building elements extending above ground from, a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-04, § 31, 3-9-04; Ord. No. 16-2016, § 2, 12-14-16)

**Sec. 134-1114. Same—Exceptions.**

- (a) In the C-TS town-serving commercial district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
- (f) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area; and, does not block a sidewalk or walkway.



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(Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02)

**Sec. 134-1115. Special exception to height regulations; special exception structures.**

In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-TS town-serving commercial district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the following goals and guidelines:

Two-story guidelines. Lot coverage not more than 35 percent.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92)

**Sec. 134-1116. Supplementary district regulations.**

The supplementary district regulations which may be applicable to the C-TS town-serving commercial district are contained in article VIII of this chapter.

**Sec. 134-1117. Off-street parking and loading.**

The off-street parking or loading requirements which may be applicable in the C-TS town-serving commercial district are contained in article IX of this chapter.

**Sec. 134-1118. Signs.**

The sign regulations which may be applicable in the C-TS town-serving commercial district are contained in article XI of this chapter.

**Sec. 134-1119. Air conditioning and generator equipment.**

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

**Sec. 134-1120. Architectural tower features.**

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

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**Sec. 134-1121. Lot grade topography and drainage.**

In the C-TS, commercial town serving district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

( Ord. No. 19-2021 , § 5, 9-13-21)

**Secs. 134-1122—134-1155. Reserved.**

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**PART II - CODE OF ORDINANCES**

**Chapter 134 - ZONING**

**ARTICLE V. PLANNED UNIT DEVELOPMENT PROCEDURE**

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***ARTICLE V. PLANNED UNIT DEVELOPMENT PROCEDURE***

***DIVISION 1. GENERALLY***

**Sec. 134-476. Purpose.**

- (a) The purpose of planned unit development regulations is to:
  - (1) Encourage flexibility in the design and development of land in order to promote its most appropriate use;
  - (2) Facilitate the adequate and economical provision of streets, utilities and public spaces; and
  - (3) Preserve the natural and scenic qualities of open areas.
- (b) The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and morals both in the use and occupancy of buildings and facilities in planned groups.
- (c) In addition to subsections (a) and (b) of this section, PUD-4 historical preservation-residential development is intended to preserve structures and premises of significant historical or architectural value to the town by allowing for low-density residential development at a density calculated on the area of the entire property, excluding the area of property required by the town to be assigned to the historical structure. Structures and/or premises listed in the national record or in any historical report recognized by the town council may be considered significant for the purposes of this article. In addition, the town council may declare any other structure and/or premises to be of historical or architectural significance.

(Ord. No. 2-74, § 7.10, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 1-92, § 5(a), 2-3-92)

**Sec. 134-477. District regulations.**

The requirements and regulations for a PUD district are contained in division 14 of article VI of this chapter.

**Sec. 134-478. Town council approval for permitted use and special exception use; review by planning and zoning commission; hearing; site plan review of application.**

- (a) A planned unit development, when a permitted use, shall be subject to the approval of the town council after a review and report by the planning and zoning commission and after a public hearing is held by the town council in accordance with law.
- (b) A planned unit development, when a special exception use, shall be subject to the approval of the town council after a review and report by the planning and zoning commission and after a public hearing is held by the town council in accordance with law. The review by the planning and zoning commission shall be to make findings pursuant to sections 134-227 through 134-233 and other applicable sections of this chapter and to make recommendations thereon.
- (c) Every application for approval of a planned unit development shall require concurrent site plan review in accordance with article III of this chapter.

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(Ord. No. 2-74, § 7.20, 3-26-74; Ord. No. 7-79, § 15, 3-30-79; Ord. No. 1-04, § 42, 3-9-04)

**Secs. 134-479—134-505. Reserved.**

*DIVISION 2. PROCEDURE*

**Subdivision I. In General**

**Secs. 134-506—134-530. Reserved.**

**Subdivision II. Tentative Approval**

**Sec. 134-531. Application.**

In order to provide an expeditious method for processing a plan for a planned unit development, under the terms of this chapter, it is declared to be in the public interest that all procedures with respect to the approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following:

- (1) An application for tentative approval of the plan for a planned unit development shall be filed by or on behalf of the landowner with the building official.
- (2) The following information shall be submitted with the application:
  - a. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed.
  - b. The density of land use to be allocated to parts of the site to be developed.
  - c. The location and size of any common open space and the form or organization proposed to own and maintain any common open space.
  - d. The use and the approximate height, bulk and location of buildings and other structures.
  - e. The feasibility of proposals for the disposition of sanitary waste and stormwater.
  - f. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.
  - g. The provisions for parking of vehicles and the location and width of proposed streets and public ways.
  - h. The required modifications in the town land use regulations otherwise applicable to the subject property.
  - i. For plans that call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
  - j. For PUD-4, a complete description of the historical and/or architecturally significant structures and/or premises and provisions for their preservation. The portion of the property to be devoted to the preservation shall be delineated.

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- (3) The application for tentative approval of a planned unit development shall include a written statement by the landowner or any other entity having a cognizable interest in the land, setting forth the reasons why, in his opinion, a planned unit development would be in the public interest and would be consistent with the town's statement of purposes on planned unit development.

(Ord. No. 2-74, § 7.31, 3-26-74; Ord. No. 5-78, § 13, 3-31-78)

**Sec. 134-532. Public hearings.**

- (a) Upon submission of a complete planned unit development application, the planning and zoning commission shall hear said application within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. A public hearing on the planned unit development application shall then be held by the planning and zoning commission and town council after public notice is given in accordance with law. A copy of the PUD application shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all property owners within 300 feet from any part of the subject property at the address shown on the county property appraiser's tax records, together with a notice from the director or designee advising the date, time and location of the hearing on such application before the planning and zoning commission and town council. Such list of property owners, together with a notification map, shall be provided by the applicant and shall be certified by the applicant as being true and accurate. The applicant shall be required to mail the application to the property owners within notification area within five days of submittal of the application to the town. No application shall be heard less than ten days after the first publication notice as provided in this section and 15 days after the mailing to property owners directly affected, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council.
- (b) A transcript of the hearing shall be caused to be made by the town council, copies of which shall be made available at cost to any party to the proceedings, and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. The planning and zoning commission shall report on the proposed planned unit development not less than 15 days before the public hearing, and the report shall be available for public inspection during reasonable hours.

(Ord. No. 2-74, § 7.32, 3-26-74; Ord. No. 2-83, § 6, 2-23-83; Ord. No. 1-04, §§ 38, 43, 3-9-04; Ord. No. 5-09, § 26, 4-15-09; Ord. No. 11-2018, § 5, 7-11-18)

**Sec. 134-533. Grant or denial.**

- (a) The town council shall, within 60 days following the conclusion of the public hearing for tentative approval of a planned unit development, by written resolution either (i) grant tentative approval of the plan as submitted, (ii) grant tentative approval subject to specified conditions not included in the plan as submitted, or (iii) deny tentative approval to the plan. Failure of the town council to so act within such period shall be deemed to be a grant of tentative approval of the plan as submitted.
- (b) If tentative approval is granted, other than by lapse of time, either of the plan as submitted or of the plan with conditions, the town council shall, as part of its resolution, specify the drawings, specifications and form of performance bond that shall accompany an application for final approval.
- (c) If tentative approval is granted subject to conditions, the landowner shall, if he finds such conditions to be unacceptable, within 45 days after receiving a copy of the written resolution of the town council, notify the town council of his refusal to accept the conditions.

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- (d) If the landowner refuses to accept all the conditions, the town council shall be deemed to have denied tentative approval of the plan.
  - (e) If the landowner does not, within such period, notify the town council of his acceptance of or his refusal to accept all the conditions, tentative approval of the plan, with all the conditions, shall stand as granted.
  - (f) Nothing contained in this section shall prevent the town council and the landowner from mutually agreeing to a change in such conditions, and the town council may, at the request of the landowner, extend the time during which the landowner shall notify the town council of his acceptance or refusal to accept the conditions.
  - (g) The grant or denial of tentative approval by written resolution shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and the resolution shall set forth with particularity in which respects the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:
    - (1) In what respects the plan is or is not consistent with the purpose of a planned unit development, as expressed in section 134-476.
    - (2) The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are not deemed to be in the public interests.
    - (3) The purpose, location and amount of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of development.
    - (4) The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further the amenities of light and air, recreation and visual enjoyment.
    - (5) The relationship, beneficial or adverse, of the proposed planned unit development to the neighborhood in which it is proposed to be established.
    - (6) For a plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents and owners of the planned unit development in the integrity of the plan.
    - (7) The historical or architectural significance of any structure and/or premises and the adequacy of provisions for its preservation.
  - (h) If a plan is granted tentative approval, with or without conditions, the town council shall set forth in the written resolution the time within which an application for final approval of the plan shall be filed or, for a plan that provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. The time so established between grant of tentative approval and application for final approval shall not be less than three months and, for developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than six months. Nothing contained in this subsection shall be construed to limit a landowner from the presentation of any application for final approval earlier than the time period set forth in this subsection.

(Ord. No. 2-74, § 7.33, 3-26-74; Ord. No. 5-78, § 13, 3-31-78)

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**Sec. 134-534. Status of plan after tentative approval.**

- (a) Within five working days after the adoption of the written resolution provided for in section 134-533, it shall be certified by the town clerk and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the approval shall be noted on the zoning map maintained in the office of the town clerk.
- (b) Tentative approval of a plan shall not qualify a plat of the planned unit development for recording or authorize development or issuance of any building permits. A plan which has been given tentative approval as submitted or which has been given tentative approval with conditions that have been accepted by the landowner, and provided that the landowner has not defaulted or violated any of the conditions of the tentative approval, shall not be modified, revoked or otherwise impaired by action of the town pending an application for final approval, without the consent of the landowner, provided an application for final approval is filed or, for development over a period of years, provided applications are filed within the periods of time specified in the resolution granting tentative approval.
- (c) If a plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon part or all of the plan and shall so notify the town council in writing, or if the landowner shall fail to file application for final approval within the required period of time, as the case may be, tentative approval shall be deemed to be revoked, and all that portion of the area included in the plan for which final approval has not been given shall be subject to the sections of this chapter applicable thereto, as they may be amended from time to time, and such shall be noted on the zoning map in the office of the town clerk and in the records of the town clerk.

(Ord. No. 2-74, § 7.34, 3-26-74)

**Secs. 134-535—134-560. Reserved.**

**Subdivision III. Final Approval**

**Sec. 134-561. Application.**

- (a) An application for final approval of a planned unit development may be for all the land included in a plan or the extent set forth in the tentative approval for a section thereof. The application shall be made to the director of planning, zoning and building or designee. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth by written resolution of the town council at the time tentative approval. A public hearing on an application for final approval of the plan or part thereof shall not be required, provided the plan, or the part thereof submitted for final approval, is in substantial compliance with the plan theretofore given tentative approval. The town council shall find that any changes to the tentative plan shall not be in contravention to the public's best interests.
- (b) When the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof and as required by the resolution of tentative approval, the town council shall, within 45 days of such filing, grant such plan final approval.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84; Ord. No. 26-10, § 7, 12-15-10)

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**Sec. 134-562. Refusal to grant for variations in tentatively approved plan.**

- (a) If the final plan for a planned unit development as submitted contains variations from the plan given tentative approval, the town council may, after a meeting with the landowner, refuse to grant final approval and shall, within 45 days from the filing of application for final approval, so advise the landowner in writing of the refusal, setting forth in the notice the reasons why one or more of the variations are not in the public interest.
- (b) If refusal occurs, the landowner may:
  - (1) File his application for final approval without the variations objected to by the town council on or before the last day of the time within which he was authorized by the resolution granting tentative approval to file for final approval, or within 30 days from the date he received notice, whichever date shall last occur;
  - (2) Treat the refusal as a denial of final approval; or
  - (3) File a written request with the town council that it hold a public hearing on his application for final approval. Any such public hearing shall follow the procedure for tentative approval and shall be held during the next annual public hearing period starting with October.
- (c) Within 45 days after the conclusion of the hearing, the town council shall by resolution either grant final approval to the plan or deny final approval to the plan. The grant or denial of final approval of the plan shall, in cases arising under this subsection, be in the form and contain the findings required for a resolution on an application for tentative approval set forth in section 134-532.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84; Ord. No. 1-04, § 39, 3-9-04)

**Sec. 134-563. Certification; filing of record plat; modification before completion of development.**

- (a) A plan for a planned unit development or any part thereof that has been given final approval by the town council shall be so certified without delay by the town clerk, and a record plat may be filed on record forthwith in the office of the county clerk in accordance with F.S. ch. 177 before any development shall take place in accordance therewith. Upon the filing on record of the plan, all other ordinances and subdivision regulations otherwise applicable to the land included in the plan shall cease to apply thereto.
- (b) Pending completion within five years of the planned unit development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of the plan or part thereof, as finally approved, shall be made nor shall it be impaired by act of the town, except with the consent of the landowner.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84)

**Sec. 134-564. Abandonment; termination.**

If a plan for a planned unit development or section thereof is given final approval and thereafter the landowner shall abandon the plan or the section thereof that has been finally approved and shall so notify the town council in writing or if the landowner shall fail to commence the planned unit development within 18 months, such final approval shall terminate and be deemed null and void unless such time period is extended by the town upon written request of the landowner.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84)



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**Secs. 134-565—134-590. Reserved.**

*DIVISION 3. REGULATIONS*

**Subdivision I. In General**

**Secs. 134-591—134-615. Reserved.**

**Subdivision II. Permitted Uses**

**Sec. 134-616. Districts where permitted.**

Planned unit developments are a permitted use within PUD-A, PUD-B, PUD-C, and PUD-D districts as indicated on the Amended Zoning Map of the Town of Palm Beach, Florida, adopted by reference and made a part of this chapter.

(Ord. No. 2-74, § 7.41, 3-26-74; Ord. No. 7-78, § 4, 5-9-78)

**Sec. 134-617. Compliance.**

When developed as a permitted use within PUD-A, PUD-B, PUD-C, or PUD-D district, planned unit developments shall conform to the regulations in this subdivision, other pertinent sections of this chapter and the principles set forth in the comprehensive plan of the town.

(Ord. No. 2-74, § 7.42, 3-26-74)

**Sec. 134-618. Minimum area.**

Minimum area requirements for permitted use planned unit developments are as follows:

- (1) PUD-A, mixed use district, 25 contiguous acres undivided by any public right-of-way or easement.
- (2) PUD-B, residential mix district, 15 contiguous acres undivided by any public right-of-way or easement.
- (3) PUD-C, residential mix district, four contiguous acres undivided by any public right-of-way or easement.
- (4) PUD-D, mixed use district, six (6) contiguous acres undivided by any public right-of-way or easement.

(Ord. No. 2-74, § 7.421, 3-26-74)

**Sec. 134-619. Open space.**

In permitted use planned unit developments in the PUD-A, PUD-B, PUD-C, and PUD-D districts, not less than 15 percent of the planned unit site areas shall be developed as common open space; vehicle access facilities and parking areas shall not be considered in calculating such common open space. In no event, however, shall the lot coverage of all structures located within a planned unit development site exceed 35 percent of the gross area included within such planned unit development site.

(Ord. No. 2-74, § 7.422, 3-26-74)

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**Sec. 134-620. Residential density.**

Residential densities in permitted use planned unit developments shall be as follows:

- (1) PUD-A, ten units per acre; provided, however, that the planned unit development on the Breaker's Property shall be subject to the requirements of Resolution No. 6-71 and Resolution No. 9-72 of the town, as agreed to by the Flagler Systems, Inc.
- (2) PUD-B, ten units per acre.
- (3) PUD-C, six units per acre.
- (4) PUD-D, four units per acre for the portion of the property with a Single Family Future Land Use Designation and six units per acre for the portion of the property with a Commercial Future Land Use Designation.

(Ord. No. 2-74, § 7.423, 3-26-74)

**Sec. 134-621. Densities bordering estate districts.**

- (a) As used in this section, the term "adjoin" is defined as having a common property line or being separated by a public right-of-way on an easement of 150 feet or less.
- (b) Where a permitted use planned unit development adjoins an R-AA large estate residential district or an R-A estate residential district, residential densities within the planned unit development shall not exceed six units per acre within 500 feet of the R-AA or R-A district, and the height of structures within 500 feet of the R-AA or R-A district shall not exceed two stories or 25 feet. When such restrictions are imposed on permitted use planned unit developments, densities may be increased in the remainder of the development site in order that the gross density of the development may equal but not exceed the maximum density stipulated in section 134-620.

(Ord. No. 2-74, § 7.424, 3-26-74)

**Sec. 134-622. Permitted land uses in PUD-A district.**

The following uses shall be permitted in planned unit developments in the PUD-A district:

- (1) Any use permitted in the R-D(1) moderate density residential district and R-D(2) high density residential district; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (2) Any use permitted in the C-TS, C-WA, C-OPI or C-PC commercial district; provided, however, that commercial development within the planned unit development shall, in no case, occupy more than 20 percent of the gross area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the land use measurements indicated in the table in section 134-656 shall be equivalent to a dwelling unit as defined.
- (3) Hotels.
- (4) Golf courses and other uses that are customarily accessory to a principal hotel use.

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- (5) Site plan review modifications for permitted and accessory uses that do not exceed 2,500 square feet may be approved administratively without Town Council review if the Director of Planning, Zoning and Building determines that such modifications will not create adverse impacts on surrounding properties or Town facilities.

(Ord. No. 2-74, § 7.425, 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-00, § 1, 2-22-00; Ord. No. 1-2020, § 1, 2-12-20)

**Sec. 134-623. Permitted land uses in PUD-B district.**

The uses permitted in planned unit developments in the PUD-B district shall be any use permitted in the R-C, medium density district; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620. Newsstands, dining rooms and personal service uses for the convenience of residents shall be permitted in such district; provided, however, that no exterior or external advertising of such facilities shall be permitted.

(Ord. No. 2-74, § 7.425, 3-26-74)

**Sec. 134-624. Permitted land uses in PUD-C district.**

The uses permitted in planned unit developments in the PUD-C district shall be any use permitted in the R-C, medium density district; provided, however, that the maximum density for the planned unit development shall not be governed by section 134-620.

((Ord. No. 2-74, § 7.425, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 7-78, § 4, 5-9-78)

**Sec. 134-625. Permitted land uses in PUD-D district.**

The following uses shall be permitted in planned unit developments in the PUD-D district:

- (1) Single-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (2) Two-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (3) Townhouses; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (4) Multi-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (5) Banks and financial institutions.

**Secs. ~~134-626~~—134-650. Reserved.**

## EXHIBIT A

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**Subdivision III. Special Exceptions**
**Sec. 134-651. Establishment of special exception planned unit developments.**

The following special exception planned unit development districts are established and shall be subject to all applicable requirements of this article and of the district in which they are located:

PUD-1	Single-family development
PUD-2	Residential mix development
PUD-3	Mixed use development
PUD-4	Historical preservation residential development
PUD-5	<u>Mixed use development</u>

(Ord. No. 2-74, § 7.431, 3-26-74)

**Sec. 134-652. Districts where permitted.**

Planned unit developments as established by this article may be permitted as special exceptions only in specifically designated districts as follows:

- (1) *PUD-1, single-family development.* Permitted only in portions of R-B districts which are in close proximity to intensive developments in an R-C, R-D(1) or R-D(2) district.
- (2) *PUD-2, residential mix development.* Permitted only in R-C, R-D(1) and R-D(2) districts.
- (3) *PUD-3, mixed use development.* Permitted only in R-C, R-D(1) and R-D(2) districts.
- (4) *PUD-4, historical preservation residential development.* Permitted only in R-AA, R-A and R-B districts.
- (5) *PUD-5, mixed use development.* Permitted only in the six (6) Palm Beach acres in the C-TS, R-B, and C-B zoning districts between Royal Palm Way And South County Road And Seaview Avenue And South Ocean Boulevard.

(Ord. No. 2-74, § 7.432, 3-26-74)

**Sec. 134-653. Minimum area requirements.**

Minimum area requirements for special exception planned unit developments are as follows:

- (1) *PUD-1, single-family development.* One contiguous acre undivided by any public right-of-way or easement.
- (2) *PUD-2, residential mix development.* Ten contiguous acres undivided by any public right-of-way or easement.
- (3) *PUD-3, mixed use district.* Twenty contiguous acres undivided by any public right-of-way or easement.
- (4) *PUD-4, historical preservation residential development.* One or more contiguous acres undivided by any public right-of-way or easement.
- (5) *PUD-5, mixed use district.* Six contiguous acres undivided by any public right-of-way or easement.

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(Ord. No. 2-74, § 7.433, 3-26-7)

**Sec. 134-654. Residential density.**

Residential densities in special exception planned unit developments permitted under this article shall be as follows:

PUD District	Use District	Maximum Density Permitted under PUD* (units per acre)
PUD-1	R-B	4
PUD-2	R-C	6**
	R-D(1)	13**
PUD-3	R-C	6**
	R-D(1)	13**
	R-D(2)	13**
PUD-4	R-AA	$\frac{7}{8}$ **
	R-A	2**
	R-B	4**
<u>PUD-5</u>	<u>C-TS, C-B</u>	<u>6</u>
	<u>R-B</u>	<u>4</u>

\* See section 134-656 for conversion of nonresidential uses to equivalent dwelling unit amounts for the purpose of calculating gross density.

\*\* See section 134-655 for special provisions covering densities in those portions of the planned unit development site adjoining lower density residential districts.

(Ord. No. 2-74, § 7.434, 3-26-74; Ord. No. 6-81, § 6(a), 3-31-81; Ord. No. 1-03, § 7, 3-11-03; Ord. No. 1-04, § 34, 3-9-04)

**Sec. 134-655. Areas of restricted density in PUD-2 or PUD-3 district.**

- (a) For the purpose of this section, the term "adjoin" is defined as having a common property line or being separated by a public right-of-way of 150 feet or less.
- (b) Whenever a PUD-2 or PUD-3 planned unit development is permitted, the density restriction in subsection (c) of this section shall apply.
- (c) Where the proposed planned unit development adjoins an R-AA, R-A or R-B district, residential densities within the planned unit development shall not exceed six units per acre within 500 feet of the R-AA, R-A or R-B district, and the height of structures within 500 feet of the R-AA, R-A or R-B district shall not exceed two stories or 25 feet. When such density restrictions are imposed on planned unit developments adjoining an R-AA, R-A or R-B district, the height limit on the portion of the development over 500 feet from the R-AA, R-A or R-B district may be increased but shall not exceed five stories or 62 feet in building height.

(Ord. No. 2-74, § 7.435, 3-26-74)

**EXHIBIT A****Sec. 134-656. Permitted land use.**

The uses permitted in planned unit developments shall be as follows:

**(1) PUD-1.**

- a. Any use permitted in the R-AA large estate residential district, R-A estate residential district or R-B low density residential district; provided, however, that such uses are grouped in cluster development in accordance with division 5 of this article.
- b. Townhouses, subject to applicable requirements in subdivision II of division 10 of article VIII of this chapter.

**(2) PUD-2.**

- a. Any use permitted in the R-C medium density residential district.
- b. Newsstands, dining rooms and personal service uses for the convenience of residents shall be permitted in such district; provided, however, that no exterior or external advertising of such facilities shall be permitted nor shall the gross floor area devoted to such uses exceed ten percent of the gross ground floor area of buildings included within the planned unit development.

**(3) PUD-3.**

- a. Any use permitted in the R-D(1) moderate density residential district.
- b. In PUD-3 developments containing 100 or more residential dwelling units, commercial uses permitted in the C-TS, C-WA, C-OPI or C-PC commercial district may be permitted; provided, however, that any commercial development in the planned unit development shall front on a major thoroughfare and further provided that such commercial development, including its required parking area, shall not occupy more than 20 percent of the gross floor area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the following land use measurements shall be equivalent to a dwelling unit as defined:

Land Use Type	Unit of Measurement	Equivalence to One Dwelling Unit of Gross Density
Hotels, motels or similar places of transient occupation	Number of bedrooms	Two bedrooms
Principal commercial uses	Total floor area	750 square feet
Accessory commercial uses	Total floor area	1,500 square feet
All other nonresidential floor spaces	Total floor area	1,000 square feet

- (4) **PUD-4.** Any use permitted in the R-AA large estate residential or RD-A estate residential district, provided the uses are developed compatibly with an historical or architecturally significant structure or premises.

**(5) PUD-5.**

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- a. Single-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
  - b. Two-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
  - c. Townhouses; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
  - d. Multi-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
  - e. Banks and financial institutions.

(Ord. No. 2-74, § 7.436, 3-26-74; Ord. No. 6-81, § 6(b), 3-31-81; Ord. No. 1-92, § 5(b), 2-3-92)

**Sec. 134-657. Open space.**

A minimum of 15 percent of a planned unit site area shall be developed as common open space. Parking areas and vehicle access facilities shall not be considered in calculating such common open space. In no event, however, shall the lot coverage of all structures located within a planned unit development site exceed 35 percent of the gross area included within such planned unit development site.

(Ord. No. 2-74, § 7.437, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 7-79, § 16, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-92, § 5(b), 2-3-92)

**Secs. 134-658—134-685. Reserved.**

*DIVISION 4. STANDARDS*

**Sec. 134-686. Compliance with division.**

The town council shall approve the planned unit development only if it finds that the planned unit development satisfies all of the standards in this division.

(Ord. No. 2-74, § 7.50, 3-26-74)

**Sec. 134-687. General standards.**

- (a) The planned unit development shall be consistent with the regulations governing planned unit developments as set forth within division 3 of this article.
- (b) The planned unit development plan shall be consistent with the Palm Beach Comprehensive Plan.
- (c) The planned unit development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.
- (d) The planned unit development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.

(Ord. No. 2-74, § 7.51, 3-26-74)

EXHIBIT A

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**Sec. 134-688. Design standards.**

- (a) In a planned unit development, all buildings in the layout and design shall be an integral part of the development and shall have convenient access to and from adjacent uses and blocks.
- (b) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
- (c) Treatment of the sides and rear of all buildings within the planned unit development group shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings.
- (d) The design of buildings and the parking facilities shall take advantage of the natural features, topography of the project site, where appropriate.
- (e) All building walls shall be so oriented as to ensure adequate light and air exposures to the room within.
- (f) All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- (g) All buildings shall be arranged so as to be accessible to emergency vehicles.

(Ord. No. 2-74, § 7.52, 3-26-74)

**Sec. 134-689. Landscape design standards.**

- (a) In a planned unit development, landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.
- (b) Primary landscape treatment shall consist of shrubs, ground cover, and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to local growing conditions.
- (c) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- (d) All streets bordering the project area shall be planted at appropriate intervals with street trees.

(Ord. No. 2-74, § 7.53, 3-26-74; Ord. No. 5-78, § 19, 3-31-78)

**Sec. 134-690. Circulation system design standards.**

- (a) In a planned unit development, there shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- (b) Roads, pedestrian walks and open space shall be designed as integral parts of an overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.
- (c) Buildings and vehicular circulation with open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (d) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- (e) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained and indicative of their function.

(Ord. No. 2-74, § 7.54, 3-26-74)



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**Sec. 134-691. Parking and loading design standards.**

- (a) In a planned unit development, parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (b) Pedestrian connections between areas and buildings shall be via special pedestrian walkways and/or elevators.
- (c) Parking facilities shall be designed with careful regard to orderly arrangement, landscaping, ease of access, and shall be developed as an integral part of an overall site design.
- (d) Any abovegrade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.
- (e) Parking and loading facilities shall be provided in accordance with divisions 2 and 3 of article IX of this chapter.

(Ord. No. 2-74, § 7.55, 3-26-74)

**Secs. 134-692—134-720. Reserved.**

*DIVISION 5. CLUSTER DEVELOPMENT*

**Sec. 134-721. Variance of net residential density.**

In order to promote the health and general welfare of the community and to preserve and make available open space, the town council may grant a developer the right to vary the net residential density within a tract to be developed, leaving a substantial area free of building lots. The right to vary the net density shall be subject to the following conditions:

- (1) An overall plan of the entire tract showing lots, lot lines, lot areas, easements, encumbrances and other relevant data shall be submitted.
- (2) The average lot size may be reduced by 20 percent with no lot reduced by more than 25 percent. The uses in the proposed subdivision shall be grouped in clusters.
- (3) Minimum yard requirements in a cluster development shall be as follows:
  - a. Front yard, 25 feet.
  - b. Side yard, ten feet, except that garages or carports upon an adjacent lot may join at the property line or be grouped on land away from the individual lot.
  - c. Rear yard, 25 feet.
- (4) The balance of the land not contained in the lots or within the road rights-of-way shall be contiguous and of such condition, size and shape as to be usable for recreation. Such land shall be held in corporate ownership by the owners of lots within the development and shall incorporate into the deeds a clause giving to the owners an interest in such open land which shall be used for recreation purposes only. No structures except those incidental to the recreational use shall be permitted thereon.

**(Ord. No. 2-74, § 7.44, 3-26-74 Secs. 134-722—134-750. Reserved.**