



# TOWN OF PALM BEACH

Planning, Zoning & Building Department

## PLANNING AND ZONING COMMISSION AGENDA

**MEETING HELD ELECTRONICALLY**  
(see instruction sheet for information on  
how to participate)

**TUESDAY, JUNE 16, 2020 AT 9:30 A.M.**

**I. CALL TO ORDER AND ROLL CALL**

Martin Klein, Chairman  
Michael Ainslie, Vice Chairman  
Carol LeCates, Member  
Rick Pollock, Member  
Michael Spaziani, Member  
Richard Kleid, Member  
Eric Christu, Member  
Ronald Berk, Alternate Member  
Marilyn Beuttenmuller, Alternate Member  
Jorge Sanchez, Alternate Member

**II. INVOCATION AND PLEDGE OF ALLEGIANCE**

**III. ELECTION OF OFFICERS**

**IV. APPROVAL OF THE AGENDA**

**V. APPROVAL OF NOVEMBER 18, 2019 PLANNING AND ZONING COMMISSION MINUTES**  
**APPROVAL OF NOVEMBER 19, 2019 PLANNING AND ZONING COMMISSION MINUTES**

**VI. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE**

**VII. ZONING ITEMS**

- A. Update on the Study Regarding Proposed Changes to Chapter 134, Zoning; Addressing Topographical Grade Changes Related to Projects Meeting FEMA Flood Plain Elevation Requirements. – *Calvin, Giordano & Associates, Inc.*
- B. Discussion Regarding Possible Changes to the Zoning Regulations in Chapter 134, Zoning; Related to the Placement and Screening of Air Conditioning Equipment, Swimming Pool Pump, Filter and Heating Equipment to Consolidate and Possibly Modify Regulations Related to Said Equipment. – *Wayne Bergman, Acting Director*

VIII. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE  
PLANNING, ZONING AND BUILDING DIRECTOR

IX. ADJOURNMENT

**Note 1:** If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which records include the testimony and evidence upon which the appeal is to be based.

**Note 2:** Disabled persons who need an accommodation in order to participate in this Commission Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least five (5) working days before this meeting.





**PLANNING AND ZONING COMMISSION  
MEETING MINUTES  
MONDAY, NOVEMBER 18, 2019 9:30 a.m.**

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at [www.townofpalmbeach.com](http://www.townofpalmbeach.com) or may obtain an audio recording of the meeting by contacting Kelly Churney, Secretary to the Planning & Zoning Commission at (561) 227-6408.

**I. CALL TO ORDER AND ROLL CALL**

Chair Klein called the meeting to order at 9:31 a.m.

|                                         |                                |
|-----------------------------------------|--------------------------------|
| Martin I. Klein, Chair                  | PRESENT                        |
| Michael Ainslie, Vice Chair             | PRESENT                        |
| Rick Pollock, Member                    | ABSENT                         |
| Michael Spaziani, Member                | PRESENT                        |
| Carol LeCates, Member                   | PRESENT                        |
| Richard Kleid, Member                   | PRESENT                        |
| Richard Sammons, Member                 | PRESENT (arrived at 9:46 a.m.) |
| Eric Christu, Alternate Member          | PRESENT                        |
| Ronald Berk, Alternate Member           | PRESENT                        |
| Marilyn Beuttenmuller, Alternate Member | PRESENT                        |

Staff Members present were:

Josh Martin, Director of Planning, Zoning and Building

Wayne Bergman, Assistant Director of Planning, Zoning and Building

Kelly Churney, Secretary to the Planning and Zoning Commission

**II. INVOCATION AND PLEDGE OF ALLEGIANCE**

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

Mr. Klein welcomed all in attendance. He expressed appreciation for Kenneth Walker's service on the Planning and Zoning Commission.

Mr. Klein welcomed Richard Sammons to the Commission.

**III. Presentation on Approach, Scope and Schedule for Code Reform**

Mr. Martin presented the approach, scope and schedule for overall code reform for Palm Beach.

Mr. Klein called for Public Comment:

Simon Taylor, 234 Oleander Ave., expressed concerns for the urgency and suggested path forward for the proposed code reform.

Susan Gary, 229 Onondaga Ave., was in favor of the approach and welcomed the path forward.

Anita Seltzer, 44 Cocoanut Row, asked to be heard after the discussion by the Commission.

Ms. Beuttenmuller stated she was impressed with Mr. Martin and had confidence in him. She added that she would support his plan.

Mr. Christu thought Mr. Martin's approach was balanced and was pleased to have many opportunities for resident input.

Mr. Spaziani asked Mr. Martin to explain the costs for the proposed reform. Mr. Martin discussed the proposed costs. Mr. Spaziani asked for clarification on a comment made by Lynn Richards regarding single family zoning. Mr. Martin responded.

Mr. Ainslie thought his views were similar to Susan Gary's comments. He announced the ribbon cutting ceremony for the new Town Recreation Center on December 6, 2019. He thought the changes were critical for the Town.

Ms. LeCates congratulated Mr. Martin on the process changes he has completed in the department. Ms. LeCates had concerns about CNU and asked Mr. Martin to address the concerns made by Mr. Taylor. She asked Mr. Martin to explain how CNU is suited for Palm Beach. Mr. Martin responded.

Mr. Kleid stated he trusted Mr. Martin to select the correct people to lead the Code Reform effort. He thought the education and symposiums were crucial for this path. He suggested reporting the final report should be presented in season.

Mr. Sammons stated he had never worked in a place where the zoning code was incongruent with what the residents liked. He spoke about the experience that would come with CNU.

Ms. LeCates inquired about parking and whether any change would come with parking management. Mr. Klein stated the objective was whether the Commission would approve an overall change and questioned whether it was fair to ask Mr. Martin to address a specific change. Mr. Martin responded and addressed parking.

Anita Seltzer, 44 Cocoanut Row, expressed concern for the lack of input that the Planning and Zoning Commission has had in the planning of Code Reform. She also expressed concern for CNU and the lack of planning that had been completed by staff and the Commission. She thought that the planning of Code Reform should have taken place before the Town Council approved Code Reform.

Simon Taylor, 234 Oleander Ave., thought Mr. Martin should perform the changes of the Code. He questioned the agenda of CNU.

Mr. Martin stated that if the community did not want to use CNU and DPZ, it could be done in-house, line by line. He asked the Commission to take him out of it and do what they thought was right for their town, and to recommend to the Town Council what they felt was the best route forward.

Mr. Ainslie stated he strongly supported using both firms.

**Motion was made by Mr. Ainslie and seconded by Mr. Kleid to endorse the two firms, CNU and DPZ.**

During discussion of the motion, Mr. Klein stated he was in favor of the direction suggested. Julie Araskog, Town Council, corrected a statement made earlier in the meeting that Code Reform had been approved, by stating Town Council had not yet voted on Code Reform.

Mr. Klein asked Mr. Ainslie to modify his motion to reaffirm the action of this Commission taken February 19, 2019 recommending that the Town Council proceed expeditiously with Code Reform as outlined by Mr. Martin.

**Mr. Ainslie accepted the modification to his motion but stressed he wanted the motion to state explicitly to move forward as Mr. Martin had recommended, utilizing these two firms; and commending Mr. Martin for getting their fee to below market. Mr. Kleid seconded the amended motion. Motion carried by 6-1 vote, with Ms. LeCates opposed.**

IV. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR

Mr. Klein thanked Mr. Bergman for his work on the Code Reform issue.

Mr. Martin announced symposium dates December 4 and 5, 2019.

David Leavitt thanked the board for their service and expressed appreciation for the way Mr. Klein ran the meeting. He invited the Town Council to attend ARCOM and Shore Protection Board meetings to observe how citizens were treated.

V. ADJOURNMENT

**The meeting adjourned at 11:02 a.m. without the benefit of a motion.**

Respectfully Submitted,

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Martin Klein, Chair  
Town of Palm Beach  
Planning & Zoning Commission

kmc



**PLANNING AND ZONING COMMISSION  
MEETING MINUTES  
TUESDAY, NOVEMBER 19, 2019 9:30 a.m.**

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**I. CALL TO ORDER AND ROLL CALL**

Chair Klein called the meeting to order at 9:29 a.m.

|                                         |         |
|-----------------------------------------|---------|
| Martin I. Klein, Chair                  | PRESENT |
| Michael Ainslie, Vice Chair             | PRESENT |
| Rick Pollock, Member                    | PRESENT |
| Michael Spaziani, Member                | PRESENT |
| Carol LeCates, Member                   | PRESENT |
| Richard Kleid, Member                   | PRESENT |
| Richard Sammons, Member                 | PRESENT |
| Eric Christu, Alternate Member          | PRESENT |
| Ronald Berk, Alternate Member           | PRESENT |
| Marilyn Beuttenmuller, Alternate Member | PRESENT |

Staff Members present were:

Paul Castro, Zoning Manager

Wayne Bergman, Assistant Director of Planning, Zoning and Building

Kelly Churney, Secretary to the Planning and Zoning Commission

**II. INVOCATION AND PLEDGE OF ALLEGIANCE**

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

Mr. Klein welcomed all in attendance.

**III. APPROVAL OF THE AGENDA**

**Motion made by Mr. Kleid and seconded by Mr. Sammons to approve the agenda as presented. Motion carried unanimously.**

**IV. APPROVAL OF MAY 21, 2019 PLANNING AND ZONING COMMISSION MINUTES**

**Motion made by Mr. Ainslie and seconded by Mr. Spaziani to approve the minutes as amended with the corrections submitted by Mr. Kleid. Motion carried unanimously.**

**V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE**

There were no comments heard at this time.

VI. **Consideration of an application by The Breakers Palm Beach, Inc., requesting a zoning text amendment to Chapter 134, Zoning, to allow hotels, golf courses and other commercial uses customarily accessory to a principal use as a permitted use in the PUD-A zoning district and to allow site plan modifications in that district that do not exceed 2,500 square feet by administrative approval**

Jamie Crowley, attorney for the applicant, presented the request.

Mr. Castro explained his research into the PUD and expressed support for the request.

Mr. Kleid cited examples of previous projects to see if they could be administratively approved if today's request were granted.

Ms. LeCates asked about accessory structures, which Mr. Castro explained.

Messrs. Sammons, Spaziani, Pollock and Christu expressed support.

Mr. Ainslie expressed concern this would open the door for other developers to add structures, which was answered by Mr. Castro.

Mr. Berk questioned 2000 square feet being increased to 2500. Mr. Castro responded.

Ms. LeCates questioned the ability to add concessions, to which Mr. Castro's response was The Breakers could already make those additions.

Chairman Klein commented this would not allow the hotel to add new units.

Public comment: There were no public comments made at this time.

**Motion made by Mr. Ainslie, seconded by Mr. Klein after passing the gavel, to approve the application of The Breakers Palm Beach, Inc., as presented. Motion carried 6-1 with Ms. LeCates opposed.**

VII. **COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR**

Mr. Castro announced the December meeting was canceled.

VIII. **ADJOURNMENT**

**The meeting adjourned at 9:54 a.m. without the benefit of a motion.**

Respectfully Submitted,

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Martin Klein, Chair  
Town of Palm Beach  
Planning & Zoning Commission

kmc



**Calvin, Giordano & Associates, Inc.**  
EXCEPTIONAL SOLUTIONS™

## Memorandum

☒ **Fort Lauderdale Office** · 1800 Eller Drive · Suite 600 · Fort Lauderdale, FL 33316 · 954.921.7781(p) · 954.921.8807(f)  
☐ **West Palm Beach Office** · 560 Village Boulevard · Suite 340 · West Palm Beach, FL 33409 · 561.684.6161(p) · 561.684.6360(f)

Date: June 10, 2020

To: Wayne Bergman, MCP, LEED-AP, Acting Director

From: Sarah Sinatra Gould, AICP Planning Director

Subject: Grading & Elevation Modifications

Project: 20-3709

CC: Paul Castro, AICP, Zoning Manager

CGA was authorized to prepare draft zoning amendments relating to elevation changes for zoning districts, primarily focused on single-family lots as a result of new fill. The fill added to new or substantially improved homes not only changes the character and streetscape, but also may impact drainage and present a need for fall protection. CGA's team evaluated options on maximum slopes for setbacks as well as the maximum fill that should be permitted at an administrative approval level. A maximum height for fill was the selected method for addressing this issue. The following provides options for the maximum fill and graphic representations of those options.

The project commenced with an identification of code sections that would be impacted by this analysis. The next step was to visit properties with this condition of increased fill as well as to review the permits associated with a sample of those properties. After those initial reviews, our team found that the best way to determine an appropriate maximum height for fill was to prepare graphics representing height of the fill, finished floor elevation and crown of the road which are attached as Exhibit A. In order to do this analysis, streets in the residential area (specifically the R-B and R-C Zoning Districts north of Golfview Road) were reviewed to determine the crown of the road. This was coupled with the FIRM Flood Map review, which identifies the minimum finished floor elevation in Flood Zone A. This table describing the crown of road elevation is attached as Exhibit B.

When the crown of the road is lower than the Base Flood Elevation, property owners currently are permitted to build perimeter retaining walls and add fill to increase the elevation of the overall lot instead of only adding fill at the footprint of the home to meet the finished floor elevation provided there is a Town approved drainage plan (as an example - Town Code Section 134.898). This method is selected to avoid adding landings and multiple steps to enter the house. There are also other options we would like to explore. The analysis conducted above was utilized to identify options to change this section of the Town Code (See Exhibit C).

The Code has multiple definitions for height depending on the specific situation or condition of the property in the Town. There is a height definition relating to low street elevations, which measures height from the minimum flood elevation rather than the crown of the road. However, there is no definition of what is considered a low street elevation. Part of the analysis has included identifying what would be considered a low street elevation. Exhibit C provides proposed language relating to the maximum height of fill as well as a set measurement for a low elevation street. The code has similar language in other areas and zoning districts. These portions of the code will also need to be amended and will be presented to the Commission when the ordinance is prepared.



**Calvin, Giordano & Associates, Inc.**  
EXCEPTIONAL SOLUTIONS™

## **Memorandum**

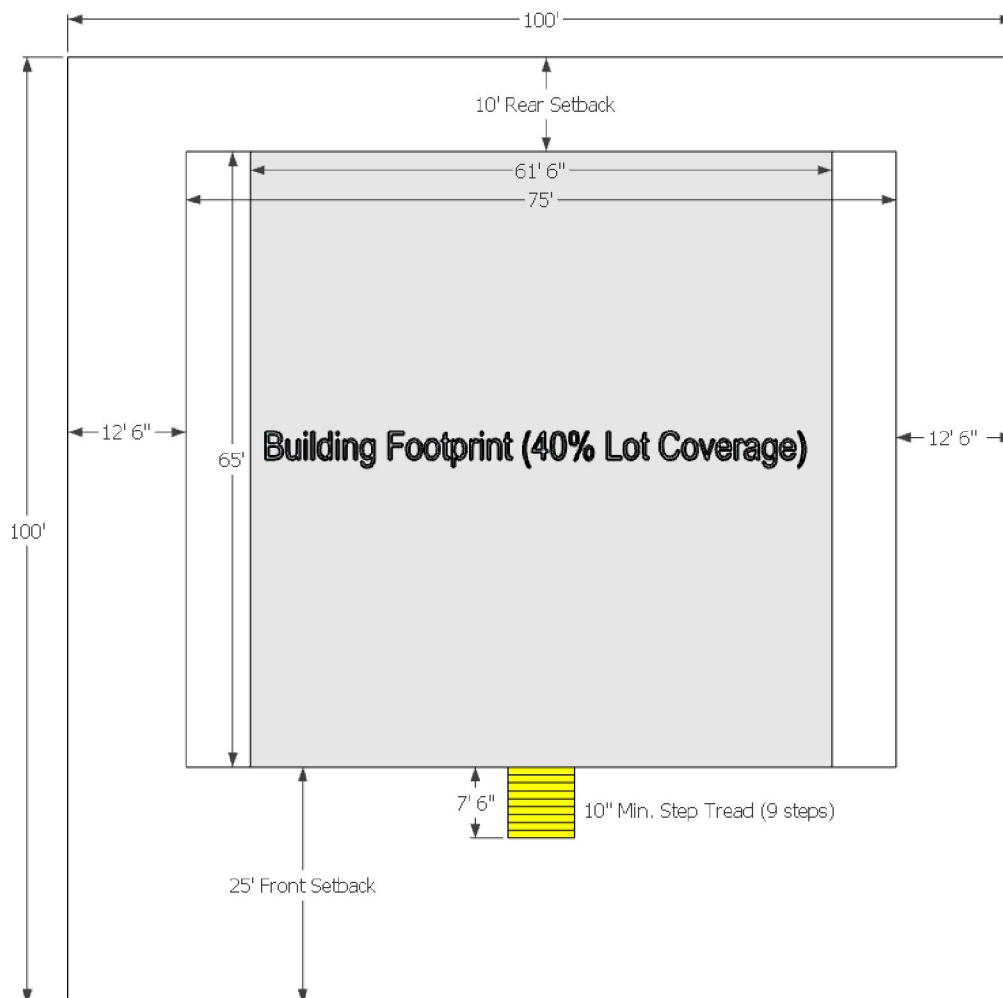
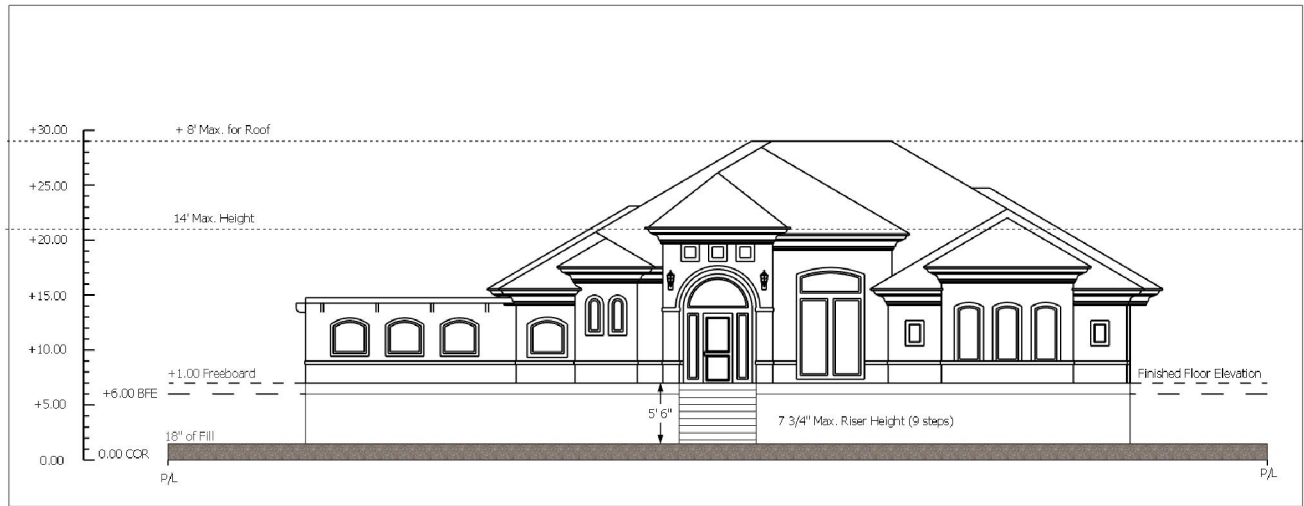
Direction is requested from the Planning and Zoning Commission relating to the graphics and the maximum height of fill. Once further clarification is provided, CGA will finalize the proposed language as well as other areas of the Code which will need to be adjusted to be compliant and consistent with the proposed modification to Section 134.898. Exhibit D includes other sections of the code which may be amended as a result of the proposed changes. The next step will be to present a zoning text amendment to the Commission for a recommendation to the Town Council.

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## EXHIBIT A

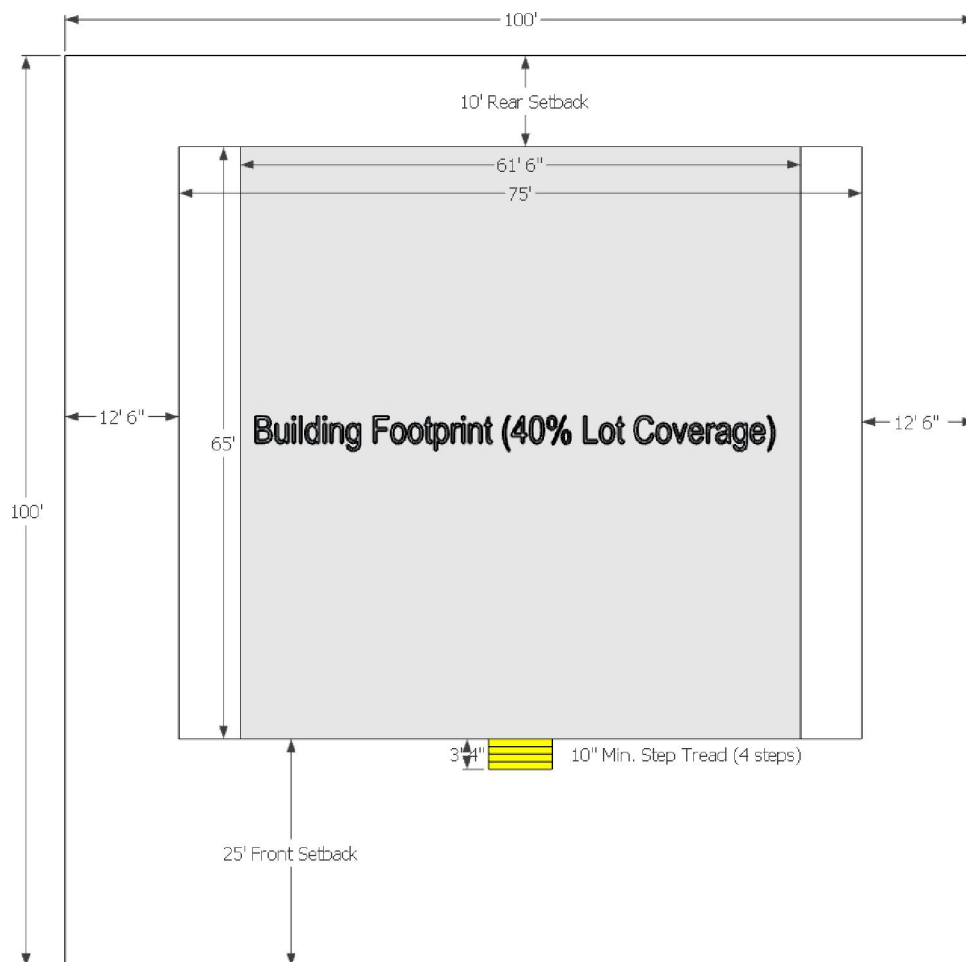
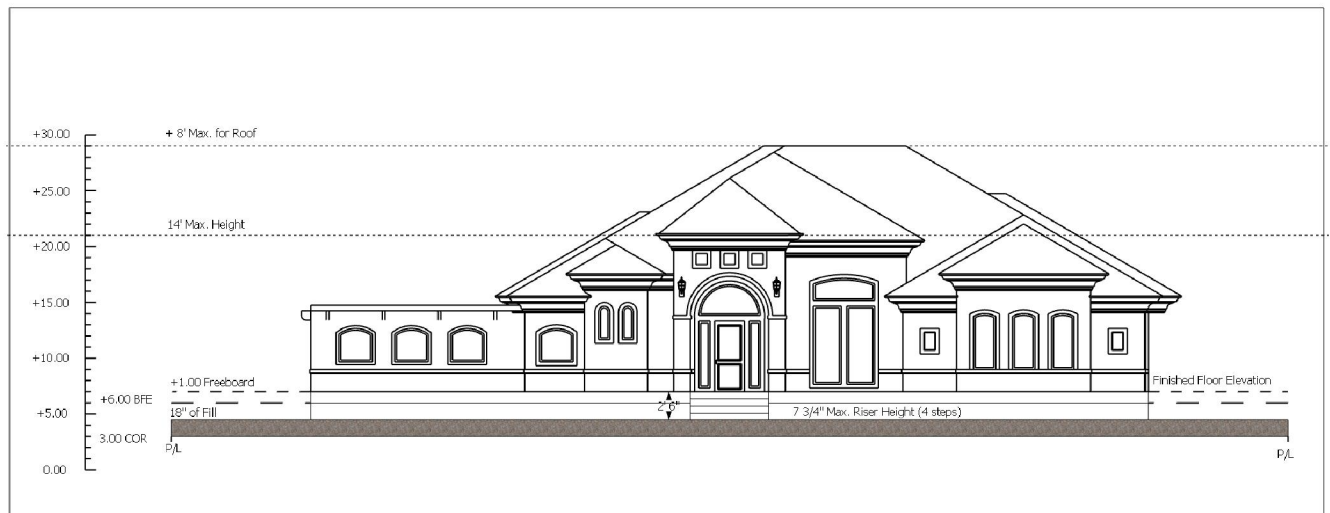
AE (+6 EL) Flood Zone

**Scenario 1A)** 18" of Fill above a Crown of Road of 0.00'



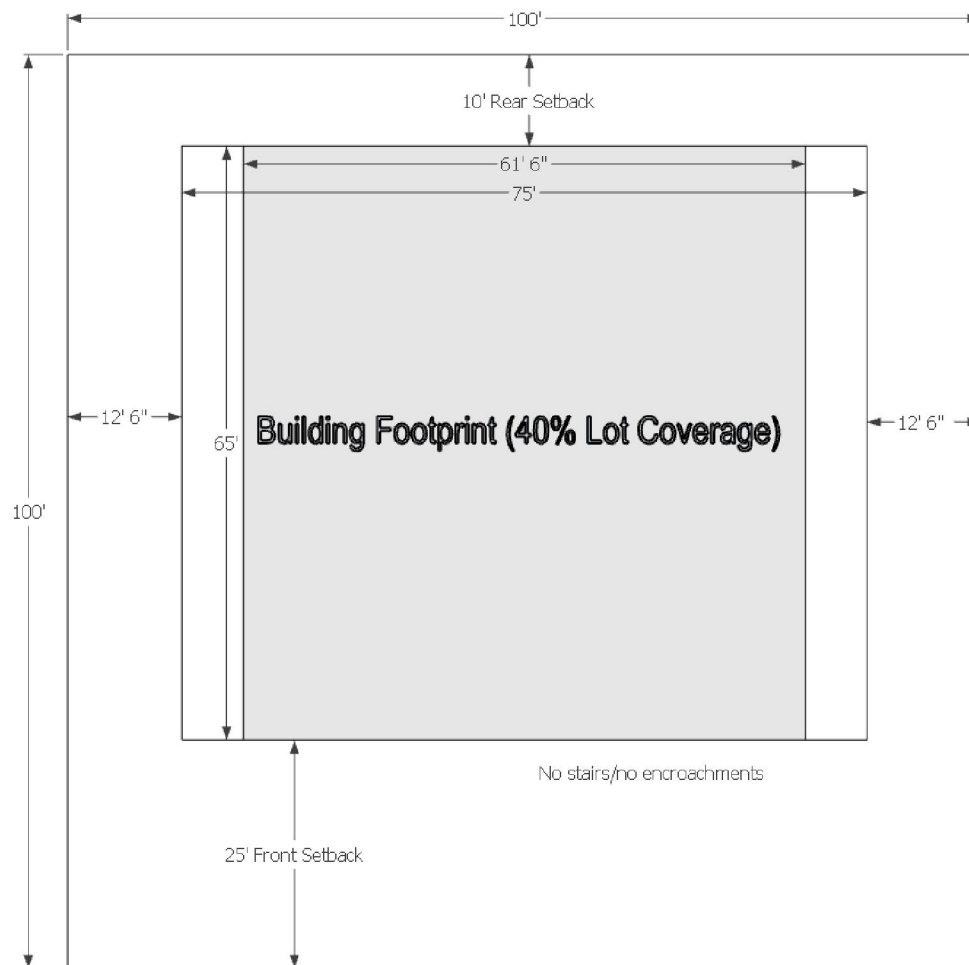
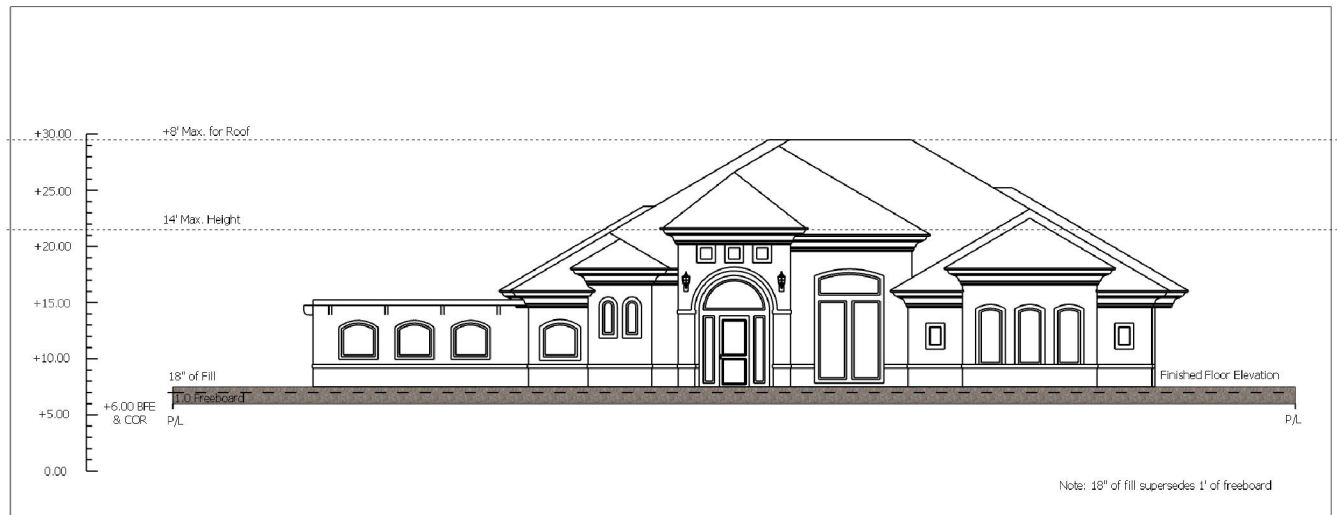
AE (+6 EL) Flood Zone

**Scenario 1B)** 18" of Fill above a Crown of Road 3.00'



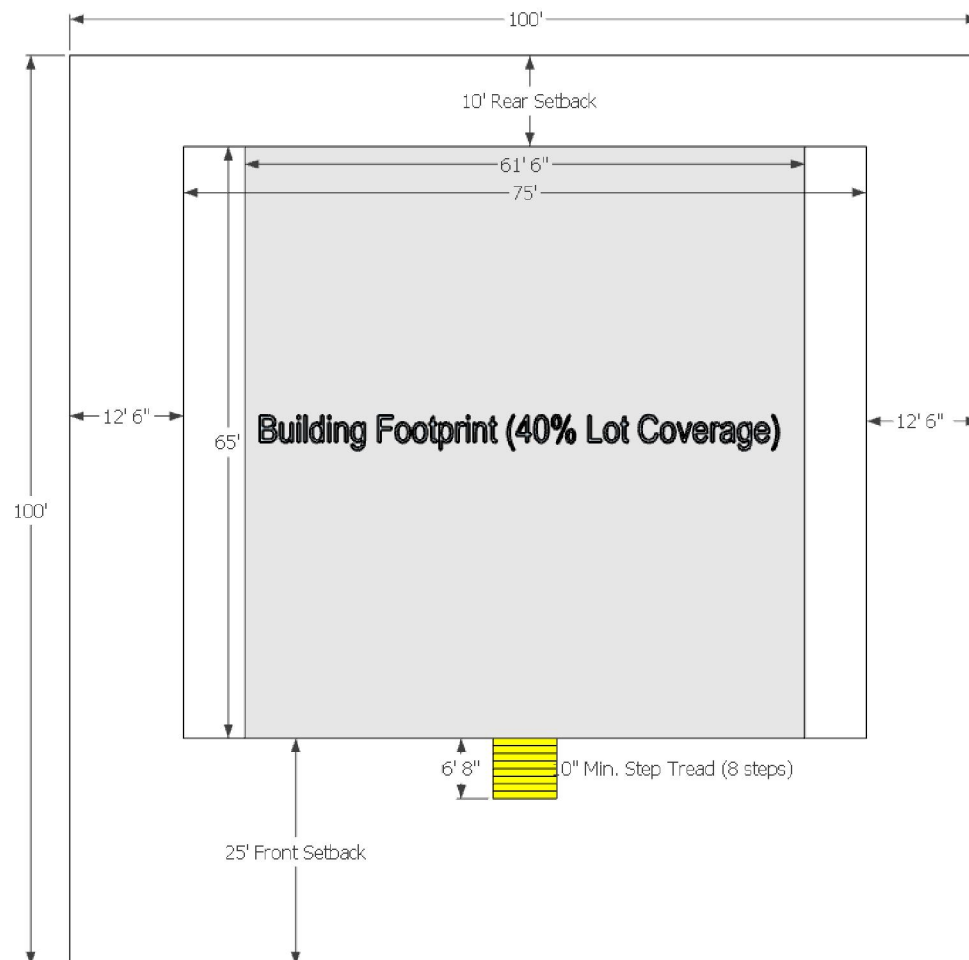
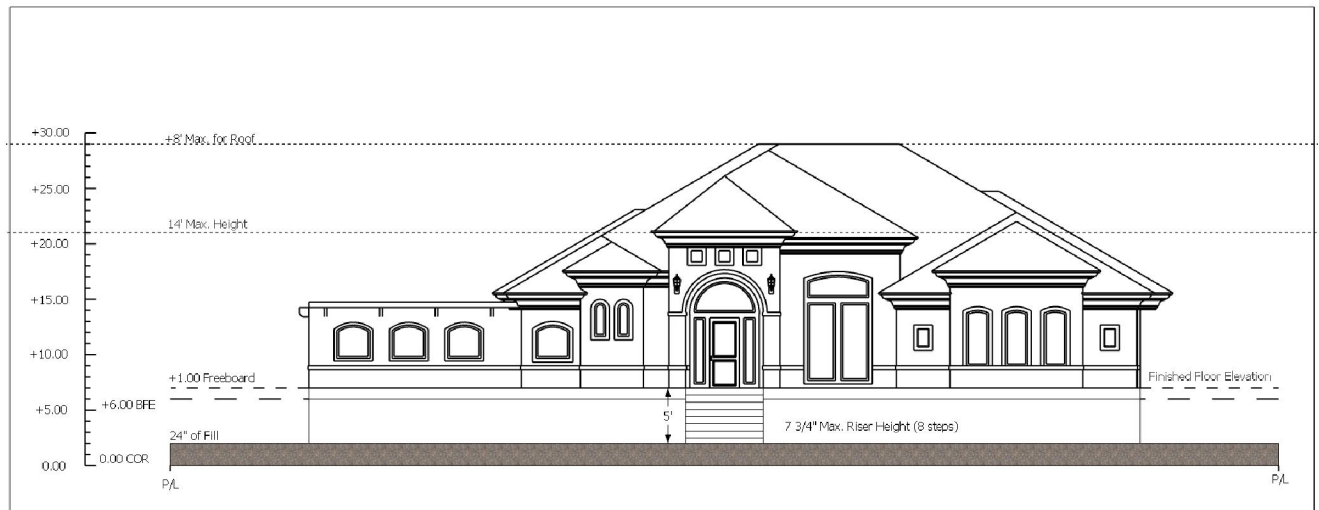
## AE (+6 EL) Flood Zone

### Scenario 1C) 18" of Fill above a Crown of Road of 6.00'



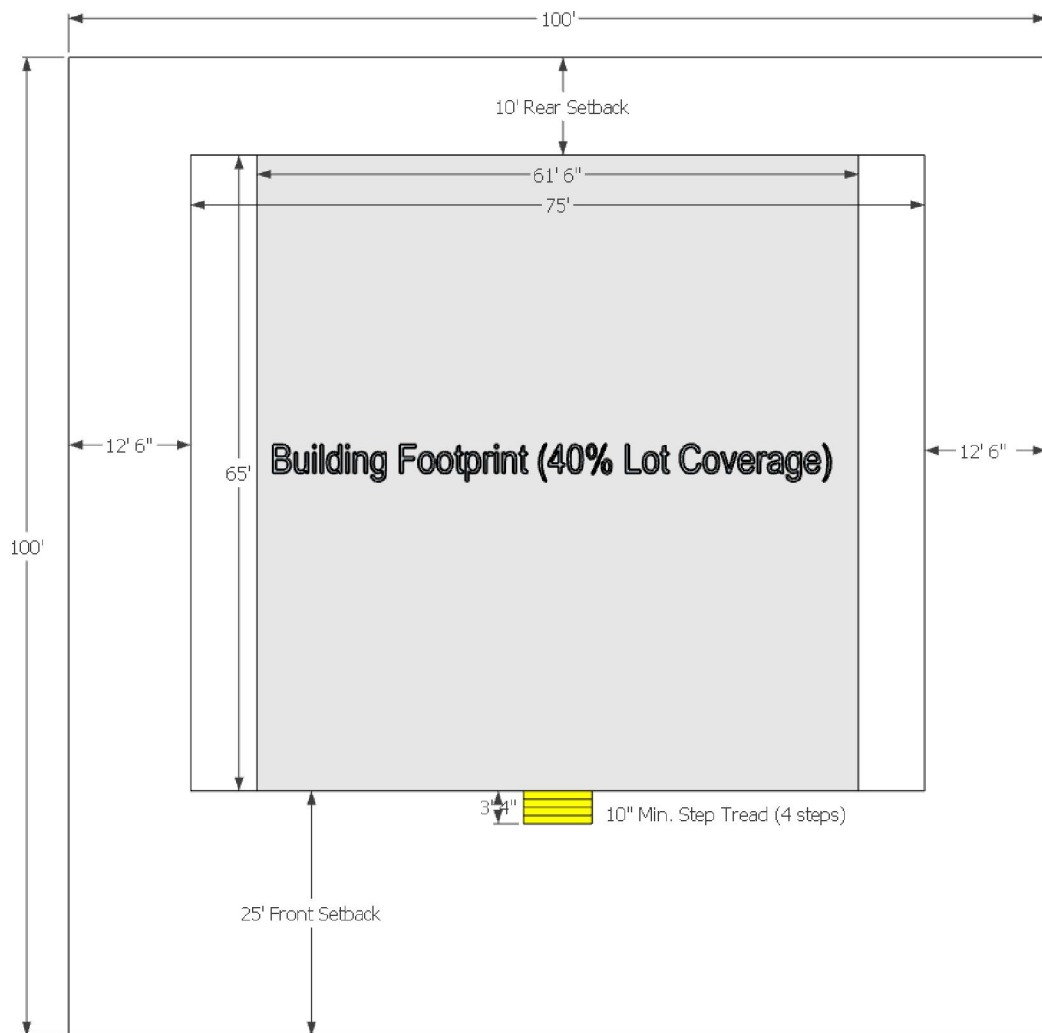
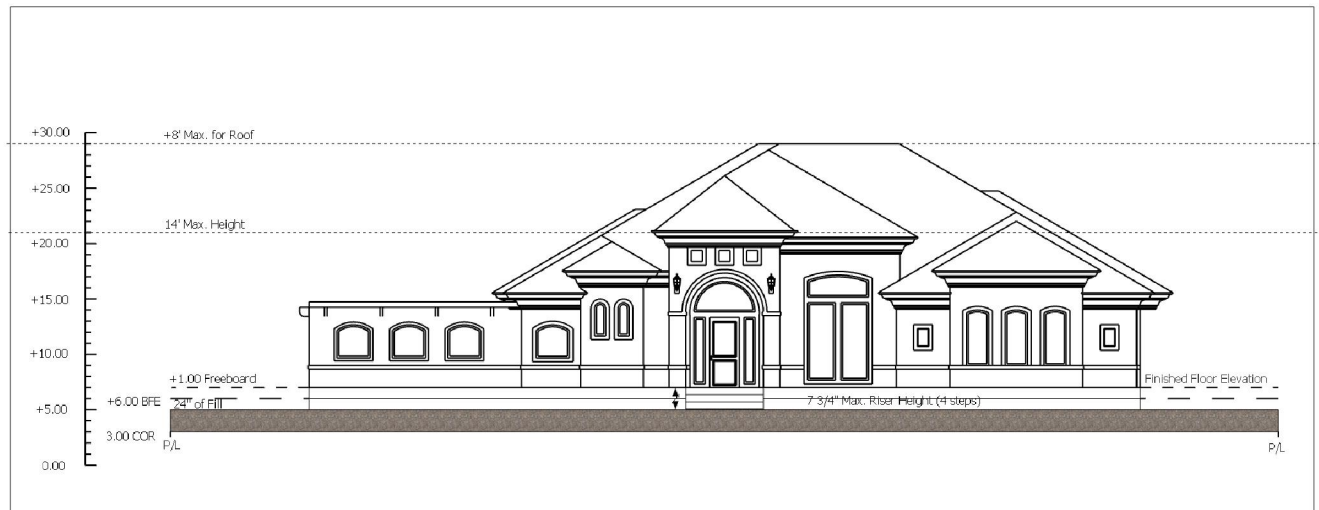
AE (+6 EL) Flood Zone

**Scenario 2A)** 24" of Fill above a Crown of Road of 0.00'



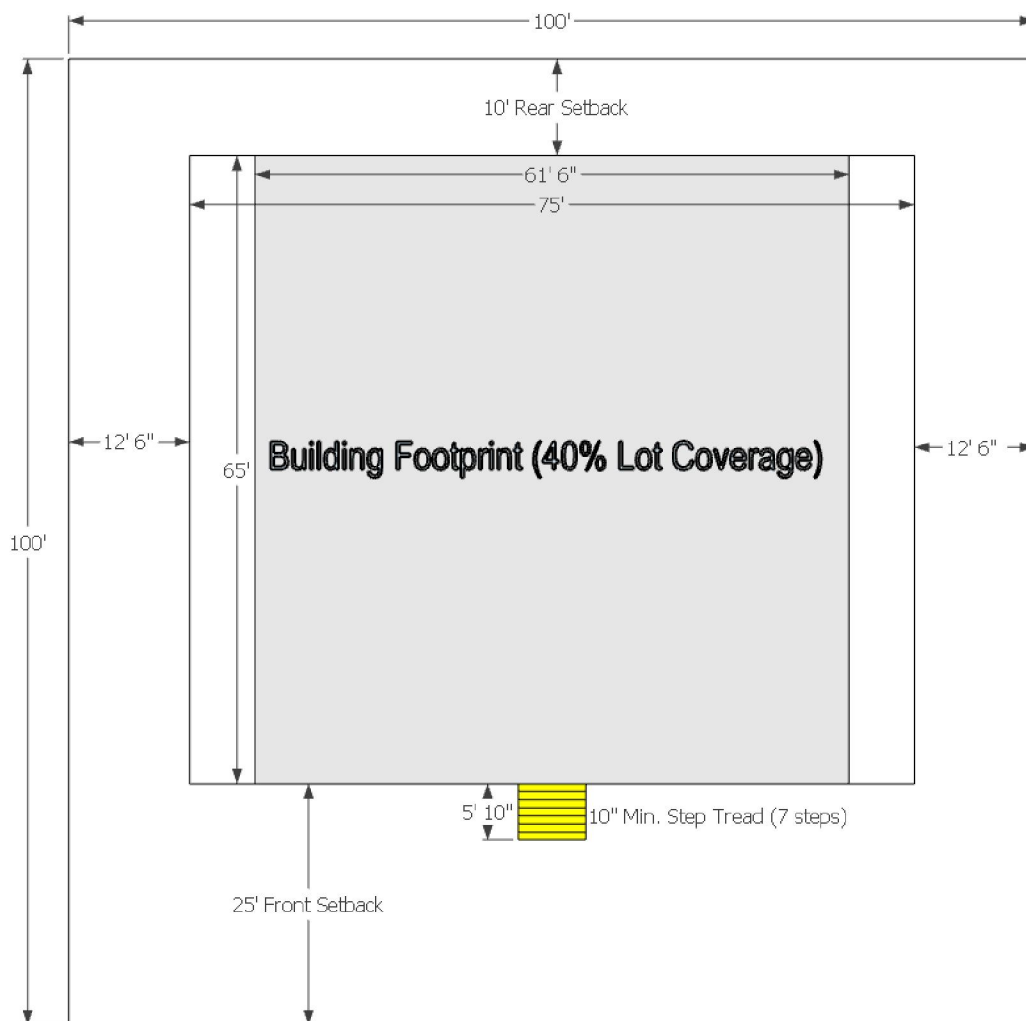
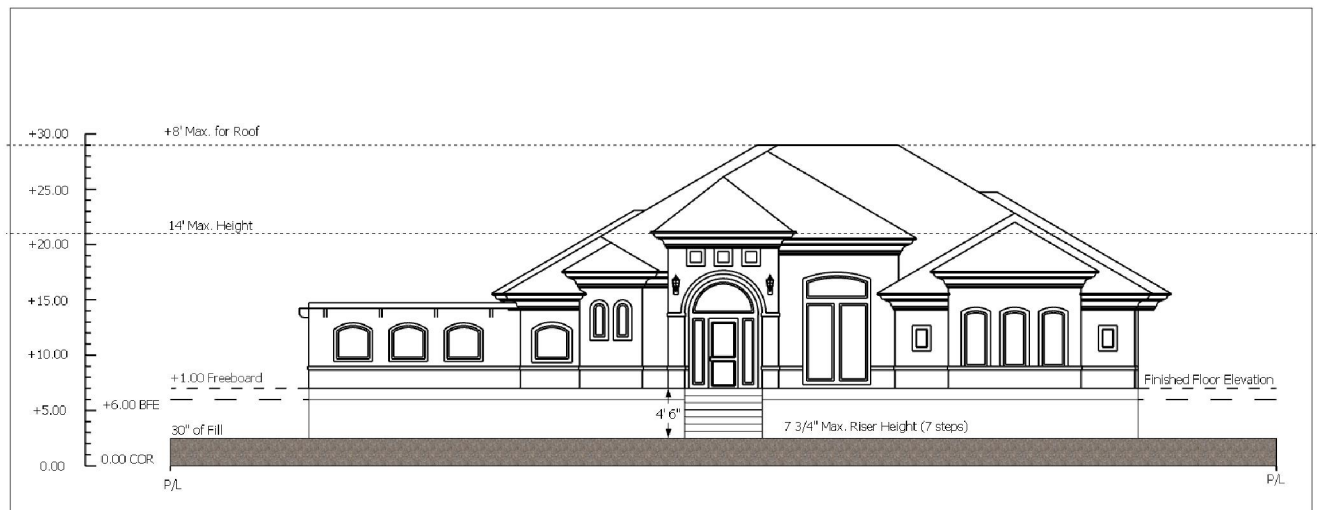
## AE (+6 EL) Flood Zone

**Scenario 2B)** 24" of Fill above a Crown of Road of 3.00'



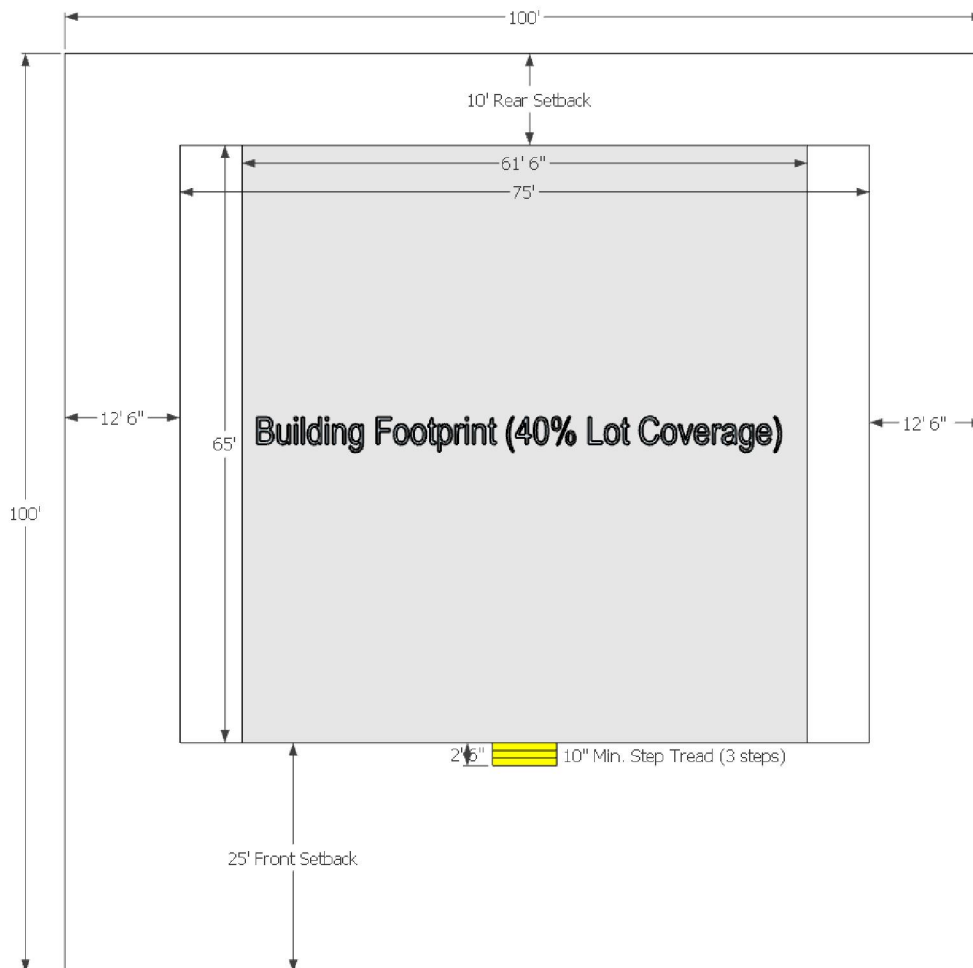
AE (+6 EL) Flood Zone

**Scenario 3A)** 30" of Fill above a Crown of Road of 0.00'



AE (+6 EL) Flood Zone

**Scenario 3B)** 30" of Fill above a Crown of Road of 3.00'



AE (+6 EL) Flood Zone

## EXHIBIT B

### Town of Palm Beach – Elevation Study of the Roadways within the R-B Zoning District

| Street Name             | Lowest Elevation          | Average Elevation | Highest Elevation        |
|-------------------------|---------------------------|-------------------|--------------------------|
| Indian Road             | 2 feet (West Elevation)   | 3 feet            | 4 feet (East Elevation)  |
| Arabian Road            | 2 feet (Middle Elevation) | 3 feet            | 4 feet (East Elevation)  |
| Caribbean Road          | 2 feet (Middle Elevation) | 3 feet            | 7 feet (West Elevation)  |
| Mediterranean Road      | 2 feet (Middle Elevation) | 3 feet            | 5 feet (West Elevation)  |
| Manana Lane             | 2 feet (West Elevation)   | 3 feet            | 4 feet (East Elevation)  |
| Debra Lane              | 3 feet                    | 3 feet            | 3 feet                   |
| Onondoga Avenue/N. Blvd | 3 feet (Middle Elevation) | 5 feet            | 12 feet (East Elevation) |
| Esplanada Way           | 4 feet (Middle Elevation) | 5 feet            | 7 feet (East Elevation)  |
| Reef Road               | 6 feet (West Elevation)   | 7 feet            | 13 feet (East Elevation) |
| Dolphin Road            | 6 feet (West Elevation)   | 7 feet            | 13 feet (East Elevation) |
| Seagate Road            | 5 feet (West Elevation)   | 7 feet            | 13 feet (East Elevation) |
| Angler Avenue           | 4 feet (West Elevation)   | 6 feet            | 13 feet (East Elevation) |
| Ocean Terrace           | 4 feet (West Elevation)   | 6 feet            | 13 feet (East Elevation) |
| Osceola Way             | 4 feet (West Elevation)   | 5 feet            | 7 feet (East Elevation)  |
| Merrain Road            | 3 feet (West Elevation)   | 5 feet            | 15 feet (East Elevation) |
| Kenlyn Road             | 3 feet (West Elevation)   | 5 feet            | 15 feet (East Elevation) |
| Palmo Way               | 2 feet (Middle Elevation) | 4 feet            | 15 feet (East Elevation) |
| Mockingbird Trail       | 3 feet (Middle Elevation) | 5 feet            | 16 feet (East Elevation) |
| Nightingate Trail       | 3 feet                    | 5 feet            | 16 feet (East Elevation) |
| La Puerta Way           | 3 feet (West Elevation)   | 5 feet            | 16 feet (East Elevation) |
| El Pueblo Way           | 3 feet (Middle Elevation) | 5 feet            | 16 feet (East Elevation) |
| Queens Lane             | 3 feet (Middle Elevation) | 4 feet            | 15 feet (East Elevation) |
| Colonial Lane           | 4 feet (Middle Elevation) | 5 feet            | 6 feet (East Elevation)  |
| Monterey Road           | 4 feet (Middle Elevation) | 5 feet            | 6 feet (West Elevation)  |
| Orange Grove Road       | 2 feet (East Elevation)   | 4 feet            | 6 feet (West Elevation)  |
| List Road               | 2 feet (Middle Elevation) | 4 feet            | 6 feet (West Elevation)  |
| Via Marila              | 2 feet (Middle Elevation) | 4 feet            | 6 feet (West Elevation)  |
| Laurian Lane            | 2 feet (Middle Elevation) | 3 feet            | 4 feet (West Elevation)  |
| Garden Road             | 2 feet (Middle Elevation) | 3 feet            | 3 feet (East Elevation)  |
| Eden Road               | 2 feet (Middle Elevation) | 3 feet            | 3 feet (East Elevation)  |
| Sandpiper Drive         | 2 feet (Middle Elevation) | 4 feet            | 6 feet (West Elevation)  |
| Tradewind Drive         | 2 feet (Middle Elevation) | 6 feet            | 12 feet (West Elevation) |

Source: Google Earth Pro

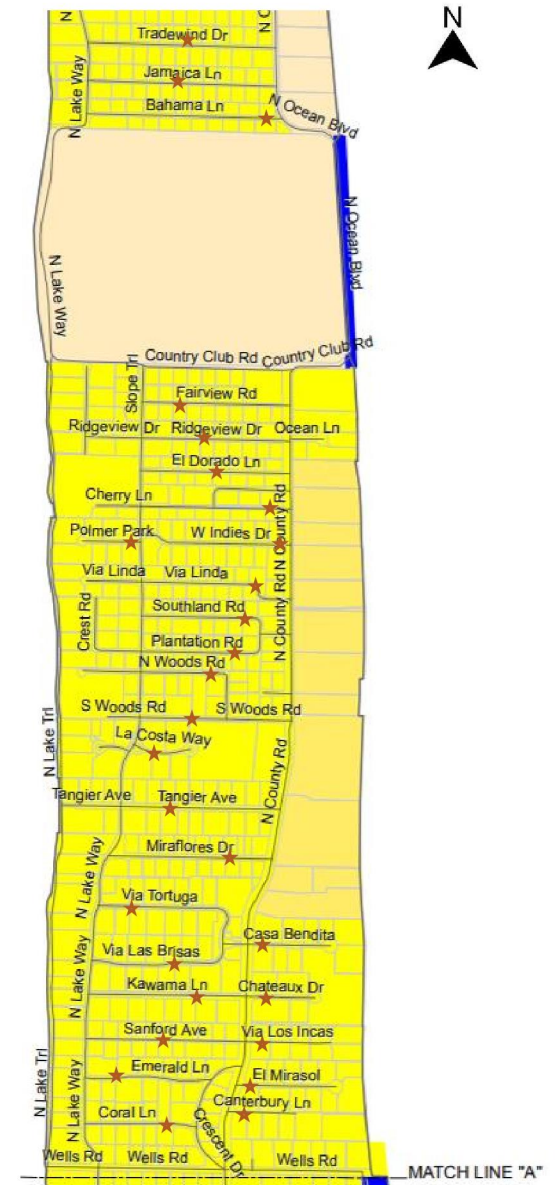


★ : Lowest Elevation

# Town of Palm Beach – Elevation Study of the Roadways within the R-B Zoning District

| Street Name       | Lowest Elevation          | Average Elevation | Highest Elevation        |
|-------------------|---------------------------|-------------------|--------------------------|
| Jamaica Lane      | 2 feet (Middle Elevation) | 5 feet            | 15 feet (West Elevation) |
| Bahama Lane       | 4 feet (East Elevation)   | 8 feet            | 18 feet (West Elevation) |
| Fairview Drive    | 2 feet                    | 2 feet            | 3 feet (West Elevation)  |
| Ridgeview Drive   | 2 feet (Middle Elevation) | 7 feet            | 21 feet (West Elevation) |
| El Dorado Lane    | 3 feet                    | 4 feet            | 6 feet (West Elevation)  |
| Cherry Lane       | 3 feet (East Elevation)   | 7 feet            | 20 feet (West Elevation) |
| Polmer Park       | 9 feet (East Elevation)   | 14 feet           | 15 feet (West Elevation) |
| West Indies Drive | 4 feet (East Elevation)   | 6 feet            | 7 feet (West Elevation)  |
| Via Linda         | 3 feet (East Elevation)   | 7 feet            | 17 feet (West Elevation) |
| Southland Road    | 3 feet                    | 4 feet            | 6 feet (West Elevation)  |
| Plantation Road   | 3 feet                    | 4 feet            | 6 feet (West Elevation)  |
| North Woods Road  | 3 feet (East Elevation)   | 4 feet            | 8 feet (West Elevation)  |
| South Woods Road  | 2 feet (Middle Elevation) | 3 feet            | 6 feet (East Elevation)  |
| La Costa Way      | 4 feet                    | 4 feet            | 5 feet                   |
| Tangier Avenue    | 2 feet (Middle Elevation) | 3 feet            | 5 feet                   |
| Miraflores Drive  | 0 feet                    | 1 foot            | 2 feet                   |
| Via Tortuga       | 3 feet                    | 4 feet            | 4 feet                   |
| Casa Bendita      | 4 feet (West Elevation)   | 7 feet            | 9 feet (East Elevation)  |
| Via Las Brisas    | 3 feet                    | 4 feet            | 4 feet                   |
| Kawama Lane       | 3 feet                    | 3 feet            | 4 feet                   |
| Chateaux Drive    | 4 feet (West Elevation)   | 7 feet            | 8 feet (East Elevation)  |
| Sanford Avenue    | 2 feet                    | 2 feet            | 3 feet                   |
| Via Los Incas     | 5 feet (West Elevation)   | 8 feet            | 10 feet (East Elevation) |
| Emerald Lane      | 2 feet                    | 3 feet            | 3 feet                   |
| El Mirasol        | 5 feet (West Elevation)   | 8 feet            | 11 feet (East Elevation) |
| Canterbury Lane   | 5 feet (West Elevation)   | 8 feet            | 10 feet (East Elevation) |
| Coral Lane        | 2 feet (East Elevation)   | 3 feet            | 5 feet (West Elevation)  |
| Wells Road        | 1 foot (West Elevation)   | 6 feet            | 12 feet (East Elevation) |

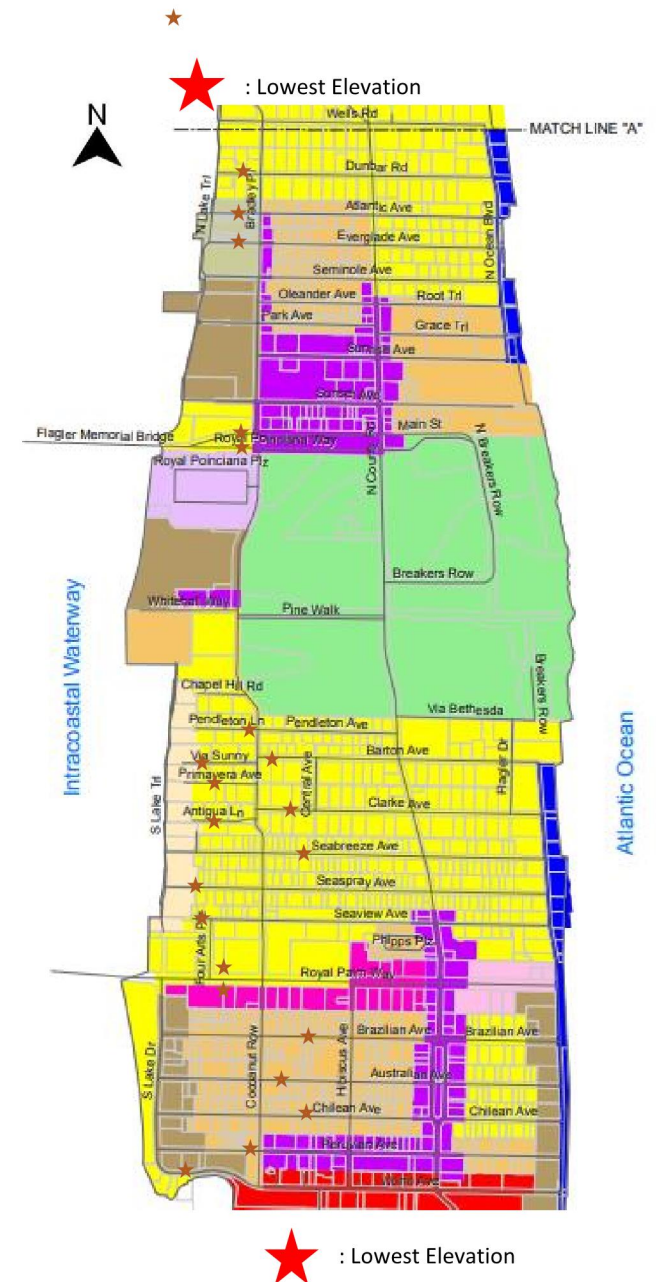
Source: Google Earth Pro



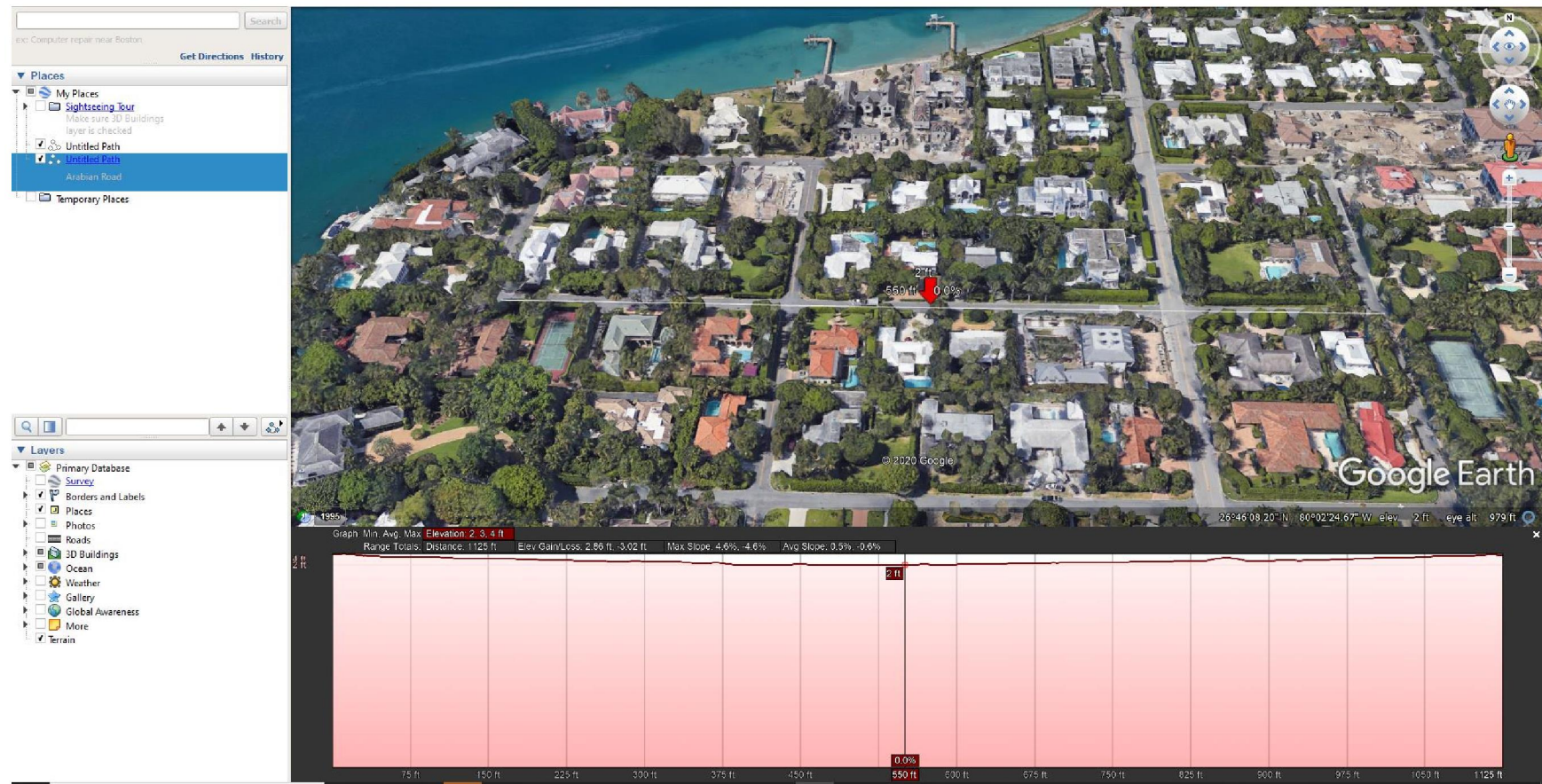
# Town of Palm Beach – Elevation Study of the Roadways within the R-B Zoning District

| Street Name                 | Lowest Elevation          | Average Elevation | Highest Elevation         |
|-----------------------------|---------------------------|-------------------|---------------------------|
| Dunbar Road                 | 2 feet (West Elevation)   | 6 feet            | 13 feet (East Elevation)  |
| Atlantic Avenue             | 2 feet (West Elevation)   | 5 feet            | 13 feet (East Elevation)  |
| Everglade Avenue            | 1 foot (West Elevation)   | 6 feet            | 13 feet (East Elevation)  |
| Royal Poinciana Way (North) | 3 feet (West Elevation)   | 6 feet            | 10 feet (East Elevation)  |
| Royal Poinciana Way (South) | 5 feet (West Elevation)   | 6 feet            | 7 feet (East Elevation)   |
| Pendleton Lane              | 3 feet (East Elevation)   | 5 feet            | 7 feet (Middle Elevation) |
| Barton Avenue               | 2 feet (West Elevation)   | 6 feet            | 13 feet (East Elevation)  |
| Via Sunny                   | 3 feet (West Elevation)   | 5 feet            | 9 feet (East Elevation)   |
| Primavera Avenue            | 3 feet (Middle Elevation) | 4 feet            | 7 feet                    |
| Clarke Avenue               | 2 feet (West Elevation)   | 6 feet            | 13 feet (East Elevation)  |
| Antigua Lane                | 3 feet (Middle Elevation) | 4 feet            | 4 feet                    |
| Seabreeze Avenue            | 1 foot (Middle Elevation) | 5 feet            | 12 feet (East Elevation)  |
| Seaspray Avenue             | 1 foot (West Elevation)   | 5 feet            | 13 feet (East Elevation)  |
| Seaview Avenue              | 1 foot (West Elevation)   | 4 feet            | 14 feet (East Elevation)  |
| Royal Palm Way (North)      | 2 feet (West Elevation)   | 5 feet            | 14 feet (East Elevation)  |
| Royal Palm Way (South)      | 2 feet (West Elevation)   | 5 feet            | 13 feet (East Elevation)  |
| Brazilian Avenue            | 2 feet                    | 5 feet            | 13 feet (East Elevation)  |
| Australian Avenue           | 1 foot (West Elevation)   | 4 feet            | 13 feet (East Elevation)  |
| Chilean Avenue              | 1 foot                    | 4 feet            | 13 feet (East Elevation)  |
| Peruvian Avenue             | 1 foot                    | 4 feet            | 14 feet (East Elevation)  |
| Worth Avenue                | 2 feet (West Elevation)   | 5 feet            | 13 feet (East Elevation)  |

Source: Google Earth Pro



## Town of Palm Beach – Elevation Study of the Roadways within the R-B Zoning District



Example: Arabian Road Elevation

## EXHIBIT C

### Town of Palm Beach Flood Plain and Zoning Example of Modifications – Chapters 18, 50 & 134

Sec. 18-87. - Floor elevation in low areas\*.

(a) No residence shall be constructed in any areas within the town that are subject to overflow and to the accumulation thereon of water unless the first floor of such residence shall be 18 inches above the highest crown of the abutting street ~~or more above the grade established by a Florida registered professional engineer and approved by the town engineer or his or her designee,~~ and in conformance with chapter 134. No garage shall be constructed incident to the residence unless the floor of such garage shall be six inches above the highest crown of the abutting street ~~grade established by Florida registered professional engineer and approved by the town engineer or his or her designee,~~ and in conformance with chapter 134; however, exceptions to the elevation required for the floor of such garages or residences may be granted, if a paving and drainage plan is approved by ~~if suitable drainage, other than natural, is provided, with the written approval of the town engineer and building official and~~ Town Council.

(b) No building permit for the construction of any residence or garage incident thereto in the areas described in subsection (a) of this section shall be issued by the building official unless the plans and specifications therefore show compliance with this section.

(c) The provisions of this section shall not be applicable in those areas of the town subject to regulation under chapter 50, and elevations in such areas shall comply with that chapter rather than this section.

(d) All properties must retain or properly drain (as approved by the town engineer) all soil and water contained on or from the property. All modifications to property which may alter the drainage plan must be approved by the town, and a stormwater management agreement be recorded in the public records of the county setting forth restrictions relating to the property. Whenever the elevation of the existing grade is raised, the building official may require a retaining wall or other structure be installed to prevent the soil and water from their property adversely affecting neighboring properties. Upon site clearing, installation of an engineered storm water management system designed in accordance with the town's adopted level of service, shall commence according to applicable best management practices to retain stormwater and prevent soil erosion into the roadway or adjacent properties, and shall be maintained throughout the project. If the stormwater management plan includes a provision requiring installation of retention walls, these shall be completed prior to the stem wall foundation pour, or at a similar point in the construction process.

\*low areas should be clarified to determine if this would be the same as “Low Street Elevations”

Sec. 50-140. - Buildings and structures in the A and X Zones.

The finished floor of all new buildings located in the A and X flood zones shall meet the requirements of the Florida Building Code or be 18 inches above the crown of the abutting street, whichever is higher.

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

In the R-B, low density residential district, the natural grade and topography of a lot may be altered to raise and grade the lot ~~to meet base flood elevation requirements~~ as part of a building permit for a building or structure which meets the paving and drainage requirements of the town. The grade may 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. ~~As part of that approved paving and drainage plan, t~~The grade shall not be raised more than 18 inches above the highest crown of the abutting street. ~~For those lots within the A Flood Zones on the FIRM Maps involving a low street elevation\* abutting the lot, the lot grade shall not be raised more than 30 inches (or 24 inches) above the highest crown of street elevation abutting the lot. unless the approved plan meets the town's containment and percolation requirements for rainwater on the lot. The top of the finished floor (habitable) shall not exceed eight inches above the permitted grade. A paving and drainage plan may be approved with higher lot fill amounts for lots involving a street with a low existing crown of street subject to approval by the Town Council.~~

Definition to be added to Section 134.2

\*Low Street Elevation – A street with a crown of street abutting a lot with a highest elevation below 3.5 feet NAVD.

## Chapter 134 -- ZONING

### Article I – IN GENERAL

- **134-1 (c)(7):** “Use and type and sizes of structures in those areas subject to seasonal or periodic flooding and/or storm damages so that danger to life and property in such areas will be minimized”
- **134-2:** See all definitions of “*building height of*”

### Article IV - NONCONFORMITIES

- **134-419(3):** See *Minimum flood elevation*

### Article VI – DISTRICT REGULATIONS

#### Division 2. – R-AA LARGE ESTATE RESIDENTIAL DISTRICT

- **134-791 (b)(1):** “The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.”
- **134-791(b)(3):** “...structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear yard setback...”
- **134-791(b)(6):** “Accessory structures in the R-AA 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...”
- **134-791(b)(7):** See “Dish Antenna”
- **134-793(a)(7):** See *building height plane*
- **134-793(a)(10):** See *height and overall height*
- **134-796:** See *Exceptions to height limitations*
- **134-797:** See *Lot grade topography and drainage*

#### Division 3 – R-A ESTATE RESIDENTIAL DISTRICT

- **134-841(b)(1):** “The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.”
- **134-841(b)(3):** “...structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear yard setback...”
- **134-841(b)(6):** “Accessory structures in the R-A 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...”
- **134-841(b)(7):** See “Dish Antenna”
- **134-843(7):** See *Building height plane*
- **134-843(10):** See *Height and overall height.*

- **134-845(2):** "First floor entrance platforms, open terraces, or steps may extend six feet into the front yard or street area, provided no closed part shall exceed four feet in height above the average lot level."
- **134-845(4):** "One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet."
- **134-846:** See *Exceptions to height limitations*.
- **134-847:** See *Lot grade, topography and drainage*.

#### Division 4 – R-B LOW DENSITY RESIDENTIAL DISTRICT

- **134-891(b):** See *Accessory structures*.
- **134-893(b)(8):** See *Rear height plane setback*
- **134-893(b)(10):** See *height and overall height*.
- **134-895(2):** "First floor entrance platforms, open terraces, or steps may extend six feet into the front yard or street area, provided no closed part shall exceed four feet in height above the average lot level."
- **134-895(4):** "One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet."
- **134-896:** See *special exceptions to height limitations*
- **134-897:** See *special exceptions to height regulations*
- **134-898:** See *lot grade topography and drainage*

#### Division 5 – R-C MEDIUM DENSITY RESIDENTIAL DISTRICT

- **134-946:** See *accessory structures*
- **134-948(8):** See *height and overall height*.
- **134-950(2):** "Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade."
- **134-950(5):** "One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet."
- **134-952:** See *exemption to height limitations*.
- **134-953:** See *Lot grade, topography and drainage*.

#### Division 6 – RD(1) MODERATE DENSITY RESIDENTIAL DISTRICT

- **134-1001(a)+(b):** See *Accessory structures*
- **134-1004(8):** See *Height and overall height*.
- **134-1006(2):** "Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade."
- **134-1006(5):** "One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet."
- **134-1008:** See *Special exception to height regulations; special exception structures*.
- **134-1009:** See *Lot grade topography and drainage*.
- **134-1014:** See *Exemption to height limitations*.

#### Division 7 – R-D(2) HIGH DENSITY RESIDENTIAL DISTRICT

- **134-1057:** See *accessory structures*.
- **134-1060(8):** See *Height and overall height*
- **134-1062(2):** “Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade.”
- **134-1062(5):** “One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.”
- **134-1064:** See *Special exception to height regulations; special exception structures*.
- **134-1065:** See *Lot grade topography and drainage*.
- **134-1070:** See *Exemption to height limitations*.

#### Division 8 – C-TS TOWN-SERVING COMMERCIAL DISTRICT

- **134-1110:** See *Accessory structures*
- **134-1113(5)(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.”
- **134-1113(6)(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.”
- **134-1113(7)(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.”
- **134-1113(8):** See *Height and overall height*.

#### Division 9 – C-WA WORTH AVENUE DISTRICT

- **134-1160:** See *Accessory structures*.
- **134-1163(8):** See *Height and overall height*.
- **134-1165:** See *Special exception to height regulations; special exception structures*.

#### Division 10 – C-OPI OFFICE, PROFESSIONAL, AND INSTITUTIONAL DISTRICT

- **134-1211:** See *Accessory structures*.
- **134-1213(5)(e):** “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.”
- **134-1213(6)(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.”
- **134-1213(7)(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.”
- **134-1213(8):** See *Height and overall height*.
- **134-1215:** See *Exception to height regulations; special exception structures*.

#### Division 11 – C-PC PLANNED CENTER DISTRICT

- **134-1262(8):** See *Height and overall height*.
- **134-1263(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.”

#### Division 12 C-B COMMERCIAL DISTRICT

- **134-1306(b):** See *Accessory structures*
- **134-1308(5)(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”
- **134-1308(6)(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.”
- **134-1308(7)(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.”
- **134-1308(8):** See *Height and overall height*.
- **134-1309(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.”

#### Division 13 – C Conservation District

N/A

#### Division 14 – PUD PLANNED UNIT DEVELOPMENT DISTRICT

- **134-1396(8):** See *Height and overall height*
- **134-1400:** See *Accessory structures*.

#### Division 15 – Beach Area

- **134-1474:** See *Height, width and length limit for properties adjacent to properties in the R-B district*.
- **134-1475:** See *Height, width and length limit for properties adjacent to properties in districts other than R-B*.

### ARTICLE VIII. – SUPPLEMENTARY DISTRICT REGULATIONS

#### Division 3 – HEIGHT AND OTHER EXCEPTIONS

- **134-1607:** See *Permitted exceptions*
- **134-1608:** *basements*
- **134-1610:** “The developed grade outside the walls of that portion of the basement that is outside of the walls of the main portion of the building located above the basement shall not be raised or altered more than two feet above the natural grade in order to be hidden from view;”

#### Division 5 – WALLS AND FENCES

- **134-1667:** See *Front, street side or street rear yards*.
- **134-1669:** See *Side and rear yards*.
- **134-1670:** See *Retaining walls*.

#### Division 6 – STRUCTURES

- **134-1728:** See *Air conditioning and swimming pool heating equipment*.
- **134-1729:** See *Generators and swimming pool equipment*.
- **134-1731:** See *Outdoor lighting equipment*
- **134-1734:** See *Playground equipment*.

#### Division 7 – ACCESSORY USES

- **134-1757:** See *Swimming Pools*
- **134-1759:** See *Tennis, shuffleboard and racquetball courts*.

### RIGHT-OF-WAY MANUAL

<https://www.townofpalmbeach.com/DocumentCenter/View/561/Town-of-Palm-Beach-Right-of-Way-Standards-Manual?bidId=>

See Page 55: Erosion Into Roadways and Drainage Systems

# TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on: June 16, 2020

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To: Planning and Zoning Commission

From: Wayne Bergman, Acting Planning, Zoning and Building Director

Re: Consideration of Staff Request to Review and Consolidate the Regulations for the Screening and Placement of Generators, Air Conditioning, Pool Pump, Filter and Heating Equipment

Date: June 11, 2020

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## **STAFF RECOMMENDATION**

Staff recommends review and recommend changes to the Code related to screening and placement of all mechanical equipment allowed in a required setback.

## **BACKGROUND**

Staff has been experiencing issues related to the screening and placement of generators, air conditioning, pool pump, pool filter and heater equipment. The existing zoning regulations are within two different sections of the Code and seem to be inconsistent as it relates to screening said equipment when in a required setback. Staff is requesting that the Planning and Zoning Commission review the existing regulations that are attached and provide direction on modifications to create more clear and concise requirements.

If you have any questions please contact Paul Castro, Zoning Manager, at your convenience at 227-6406.

cc: Mayor and Town Council  
Kirk Blouin, Town Manager  
Jay Boodheshwar, Deputy Town Manager  
John C. Randolph, Town Attorney  
Paul Castro, Zoning Manager

Existing Text

Sec. 134-1728. - Air conditioning and swimming pool heating equipment.

- (a) No portion of any air conditioning and/or swimming pool equipment shall be located closer than five feet from a side or rear property line. In addition, such air conditioning or swimming pool equipment within ten feet from the side or rear property line shall be completely screened with a wall as high as said equipment from the neighboring property. Except as provided for in subsection (b) of this section, air conditioning and/or swimming pool equipment, in excess of two units or more than four feet in height, as measured above the natural grade or minimum flood elevation, whichever is greater, or occupying more than 25 square feet in total area, shall be considered an enclosed accessory structure and shall be constructed, erected or placed in compliance with all the provisions of the ordinance applicable thereto.
- (b) In the R-AA, R-A and R-B zoning districts, where setbacks for principal structures are increased based on a larger lot width, the air conditioning and/or swimming pool equipment which are in excess of number, height and area restrictions identified in subsection a of this section shall only be required to meet the minimum yard setback requirements for an enclosed accessory structure on a minimum size lot in that district.
- (c) Cooling towers shall be required to meet the same minimum yard setback requirements as the principal structure, and shall be screened from the neighbors and/or a street by a three-sided, concrete block masonry finished wall at least as high as said cooling tower. If the required wall is higher than the Code allows in a setback in order to screen the cooling tower from the neighbors and/or a street, said wall shall also meet the minimum yard setback requirement as the principal structure.
- (d) No air conditioning or swimming pool equipment shall be allowed in a front yard setback.
- (e) Any house that fronts on two or more streets shall be allowed to place air conditioning (excluding cooling towers) and/or swimming pool equipment in each required street side or street rear yard setback provided that the combination of said equipment does not exceed two in each of said setbacks; are not more than four feet in height above the natural grade or the minimum flood elevation, whichever is greater, occupy no more than 25 square feet in total area; and are setback a minimum of 20 feet from the street side or street rear property line and are screened from view by a wall as high as said equipment and three foot high hedge outside said wall.

Sec. 134-1729. - Generators and swimming pool equipment.

Except for generators serving a public purpose and owned and operated by the town or temporary generators used during or after a natural disaster such as a tropical storm or hurricane event, and which are therefore exempt from these regulations, portable or permanent generators temporarily or permanently placed on the ground, on a stand or on a trailer, shall not be placed in the required front, street side or street rear yard setbacks; provided, however, not more than one such generator shall be placed in any given required side or rear yard setback.

- (1) One portable or permanent generator with an output of not more than 60 KW shall be allowed in a required side or rear yard setback provided said generator meets the following conditions:
  - a. The generator is set back a minimum of five feet from the property line.
  - b. The generator shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.

Existing Text

- c. The highest point on the generator shall not exceed a maximum of seven feet above the neighboring property owner's grade or zero datum as defined in the appropriate definition of building height in section 134-2.
  - d. The generator is screened from the neighboring property owners by a concrete block masonry finished wing wall (three-sided wall), at least four feet high or the same height as the generator (including the height of the exhaust muffler), whichever is greater.
  - e. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.
  - f. The generator shall be used only during periods of power outages or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company or for use by power customers during periods of peak demand.
  - g. The generator shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.
  - h. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.
  - i. Generators are not permitted on the roof of a building.
- (2) A portable or permanent generator may be permanently or temporarily placed on the ground, on a stand, or on a trailer outside of required yard setback areas; provided, however, said generator meets the following conditions:
- a. If the generator's output capability is greater than 60KW, it shall be placed on the property only in conformance with the setback requirements applicable to a principal structure.
  - b. The generator shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.
  - c. If the generator's output capacity is greater than 100 KW, it shall be subject to site plan review as defined in sections 134-326—134-330 and shall be housed in an enclosed building with landscaping as approved by the architectural commission or landmarks preservation commission, whichever is appropriate.
  - d. If the generator is greater than 60KW and is 100KW or less, and is visible from a street or public way, it shall be screened from the neighboring properties by a concrete block masonry finished wing wall (three-sided wall), at least four feet high or the same height as the generator (including the height of the exhaust muffler), whichever is greater.
  - e. If the generator is 60KW or less and is visible from a street or public way, its location shall be subject to approval by the architectural commission or landmarks preservation commission, as applicable. Intervening landscape material shall not be considered when determining a generator's visibility.
  - f. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.
  - g. The generator shall be used only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company.
  - h. The generator shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.

- i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.
  - j. Generators are not permitted on the roof of a building.
- (3) Notwithstanding subsection (a), the director or designee may grant a waiver allowing a generator with an output capability in excess of 60KW to be located within a required side or rear yard setback, provided the applicant submits to the town a site plan and evidence or testimony substantiating each of the following conditions:
- a. The output of a 60 KW or less generator is incapable of providing enough electricity for the basic necessity of occupying a building and/or protecting interiors or possessions in a building from the damaging effects of prolonged loss of power.
  - b. The proposed location is not merely for the convenience or preference of the applicant, but that there is no other location outside of the required setbacks that will provide for safe placement of the generator.
  - c. The proposed location represents the minimum intrusion into the required setback(s) necessary to safely accommodate the generator.
- (4) If an administrative waiver is not granted pursuant to subsection (c) the applicant may appeal the administrative decision to the town council pursuant to sections 134-131—134-145.

In addition, swimming pool pumps and filters shall be allowed in a required side or rear yard provided said equipment is placed no closer than five feet from the side or rear property line and is enclosed in a pump house not exceeding a height of four feet. However, any lot that fronts on two or more streets shall be allowed to place one swimming pool filter and pump in a required street side and/or street rear yard setback provided that said swimming pool filter and pump, in combination with a pool heater and/or air conditioning unit does not exceed three pieces of said equipment; is set back a minimum of 25 from the street side or street rear property line; and, is screened from view from the neighboring property owner by a five-foot high wall and from the street by a minimum five foot high wall and three-foot high hedge.