



PLANNING AND ZONING COMMISSION MEETING

TOWN OF PALM BEACH

MAY 5, 2026

9:30 AM

TOWN HALL COUNCIL CHAMBERS, 2ND FLOOR | 360 SOUTH COUNTY RD | PALM BEACH, FL 33480

Gail Coniglio, Chair
Marilyn N. Beuttenmuller, Member
Barbara Chapman, Member
William J. Gilbane, Member
Martin Klein, Member
Carol LeCates, Member
Jorge Sanchez, Member
Matthew Ailey, Alternate Member
Victoria Donaldson, Alternate Member
Anne Fairfax, Alternate Member

AGENDA

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

MINUTES

1. Minutes of the April 7, 2026, Planning and Zoning Commission meeting.

APPROVAL OF AGENDA

COMMENTS

2. OFFICIALS
3. STAFF
4. PUBLIC - 3 MINUTE LIMIT

For those unable to attend in person: [Submit a written comment](#) [Register to comment virtually](#)

UNFINISHED BUSINESS

5. Discussion on Commercial Districts
6. Discussion on Fill

ANY OTHER BUSINESS

MEETING SCHEDULE

7. The next meeting is scheduled for June 2, 2026, at 9:30 a.m.

ADJOURNMENT

Access this meeting video on the 'Public Meetings' page at www.townofpalmbeach.com.

If a person decides to appeal any decision made with respect to any matter considered at this meeting, they will need to ensure that a verbatim record of the proceedings is made for such purposes, which shall include the testimony and evidence upon which the appeal is to be based.

Disabled persons needing accommodations to participate in this meeting should contact the Town Clerk's Office at (561) 838-5416 at least one day prior to the meeting.



TOWN OF PALM BEACH

Minutes of the Planning and Zoning Commission Meeting Held on April 7, 2026

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 09:30 AM in the Town Council Chambers.

Members Present: Gail Coniglio, William Gilbane, Marilyn Beuttenmuller, Barbara Chapman, Martin Klein, Carol LeCates, Jorge Sanchez, Matthew Ailey, Victoria Donaldson, Anne Fairfax

Staff Present: Wayne Bergman, James Murphy, Jennifer Hofmeister, Abraham Fogel, Pat Gayle-Gordon

PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon delivered the invocation, and Chair Coniglio led the Pledge of Allegiance.

ELECTION OF CHAIR AND VICE CHAIR

A motion was made by Mr. Klein and seconded by Ms. Beuttenmuller to elect Gail Coniglio as the Chair. The motion was carried unanimously, 7-0.

A motion was made by Mr. Klein and seconded by Ms. Beuttenmuller to elect William Gilbane as the Vice Chair. The motion was carried unanimously, 7-0.

MINUTES

1. Minutes of the February 3, 2026, Planning and Zoning Commission Meeting

Ms. Beuttenmuller pointed out some scrivener's errors, and these were amended.

A motion was made by Mr. Gilbane and seconded by Mr. Klein to approve the minutes of the February 3, 2026, meeting as amended. The motion was carried unanimously, 7-0.

2. Minutes of the March 2, 2026, Planning and Zoning Commission Meeting

Ms. Beuttenmuller referred to page 4, paragraph 2 of the Minutes and added "not" in the sentence "...but if they are destroyed or renovated beyond 50%, they would not have to be brought up to current standards."

A motion was made by Ms. Beuttenmuller and seconded by Ms. Coniglio to approve the minutes of the March 2, 2026, meeting as amended. The motion was carried unanimously, 7-0.

APPROVAL OF AGENDA

A motion was made by Mr. Sanchez and seconded by Ms. Coniglio to approve the agenda as presented. The motion was carried unanimously, 7-0.

COMMENTS

3. OFFICIALS

Mr. Sanchez explained that the current grading rule, which limits elevation changes between existing and finished grades to 50%, is well-intended but ineffective in practice. While he believes it was meant to reduce visibility between neighboring properties, he stated it does not achieve that goal and instead creates design challenges. Specifically, it forces excessive walking steps and uneven elevations, often resulting in sunken, less accessible gardens and complicated access to the home. He noted that privacy is better addressed through requiring hedges. He requested that the Commission consider revisiting the fill regulations in the near future.

Mr. Sanchez stated that this issue arose at the last Architectural Commission (ARCOM) meeting and led to concern. He explained that the current code effectively allows a neighbor to control another property owner's choice in landscape species, by requiring consent for hedge installation and wall construction, even when those improvements otherwise meet Town standards. He cited examples in which applicants were required to obtain neighbor approval, which created conflict between property owners and placed the Town at risk of legal action.

Mr. Sanchez noted that, based on discussions with attorneys, such provisions may be legally problematic and expose the Town to liability. He expressed concern that the code overreaches into private property rights and causes disputes between neighbors. He recommended that the Town either enforce clear, objective standards without requiring neighbor consent or remove those standards altogether, but not both. He urged that these issues be addressed promptly, noting his desire to see progress before the end of his term.

James Murphy, Assistant Director of Planning, Zoning, and Building, acknowledged the concerns raised by Mr. Sanchez. He stated that the Town has empowered neighbors. Noting that two elected officials were in attendance, he explained that the fill ordinance had recently been amended to correct a scrivener's error in the fill calculations, which had flipped the math equation. He stated that staff had engaged with elected officials regarding potential revisions to the fill requirements; however, there was no support for increasing the required rear-yard setbacks at this time. Mr. Murphy noted that, based on the formula, certain scenarios could result in substantial additional fill adjacent to neighboring properties, which raised concerns from the Town Council. As a result, Council directed staff not to pursue changes at this time, though the matter may be revisited in the future as part of broader resiliency efforts.

Mr. Murphy further explained that staff operate under a long-standing, Council-adopted review matrix that dictates the level of review required for various applications. In an effort to streamline smaller projects, such as walls and hedges, staff initially explored allowing such improvements by right; however, due to neighborhood concerns, Council did not support that approach. Instead, a "neighbor consent" category was established, allowing applicants to proceed without full board review if adjacent property owners provided consent. If consent was not obtained, the application would then proceed through the full review process, consistent with the matrix requirements, which include public notice. He emphasized that this approach was intended to streamline the process while remaining responsive to neighborhood concerns, rather than to create additional obstacles.

Mr. Sanchez felt that property owners should be able to install whatever type of hedge they desire on their property. He noted that the regulation was excessive and oppressive. He further stated that the subject part of the code should be reviewed for legality.

Mr. Murphy said the matrix had been modified over the years, but when he joined the Town of Palm Beach, landscaping modifications along property lines required ARCOM approval, and that remains the case.

Mr. Bergman, Director of Planning, Zoning and Building Dept., said that staff spends a significant amount of time addressing post-approval deviations from plans, particularly related to hedges, fences, walls, and mechanical equipment, rather than primary building design. He noted that final inspections frequently revealed inconsistencies with approved plans, resulting in extensive staff time being spent on enforcement and coordination with residents. Mr. Bergman indicated that these issues consumed substantial hours each week and often involved addressing concerns from neighbors regarding minor deviations. Mr. Bergman said that the Town's framework has empowered neighbors in these matters. He emphasized the importance of staff having a clear matrix or guiding document to determine when items require review by the Architectural Commission, while allowing minor, agreed-upon deviations to be approved administratively. Additionally, Mr. Bergman confirmed that prior discussions regarding fill regulations had been presented to the Town Council, and they showed no interest in pursuing changes at that time; however, the topic may be revisited as part of ongoing resiliency and code reform efforts. Mr. Sanchez noted that he was primarily talking about hedges, not mechanical equipment.

Mr. Gilbane added some concern about Mr. Sanchez's comments. He stated that the Planning and Zoning Commission and staff had successfully worked through the comprehensive plan, which provided confidence in advancing zoning code updates. However, he was concerned about turnover at the Commission level, noting that it could pose risks to maintaining continuity, pace, and institutional knowledge throughout the zoning code process. Mr. Gilbane recommended placing this item on a future agenda for discussion, subsequently seeking input from the Town Council.

Ms. LeCates wondered whether there was an appetite to address neighbors controlling the situation. Mr. Murphy stated that he had written two updates related to fill and front yard landscaping, adding that those would be presented to the Town Council for consideration as potential "quick fixes." These items stemmed from prior Commission discussion, including observations regarding required landscaping standards. Mr. Murphy noted that advancing these changes would require revisiting and modifying the existing review matrix. While acknowledging

that a full matrix update would be a substantial effort, he indicated that targeted adjustments may be appropriate for discussion and direction by the Council.

Attorney Peter Henn of Jones Foster presented an overview of the next phase of zoning code reform, noting a shift from prior “tranche” updates to a more comprehensive, process-oriented approach. He explained that upcoming efforts would focus on procedures governing the roles of the Town Council, the Planning and Zoning Commission, and other boards, including the handling of variances, special exceptions (proposed to be renamed conditional uses), and overall development review processes. He stated that while earlier efforts addressed incremental updates, the next phase would establish a broader procedural framework intended to reduce reliance on variances and improve consistency.

Chair Coniglio asked for clarification on whether the proposed procedural framework for zoning code reform was intended to be established at this stage of the process or developed as an ongoing component going forward.

Mr. Henn reiterated that there is no desire to eliminate the variance process, but to reduce the number of variance requests.

Ms. LeCates noted that, given the Town’s age, nonconforming properties were inevitable and likely to persist, limiting the ability to significantly reduce variances. While some reduction in common nonconformities may be achievable, the speaker suggested that establishing a zoning board of adjustment to hear variance requests could help reduce the Town Council’s burden.

Mr. Gilbane suggested obtaining input from staff and Peter Henn on whether variances should first be reviewed by the Planning and Zoning Commission to reduce the burden on the Town Council and support staff. Mr. Henn emphasized the need for clear processes, noting that most jurisdictions use a zoning board of adjustment to handle variances with appeal options. He suggested setting firm standards (e.g., FAR) that are not subject to variances and stated that the Town Council sets policy while commissions and staff implement them. He added that zoning code reform should better reflect the Town’s historic character to reduce nonconformities and reliance on variances.

4. STAFF

No comments from staff.

5. PUBLIC - 3 MINUTE LIMIT

Anita Seltzer, 44 Cocomat Row, commented that the March meeting minutes did not accurately reflect the intent of her prior remarks supporting the Commission’s work. She provided a brief overview of the evolution of the Zoning Commission into the current Planning and Zoning Commission and noted that the Town Council now serves as the Local Planning Agency. While expressing appreciation for the Commission’s ongoing work with staff, she questioned the extent of its current planning role and suggested the Commission’s name may warrant reconsideration for clarity. Chair Coniglio responded that any such change would be under the purview of the Town Council.

Jennifer Hofmeister, Planner III, explained that this comment originated during the comprehensive plan review process and cited Code Section 2-333, confirming that the Planning

and Zoning Commission serves in an advisory role to the Town Council on planning and development matters.

Mr. Henn emphasized that the Planning and Zoning Commission effectively serves both planning and zoning functions and advised against restructuring, instead suggesting that the Commission could be further empowered, particularly in the absence of a separate Board of Adjustments. He noted that any such changes would ultimately be recommendations for the Town Council's consideration.

UNFINISHED BUSINESS

6. Zoning Code Items - Quick Fix #16 - #24

6.1 QUICK FIX #16: Chimneys & Dormers & Towers - Forthcoming

6.2 QUICK FIX #22: Guest Houses on Estate Properties

Abraham Fogel, Design and Preservation Planner, presented a brief introduction on the proposed amendment that would impact guest houses on large estate lots. He explained that the current code permits only one guest house, requiring a variance for additional units, even when no extra square footage or massing is added.

Mr. Fogel stated that staff had analyzed property data and identified approximately 106 large eligible lots (60,000+ square feet) across multiple zoning districts. The proposed amendment would allow an additional guest house by right on qualifying properties, while prohibiting concurrent variance requests for increased massing or setback encroachments. The amendment would apply to applicable residential districts to reduce the need for variances while maintaining existing development limits.

Chair Coniglio asked about the prospect of unintended consequences. Mr. Henn responded.

Mr. Ailey asked for clarification on the proposed language, questioning whether allowing an additional accessory building without a variance was sufficient or whether the provision should also address broader property modifications that may require other variances. He expressed concern regarding the scope and intent of the variance-avoidance provision.

Ms. Beutenmuller questioned the enforcement procedure. Mr. Fogel explained that a "kitchen agreement" is required through the development review or permitting process to ensure guest houses are used only by family members, non-paying guests, or household staff. Mr. Fogel noted this agreement serves as an enforcement mechanism and would also apply to any additional guest house, while acknowledging concerns about ensuring ongoing compliance. There was further discussion that also addressed the size of lots and provisions in the proposed ordinance. Mr. Henn said this provision allows separation of the structures, and that was the direction that the Town Council wanted presented to the Planning and Zoning Commission for consideration.

Mr. Sanchez felt this provision was an improvement for the rest of the town architecturally, because instead of one massive structure, it could be divided into multiple structures.

A motion was made by Mr. Sanchez and seconded by Mr. Klein to approve the staff's

recommendation of quick fix #22 - Guest Houses on Estate Properties as presented. The motion was carried 5-2, with Ms. LeCates and Ms. Coniglio dissenting.

6.3 QUICK FIX #23: Tandem Parking

Mr. Murphy presented a revised proposal for tandem parking following the Commission's prior feedback. The amendment would limit tandem parking to valet-operated commercial parking garages, rather than allowing it broadly, and would shift the review process from a variance to a special exception, with site plan approval by the Town Council.

Additional safeguards were included, such as capping the number of tandem spaces and prohibiting their use to satisfy required parking minimums. Mr. Murphy noted that applicants would be required to submit operational, ADA compliance, valet parking plans for review. It was also noted that broader parking code updates are underway, with industry experts indicating that tandem parking is commonly permitted through standard zoning processes rather than variances.

Mr. Murphy explained the percentages of the parking requirements and how he arrived at 15% of total parking rather than a higher percentage. There was a discussion about increasing the tandem parking allowance to 20% of the total structure. It was noted that the parking garages are being exclusively operated by valets.

Ms. LeCates expressed concern that allowing tandem parking could increase development intensity and traffic, rather than discourage it. She cited a section of the comprehensive plan, noting policies that emphasize preventing overuse of infrastructure, protecting parking resources, preserving historic character, and maintaining property values. She felt this provision enabled more parking, allowing room for more people to come into town. She was opposed to tandem parking.

Ms. Hofmeister clarified that many older commercial properties lack adequate on-site parking due to their age and were historically approved with parking variances and off-site valet operations. She explained that the proposed tandem parking provision is intended as a mitigation strategy to accommodate existing on-site permitted uses, rather than to increase intensity, particularly for historically significant properties. Ms. Hofmeister also noted that the approach could help alleviate traffic impacts by reducing off-site parking demand.

A motion was made by Mr. Gilbane and seconded by Mr. Klein to accept the staff's recommendation of quick fix #23 - Tandem Parking with 15%. The motion failed 3-4, with Ms. Beuttenmuller, Ms. Chapman, Ms. LeCates, and Mr. Sanchez dissenting.

Anita Seltzer, Coconut Row, wondered whether this quick fix was sufficient or whether a review of the parking space ratio needed for the town and various uses, especially in commercial areas, was warranted. She explained the intent of her suggestion. She asked the Planning and Zoning Commission to determine where the garages were located, what uses they were supporting, and the impact of uses above the garages. Lastly, she noted that an important consideration was whether changing the parking ratios was the best approach to providing relief.

Mr. Murphy reiterated that this would not increase the capacity of what can happen above ground. It would simply allow additional parking.

A motion was made by Mr. Gilbane and seconded by Mr. Klein to accept the staff's recommendation of quick fix #23 - Tandem Parking, with the percentage being changed from 15% to 20%. The motion was carried 6-1, with Ms. LeCates dissenting.

7. Amendments to the adopted 2024 Town of Palm Beach Comprehensive Plan:

- a. Amendments to the Data & Analysis and Goals, Objectives and Policies
 - Future Land Use Element
 - Historic Preservation Element
 - Infrastructure Element (Updated 2026 Water Supply Facilities Work Plan)
- b. Map Series
 - Future Land Use Map
 - Zoning Map
 - Archaeological Sites Map

Ms. Hofmeister presented amendments to the 2024 Comprehensive Plan following its recent adoption, focusing on updates to the Future Land Use, Historic Preservation, and Infrastructure Elements.

Key changes included aligning Future Land Use and Zoning Maps, adding a beach designation, updating residential definitions, eliminating new Planned Unit Developments, and establishing floor-area ratio (FAR) as the intensity standard for nonresidential uses. Policies were revised to remove duplicates, correct errors, and clarify the relationship between the comprehensive plan and land development regulations.

Ms. Hofmeister explained that Historic Preservation Element updates reflect an expanded archaeological zone and ongoing coordination with regulatory agencies, while the Infrastructure Element update incorporates a new 20-year Water Supply Facilities Plan consistent with the City of West Palm Beach's Water Supply Facilities Plan, as the City is the Town's water supplier.

Ms. Hofmeister noted that staff have proposed refinements to the definitions of "town resident" and "town-serving" uses, emphasizing consistency with the zoning code and flexibility to avoid future comprehensive plan amendments for minor regulatory changes.

Ms. Chapman expressed concern that the term "permanent" in the definition of Town Resident was too rigid and did not reflect practical circumstances. The Commissioner did not support alternative language, such as "continuing" or "intent to remain permanent," as there was much time and effort made to agree on the definition of Town Resident.

Mr. Gilbane was pleased with the progress.

The Commissioner urged that corresponding standards be prioritized and expedited as part of zoning code reform, noting concerns about the recent increase in chain establishments and their impacts.

Ms. Hofmeister continued the presentation, addressing the commissioners' comments. She noted that the entire town boundary is designated to exclude rights-of-way.

Ms. Hofmeister presented updates on the archaeologically sensitive zone, noting an expansion based on newly identified artifacts and human remains discovered during development review, with the exact locations withheld for protection.

Ms. Hofmeister outlined the next steps, including transmittal to the State for a 60-day review, followed by an adoption hearing. Upon adoption, staff will proceed with broader zoning and land development code reform efforts.

A motion was made by Mr. Gilbane and seconded by Mr. Klein to accept the staff's recommendation of the 2024 Comprehensive Plan and the draft Ordinances 012-2026 and 013-2026. The motion was carried unanimously, 7-0.

ANY OTHER BUSINESS

MEETING SCHEDULE

8. The next meeting is scheduled for May 5, 2026

ADJOURNMENT

A motion was made by Mr. Klein and seconded by Ms. Beuttenmuller to adjourn the meeting at 11:40 a.m. The motion was carried unanimously, 7-0.

Respectfully Submitted,

Gail Coniglio, Chair

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on: May 5, 2026

To: Planning and Zoning Commission

Via: Wayne Bergman, Director of Planning, Zoning, & Building

From: Jennifer Hofmeister, AICP, LCAM, Planner III

Re: Discussion on Commercial Districts

Date: 4/22/2026

ATTACHMENTS

Staff Report

STRATEGIC PLAN

Strategic Priorities:

Safe and Resilient Community, Community Culture and Character, Governmental Leadership and Innovation, Mobility and Transportation

Strategic Focus Areas:

Community Preservation

Emergency Management

Quality of Life

Water Resources

Cooperative Relationships

On-island Mobility

Management of Environmental Threats

FUNDING

No Fiscal Impact



COMMERCIAL ZONING DISTRICT AMENDMENTS TOWN OF PALM BEACH PZC MEMO

STAFF DIRECTIVE:

The following memorandum provides a draft of the proposed amendments to the Town of Palm Beach Commercial Districts contained within Article VI, District Regulations. Made part of this memorandum is an Addendum (beginning on page 45) pertaining to the Town-Serving Commercial Establishment's thresholds and the maximum Floor Area Ratio (FAR) proposed for the five commercial districts. The Addendum is the data and analysis that supports the proposed amendments and the basis for discussion with the Planning and Zoning Commission (PZC), the Town Council, and the public.

At the May 6, 2025 PZC meeting, the Planning, Zoning and Building (PZB) staff introduced refinements to the Commercial Zoning District Regulations that included an intensity standard of FAR to implement the 2024 Comprehensive Plan policy directive. Additionally, staff brought forward changes to the Permitted and Conditional Uses (F/K/A Special Exceptions) grouped under the Town-Serving Office Establishments, Town-Serving Retail Establishments and Town-Serving Personal Service Establishments. These definitions to the various Town-Serving Commercial Establishments have been incorporated into the 2024 Comprehensive Plan, as amended in 2026.

On February 3, 2026 staff returned to the PZC to present a new layout to the Commercial District Regulations with tables, which was received favorably by the PZC. Staff was directed to move forward with the new format, to reexamine the thresholds of "Town-Serving" in the commercial zoning districts, and to determine the appropriate maximum FAR for each commercial district.

EXECUTIVE SUMMARY:

The subject memorandum is a thorough review of the Commercial District Regulations that includes new language, condenses the Permitted and Conditional Uses under the Town-Serving Commercial Establishment definitions, and relocates certain Code Section to other areas in the Code of Ordinances. The new Code Sections include an Introduction, Purpose and Intent, the list of Permitted, Conditional and Prohibited Uses and the Development Standards. These new Code Sections are shown in black font color and underlined, and the deletions are displayed as stricken and with a red font color. For those Code Sections that are moved to another section of the Code, the new location is shown in a green font color.

Noted, the most significant change to the layout of the commercial district regulations is the creation of a series of tables. These tables are contained within a new Introduction section that applies to all five commercial zoning districts. There are three tables that consist of the following:

1. Table 134-1102 summarizes the nomenclature for each of the commercial districts.
2. Table 134-1104 lists the Permitted Uses, Conditional Uses and Prohibited Uses.
3. Table 134-1105 lists all the Commercial District Development Regulations.

The two critical elements of the Commercial District review are the FAR intensity standard and the thresholds for Town-Serving Commercial Establishments. Related to the Town-Serving Commercial Establishment thresholds, the Addendum to this memorandum explores the origin of the Town-Serving caps in gross leasable area (GLA) and the reason for the change to those figures adopted with the 2010 Study. After a thorough review of the historical and current GLA, the data of which is found in the Addendum, staff recommends maintaining the thresholds of 3,000 in the C-B Business District, C-OPI Office, Professional and Institutional District, C-PC Planned Center and C-TS Town-Serving District and 4,000 in the C-WA Worth Avenue District. The reasoning is that with the conversion from GLA to Gross Square Footage (GSF), the size of the establishments will increase as the total area is calculated not just the leasable space. Further, PZB staff will be bringing forward for consideration new criteria for granting Conditional Uses within the Procedures Section of the Zoning Code. The requirements for approval will be more quantitative in nature.

The study of the FAR included in the Addendum involved collecting the current square footage of a sampling of commercial buildings in each of the five commercial districts. With the FAR analysis, the data found that the existing FAR for the Town's commercial districts due to the age of construction of buildings, all over 50 years plus, if constructed on raw land today, **the FAR would never reach the maximum proposed FAR of any commercial district.** This conclusion is due to the Zoning Code's land development regulations pertaining to setbacks, lot coverage, parking and height requirements that restrict the size of a building on the lot, which were not in existence at the time of the original construction of the Town's commercial buildings. Therefore, staff is recommending the following FAR specific to each commercial district:

Zoning District	Proposed FAR
CB	1.5
C-OPI	1.5
C-PC	0.5
C-TS	2.0
C-WA	2.0

It is important to be clear that the recommended FAR for each commercial zoning district as set forth above addresses the following:

- The Florida Department of Commerce’s objection made in the Evaluation and Appraisal Review (EAR) of the Town’s Comprehensive Plan under review in 2024 for not having an intensity standard for commercial uses.
- The recommended FAR is not more restrictive or burdensome in violation of SB 180 (2025).
- The recommended FAR will not bring any building into nonconforming status as it pertains to building size with the Zoning Code.
- **The recommended FAR is not expected to result in more intense commercial development within the various commercial zoning districts because of other established dimensional requirements in the Zoning Code (e.g., setbacks, height limits, open space and lot coverage requirements, and off-street parking requirements).**

Therefore, the proposed amendments to the Commercial District Regulations that will establish a FAR intensity standard for each commercial zoning district meets the State imposed obligations under the Town’s Comprehensive Plan, which was the basis for establishing an intensity standard. Additionally, maintaining the Town-Serving Commercial Establishment thresholds upholds the purpose and intent of the Town-Serving characteristics of the commercial zoning districts.

COMMERCIAL DISTRICTS

Sec. 134.1102. Introduction to the Commercial Districts

The following districts are established to preserve and promote the desired commercial uses and their development patterns in the following commercial areas:

<u>Table 134-1102</u> <u>Commercial Districts</u>		
<u>Code Division</u>	<u>Zoning Code Symbol</u>	<u>Zoning District</u>
<u>Division 8</u>	<u>C-TS</u>	<u>Commercial – Town-Serving</u>
<u>Division 9</u>	<u>C-WA</u>	<u>Commercial – Worth Avenue</u>
<u>Division 10</u>	<u>C-OPI</u>	<u>Commercial – Office, Professional, and Institutional</u>
<u>Division 11</u>	<u>C-PC</u>	<u>Commercial- Planned Center</u>
<u>Division 12</u>	<u>C-B</u>	<u>Commercial- Business</u>

The second table, Table 134-1104, identifies the Permitted, Conditional and Prohibited Uses. These uses are also now defined in the proposed Glossary of Terms as follows:

Use (conditional) means a land use, structure or activity that is not automatically permitted in a specific zoning district but may be allowed if it meets particular conditions, ensuring it is compatible with surrounding properties. These uses require a public hearing and approval from the Town Council.

Use (permitted) means any land use, structure, or activity expressly authorized within a specific zoning district without needing variances or public hearings, “use by right”.

Use (prohibited) means any land use, structure, or activity that is not allowed within a specific zoning district. They include those explicitly listed in Table 134-1104 as prohibited or not listed as either a permitted or conditional use.

Further, the Town-Serving Commercial Establishments are also defined as such:

Town-Serving (office establishments) means businesses oriented to serving the needs of Town-persons and not substantially relying on the patronage of non-Town-persons primarily engaged in the provision of services that include but not necessarily limited to providing professional services such as attorneys, doctors, veterinarians, insurance agents, real estate brokers, financial advisors, trust advisors, consultants, interior

designers, architects, engineers, and similar office services as determined by the Planning, Zoning and Building Director.

Town-Serving (personal service establishments) means businesses oriented to serving the needs of Town-persons and not substantially relying on the patronage of non-Town-persons primarily engaged in the provision of services to individuals dealing with their personal needs. Personal services include, are but not necessarily be limited to, hairstyling or beauty services, tailor/dressmaker, travel agent, cleaning services, dance studio, gyms and workout studios or similar personal services as determined by the Planning, Zoning and Building Director.

Town-Serving (retail establishments) means businesses that are principally oriented to serving the needs of Town-persons and not substantially relying on the patronage of non-Town-persons selling commodities or goods to ultimate consumers. Retail services include, but are not necessarily limited to, clothing stores, retail specialty food stores (excluding restaurants), other general merchandise stores, or similar retail services as determined by the Planning, Zoning and Building Director.

Town-Serving (retail specialty foods) means establishments that focus on selling a specific category of products for pick-up or fast casual dining, such as coffee shops, pickup windows associated with a primary restaurant, and diners.

As noted in Table 134-1104, a list of Prohibited Uses is identified that is applicable to all commercial zoning districts.

Table 134-1104 Permitted, Conditional and Prohibited Use					
Uses	C-TS	C-WA	C-OPI	C-PC	C-B
Town-Serving retail establishment 3,000 SF or less (4,000 SF or less for C-WA)	P	P	P	P	P
Town-Serving personal service establishment 3,000 SF or less (4,000 SF or less for C-WA)	P	P	P	P	P
Town-Serving office establishment 3,000 SF or less (4,000 SF or less for C-WA)	P	P	P	P	P
Essential services	P	P	P	P	P
Public parks	P	P	P	P	P

Uses	C-TS	C-WA	C-OPI	C-PC	C-B
<u>Storage facility (related to permitted or conditional use in the district provided said use meets all additional conditions in section 134-1760 of this chapter)</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Residence(s) above the first floor</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<u>Non-profit cultural facilities</u>	<u>P</u>			<u>C</u>	<u>C</u>
<u>Churches, synagogues, and other houses of worship</u>	<u>C</u>				<u>P</u>
<u>Town-Serving retail establishment more than 3,000 SF or (more than 4,000 SF for C-WA)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Town-Serving personal service establishment more than 3,000 SF (or more than 4,000 SF for C-WA)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Town-Serving office establishment more than 3,000 SF or (more than 4,000 SF for C-WA)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Public or private parking lots</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Outdoor café seating</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Public structures</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Supplemental parking</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Roof-deck automobile parking</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Restaurants, excluding formula restaurants</u>	<u>C</u>	<u>C</u>	<u>C</u>		
<u>Dining rooms when not more than 15 percent of the gross floor area</u>			<u>C</u>	<u>C</u>	<u>C</u>
<u>Private clubs</u>	<u>C</u>	<u>C</u>		<u>C</u>	
<u>Museums</u>		<u>C</u>		<u>C</u>	
<u>Hotels</u>				<u>C</u>	<u>C</u>
<u>Timesharing uses</u>				<u>C</u>	<u>C</u>

Uses	C-TS	C-WA	C-OPI	C-PC	C-B
Theaters				<u>C</u>	
Private parks	<u>C</u>				
Public or private academic schools (located south of 3500 South Ocean Boulevard)	<u>C</u>				
Service stations	<u>C</u>				
Auto rental lots					
Drive in business service facilities					
Executive/employee/group, vacation/retreats					
Pawn shops					
Retail tobacco or nicotine products dealer and smoke shops					
Tattoo parlors					

Sec. 134-1103. Purpose and Intent.

The purpose of the commercial districts is to implement the Comprehensive Plan Commercial Future Land Use designation by preserving and enhancing the unique quality and character of the commercial districts. The commercial districts are intended to be oriented to meet the needs and convenience of Town Persons and to be compatible with adjacent residential districts.

Sec. 134-1104. Permitted, Conditional and Prohibited Uses

Within the commercial district there are uses that are permitted by right and those that are considered conditional uses. Conditional uses require a more detailed review to ensure the use implements the purpose and intent of the zoning district(s) and is consistent and compatible with the Conditional Use Criteria provided for in Sec. 134-229. Table 134-1104 displays the permitted uses as [P], the conditional uses as [C] and the explicitly stated prohibited uses as blank [] and defined in Sec. 134-2. Any use not listed as a Permitted or Conditional use is considered prohibited.

Sec. 134.1105. Commercial Districts Development Standards

The following table outlines the minimum development standards applicable to each commercial district.

Table 134-1105 Lot, Yard And Area Requirements - Generally					
<u>Development Standard</u>	<u>C-TS</u>	<u>C-WA*</u>	<u>C-OPI</u>	<u>C-PC</u>	<u>C-B</u>
Maximum FAR	2.0	2.0	1.5	0.5	1.5
Maximum Square Footage	15,000 SF	15,000 SF	15,000 SF		
Minimum Lot Area	2,700 SF	2,700 SF	2,700 SF	2,700 SF	15,000 SF
Maximum Density	6 du/acre	10 du/acre	6 du/acre	26 hotel rooms; time-sharing uses: 9 units/acre	26 hotel rooms; time-sharing uses: 9 units/acre
Minimum Lot Width	30 ft	30 ft	30 ft	30 ft	100 ft
Minimum Lot Depth	90 ft	90 ft	90 ft	90 ft	150 ft
Minimum Front Yard Setback	10 ft	10 ft	5 ft	10 ft	10 ft 25 ft for hotel and time-sharing uses
Minimum Side Yard Setback	n/a**	n/a**	n/a**	n/a**	n/a**
Minimum Rear Yard Setback	10 ft	10 ft	10 ft	10 ft	15 ft
Maximum Height	15 ft for 1-story building; 25 ft for 2-story	15 ft for 1-story building; 25 ft for 2-story, 35 ft for 3-story*	15 ft for 1-story building; 25 ft for 2-story, 35 ft for 3-story	15 ft for 1-story building; 25 ft for 2-story	15 ft for 1-story building; 25 ft for 2-story***
Maximum Lot Coverage	70%	75%	70%	70%	60%
Maximum Building Length	150 ft	150 ft	150 ft	150 ft	150 ft
Landscaped Open Space	15%	15%	15%	15%	15%

*See Worth Avenue Design Guidelines

**Side setback shall be 10 feet if adjacent to a residential zoning district

***Development standards must be consistent with Declaration of Use Agreements (DOUA)

DIVISION 8.
C-TS TOWN-SERVING COMMERCIAL DISTRICT

Sec. 134-1106. Purpose ~~and limitations~~ intent.

- (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 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 area ~~(GLA)~~ (GFA) are imposed.

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 gross ~~leasable~~ floor area ~~(GLA)~~; (GFA), are as follows:

- ~~(1) Town-Serving R~~retail establishments. ~~and service establishments, such as hardware stores, food stores, clothing stores, drugstores, barbershops, beauty salons and jewelry stores.~~
- ~~(2) Town-Serving~~ personal service establishments.
- ~~(2) (3) Town-Serving~~ office establishments. ~~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)(5)~~ 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.
- ~~(7) (6)~~ Essential services.
- ~~(8) (7)~~ Public parks.
- ~~(9) (8)~~ Residence(s) above the first floor.

~~(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. **Edit and move to the non-conforming section of new Procedures Section**

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) (1) Accessory u~~Uses that are subordinate and customarily incident to the permitted or approved special exception primary uses on the same lot.

Sec. 134-1109. ~~Special exception~~ Conditional uses.

(a) ~~The special exception uses require a site plan review as provided in article III of this chapter.~~ The ~~special exception~~ Conditional 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)(2) Private social, swimming, golf, tennis and yacht clubs.~~
- ~~(4) (3) Service stations.~~
- ~~(5) (4) Public structures/uses.~~
- ~~(6) Essential services related to town-owned municipal buildings and structures.~~
- ~~(7) (5) Supplemental parking per sections 134-2177 and 134-2182 as defined in section 134-2.~~
- ~~(8)(6) Public or private academic schools located south of 2500 South Ocean Boulevard.~~
- ~~(9) Drive-in business service facilities.~~
- ~~(10)(7) Churches, synagogues or other houses of worship.~~
- ~~(11) (8) Permitted commercial use establishments or uses not specifically enumerated under permitted uses in section 134-11078 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 gross square footage gross leasable area.~~
- ~~(12) Banks and financial institutions, excluding securities or financial brokerage and trust companies.~~

- ~~(13)~~ (9) Roof-deck automobile parking.
- ~~(14)~~ (10) Outdoor Cafe seating ~~is permitted only~~ for restaurants, private clubs, and town-serving retail specialty food stores, defined in section 134-2 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) Veterinary offices above the first floor.~~
- ~~(16) (11) 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)~~ (12) Private parks.
- ~~(20) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.~~
- ~~(21)~~ (13) Restaurants, excluding formula restaurants, as defined in section 134-2 and bars/lounges.

~~(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. Moved to Chapter 114 Taxation.~~

Sec. 134-1110. Prohibited Uses.

The Prohibited Uses in the C-TS Town-Serving district are any use not listed in the table as “Permitted Uses” or “Conditional Uses”, including but not limited to:

- (1) Auto Rental Lots
- (2) Drive in business service facilities.
- (3) Executive/employee/group, vacation/retreats.
- (4) Pawn shops.
- (5) Retail Tobacco or Nicotine Products Dealer and Smoke Shops.
- (6) Tattoo parlors.

Sec. 134-1110~~1~~. Accessory ~~structures~~ uses.

- (a) *Generally.* ~~Enclosed a~~ Accessory ~~structures~~ uses 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 not be 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 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.~~ **Move to a new section within Supplementary Regulations.**

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. **Move to Site Plan Approval process in Procedures Section.**

~~(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, 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.~~ **Incorporate into Landscape Code**
- ~~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.~~ **Incorporate into Landscape Code**

~~(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. **Incorporate into Supplementary Regulations.**

~~(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.~~
- ~~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. **Incorporate into Landscape Code**~~

~~(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. **Moved dimension regulations to Table 134-1105.**~~

Sec. 134-1114. Same—Exceptions.

- ~~(a) In the C-TS town-serving commercial district, c~~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~~e 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) 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.~~ **Added (g) to this section and move to Supplementary Regulations.**

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.~~ **Modified and moved to Revised Section 134-1119(12)**

Sec. 134-11162. Supplementary district regulations.

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

Sec. 134-11173. 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. 134-11184. 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. 134-11195. 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.~~

~~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 that addresses the paving and drainage requirements of the town.~~

~~(Ord. No. 19-2021, § 5, 9-13-21)~~ **This is addressed in section 134-1600.**

Sec. 134-1116. Landscape Code

The landscaping requirements which may be applicable in the C-TS Town-Serving district are contained in division 3 of chapter 66.

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DIVISION 9.
C-WA WORTH AVENUE DISTRICT

Sec. 134-1156. Purpose and intent.

The purpose of the C-WA Worth Avenue district is to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and personal service establishments, ~~to be developed whether as a unit or as individual parcels;~~ serving the short-term and long-term needs of Townpersons. ~~Drive-in retail facilities are not permitted.~~ Further it shall be the intent of this district to enhance the town-serving character of the area through use of limitations on the maximum gross ~~leasable~~ floor area ~~(GLA)~~ (GFA), thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale.

Sec. 134-1157. Permitted uses.

~~(a) Enumeration; maximum gross leasable area:~~ The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 gross ~~leasable~~ floor area ~~(GLA)~~ are as follows:

- ~~(1) Antiques.~~
- ~~(2) Apparel and accessories.~~
- ~~(3) Art galleries.~~
- ~~(4) Art services.~~
- ~~(5) Bed and bath boutiques.~~
- ~~(6) Cards/gifts.~~
- ~~(7) Crafts.~~
- ~~(8) Drugstore/pharmacy.~~
- ~~(9) Fabrics.~~
- ~~(10) Flowers/florist.~~
- ~~(11) Furniture.~~
- ~~(12) Hair styling/beauty salon.~~
- ~~(13) Interior decorating sales/services.~~
- ~~(14) Jewelry.~~
- ~~(15) Kitchenwares.~~
- ~~(16) Luggage/leather goods.~~
- ~~(17) News/books.~~
- ~~(18) Optical goods.~~
- ~~(19) Perfumery.~~
- ~~(20) Photographic services/studios.~~
- ~~(21) Shoes.~~
- ~~(22) Stationery.~~
- ~~(23) Essential services.~~
- ~~(24) Tobacconist.~~
- ~~(25) Toys.~~
- ~~(26) TV and electronic items.~~
- (1) Town-Serving retail establishments.

- (2) Town-Serving personal service establishments.
- ~~(27) (3) Town-Serving offices and professional and business services, including banks and financial institutions, and executive offices~~ establishments above the first floor; ~~excluding veterinarian offices.~~
- ~~(28) (4)~~ Storage facility related to a permitted or ~~special~~ exception conditional use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
- ~~(29) (5)~~ Residence(s) above the first floor.
- ~~(30) Combinations of the uses in subsections (a)(1) through (28) of this section.~~
- (6) Essential services.

~~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 4,000 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 4,000 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 4,000 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 4,000 square feet, in a district with a 4,000 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 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size or subdivide into two 5,000 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 4,000 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 4,000 square feet.~~ **Edit and move to the non-conforming section of new Procedures Section.-**

Sec. 134-1158. Accessory uses.

The accessory uses in the C-WA Worth Avenue district are as follows:

- ~~(1) Off-street parking and loading.~~
- ~~(2) Signs.~~
- ~~(3) (1)~~ Accessory ~~u~~ Uses that are subordinate and customarily incident to the permitted or approved special exception primary uses on the same lot.

Sec. 134-1159. ~~Special exception uses.~~ Conditional Uses.

~~(a) The special exception uses require a site plan review as provided in article III of this chapter.~~ The ~~special exception~~ Conditional uses in the C-WA Worth Avenue district are as follows:

- ~~(1) Pay parking.~~
- ~~(2)(1) Public or private parking or storage garages.~~
- ~~(3)(2) Private social, swimming, tennis or yacht clubs.~~
- ~~(4)(3) Public structures/uses.~~
- ~~(5) Essential services related to town-owned municipal buildings and structures.~~
- ~~(6)(4) Supplemental parking per sections 134-2177 and 134- 2182.~~
- ~~(7)(5) Restaurants, nightclubs, lounges/bars,~~ excluding formula restaurants as defined in section 134-2, ~~nightclubs, lounges/bars.~~
- ~~(8)(6) Museums.~~
- ~~(7) Nonprofit cultural centers.~~
- ~~(9)(8) Permitted uses cited under permitted uses in section 134-1157 which contain greater than 4,000 gross floor area (GFA) GLA gross leasable area.~~
- ~~(10) Uses not specifically enumerated under permitted uses in section 134-1157 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein.~~
- ~~(11) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.~~
- ~~(12) (9) Roof deck automobile parking.~~
- ~~(13) (10) Outdoor cafe seating is permitted only for restaurants, and town-serving retail specialty food stores, 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, including incidental sale of prepared foods for takeout.~~
- ~~(14) Retail specialty foods, including incidental sale of prepared foods for takeout.~~

Sec. 134-1160. Prohibited Uses.

The Prohibited Uses in the C-WA Worth Avenue district are any use not listed in the table as “Permitted Uses” or “Conditional Uses”, including but not limited to:

- (1) Auto Rental Lots
- (2) Drive in business service facilities.
- (3) Executive/employee/group, vacation/retreats.
- (4) Pawn shops.
- (5) Retail Tobacco or Nicotine Products Dealer and Smoke Shops.
- (6) Tattoo parlors.

Sec. 134-1160.1. Accessory ~~structures~~ uses.

~~(a) Generally. Enclosed a~~ Accessory ~~structures~~ uses in the C-WA Worth Avenue 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.~~ **Moved to Supplementary Regulations Section.**

Sec. 134-1162. 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 134-1157 which involve more than 2,000 square feet of building floor area of buildings in the C-WA Worth Avenue 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.~~ **Moved to Site Plan Approval process in Procedures Section.**

Sec. 134-1163. Lot, yard and area requirements—Generally.

~~In the C-WA Worth Avenue 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 ten dwelling units per gross acre as provided for in the Worth Avenue design guidelines which are on file in the town clerk's office, and which are incorporated and adopted as part of this chapter as if fully set forth in this chapter. See article III of this chapter for site plan review requirements.~~
- ~~(5) *Front yard.* 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 additionally, 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. Within the C-WA district, arcades or colonnades may be constructed subject to approval as a special exception over the sidewalks in the required front yard setback, provided they meet the requirements of section 134-1213(e). **Incorporate into Landscape Code**

~~(6) *Side yard.* There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided.~~

~~(7) *Rear yard.* The minimum rear yard setback is ten 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, allowable as a special exception.~~

~~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.~~

Incorporate into Supplementary Regulations

~~d. Refer to Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations. **Include Worth Avenue Guidelines into the Code.**~~

~~(9) *Lot coverage.*~~

~~a. For one-story buildings, the maximum lot coverage is 75 percent.~~

~~b. For two-story buildings, the maximum lot coverage is 35 percent for the first floor and 35 percent for the second floor. See special exception provisions in sections 134-227 through 134-233 (special exception use), section 134-1165 relating to allowable height and lot coverage, and article III of this chapter (site plan review).~~

~~c. Refer to Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations. **Include Worth Avenue Guidelines into the Code.**~~

~~(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. For each multifamily building maximum dimensions, see section 134-1871 et seq.~~

~~d. Refer to Work Avenue Design Guidelines for special exception requirements~~

~~providing for special allowances to coverage, height, building length and gross floor area limitations.~~

- ~~e. 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. For three-story buildings, the minimum landscaped open space is 25 percent.~~

~~(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. Refer to Work Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.~~
~~d. 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 floor area.~~ **Moved dimension regulations to Table 134-1105.**

Sec. 134-11642. Same—Exceptions.

- ~~(a) In the C-WA Worth Avenue district, c~~C~~ornices, 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~~e 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) Within the C-WA district, a~~A~~rcades or colonnades may be constructed, subject to approval as a special exception, over sidewalks or ways, provided that they shall not project nearer than three feet to the face of the street curblin~~e or more than ten feet,

but not less than seven feet, from the exterior wall as measured from the exterior face of the building to the exterior face of the arcade or colonnade, and provided that no support shall be nearer than three feet to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance. The design of such arcades or colonnades shall be based upon the Worth Avenue Design Guidelines and shall be subject to review and approval by the architectural commission. The Worth Avenue Design Guidelines are incorporated and adopted as part of this chapter as if fully set forth in this chapter.

- ~~(f) 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.~~ **Added (f) and moved to Supplementary Regulations.**

Sec. 134-1165. Special exception to height regulations; special exception structures.

- ~~(a) Criteria for granting.~~ 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-WA Worth Avenue 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 goals and guidelines in this section.
- ~~(b) Two-story and three-story construction.~~ The following shall be applicable to two-story and three-story construction in the C-WA district:
- ~~(1) First story coverage not more than 35 percent and second story coverage not more than 35 percent. Additional coverage and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.~~
- ~~(2) A third story and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.~~

~~Cross reference(s) — Applicability of Worth Avenue design guidelines in C-WA district, § 134-233.~~ **Reference to the Worth Avenue Design Guidelines are within Table 135-1105**

Sec. 134-1166~~2~~. Supplementary district regulations.

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

Sec. 134-1167~~3~~. Off-street parking and loading.

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

Sec. 134-11684. Signs.

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

Sec. 134-11695. Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in sections 134-1728 and 134-1729.
(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1170. 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.~~ **Moved to revised Sec. 134-1162(f) to be relocated to Supplementary Regulations.**

Sec. 134-1171. Lot grade topography and drainage.

~~In the C-WA, commercial worth avenue 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 that addresses the paving and drainage requirements of the town.~~ **Addressed in Sec. 134-1600.**
(Ord. No. 19-2021, § 5, 9-13-21)

Sec. 134-1166. Landscape Code

The landscaping requirements which may be applicable in the C-WA Worth Avenue district are contained in division 3 of chapter 66.

DIVISION 10.
C-OPI OFFICE, PROFESSIONAL AND INSTITUTIONAL DISTRICT

Sec. 134-1206. Purpose and intent.

The purpose of the C-OPI Office, Professional and Institutional district is to provide locations for administrative, professional business and institutional offices which are adequate for the town's needs and convenient for use by ~~town citizens~~ Townpersons.

Sec. 134-1207. Permitted uses.

The permitted uses in the C-OPI Office, Professional and Institutional district are as follows:

- (1) Town-Serving retail establishments.
- (2) Town-Serving personal service establishments.
~~(1)(3) Town-Serving oOffices establishments.and professional and business services and executive offices, excluding veterinarian offices.~~
~~(2) ——— Brokerage and trust companies.~~
~~(3) Yacht Brokerage with no display of merchandise on premises.~~
- (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.
~~(6)(5)~~ Essential services.
~~(5)(6)~~ Residence(s) above the first floor.

Sec. 134-1208. Accessory uses.

The accessory uses in the C-OPI Office, Professional and Institutional district are as follows:

- ~~(1) — Off-street parking and loading.~~
- ~~(2) — Signs.~~
- ~~(3)(1) Accessory u~~Uses that are subordinate and customarily incident to the ~~permitted or approved special exception~~ primary uses on the same lot.

Sec. 134-1209. ~~Special exception.~~ Conditional Uses.

~~The special exception uses require a site plan review as provided in article III of this chapter.~~
The ~~special exception uses~~ Conditional Uses in the C-OPI Office, Professional and Institutional district are as follows:

- (1) Public or private parking lot ~~or storage garages.~~
- ~~(2) ——— Auto rental lot.~~
- ~~(3)(2)~~ Public structures/~~uses.~~
- ~~(4) ——— Essential services related to town-owned municipal buildings and structures.~~
- ~~(5)(3)~~ Supplemental parking ~~per sections 134-2177 and 134-2182 as defined in Sec. 134-2.~~
- ~~(6)(4)~~ Restaurants, excluding formula restaurants as defined in section 134-2.
- ~~(7) ——— Lounges/bars when associated with full-service restaurants.~~
- ~~(8) ——— Banks and financial institutions, excluding brokerage and trust companies.~~

~~(9) —Institutions.~~

~~(10)~~(5) Roof-deck automobile parking.

~~(11)~~(6) Outdoor cafe seating for only restaurants, and dining rooms, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.

~~(12)~~(7) Dining rooms when not more than 15 percent of the gross floor area of the structure; no exterior or external advertising to be permitted.

Sec. 134-1210. ~~Reserved.~~ Prohibited Uses.

The Prohibited Uses in the C-OPI Office, Professional and Institutional district are any use not listed in the table as “Permitted Uses” or “Conditional Uses”, including but not limited to:

- (1) Auto Rental Lots
- (2) Drive in business service facilities.
- (3) Executive/employee/group, vacation/retreats.
- (4) Pawn shops.
- (5) Retail Tobacco or Nicotine Products Dealer and Smoke Shops.
- (6) Tattoo parlors.

Sec. 134-1211. Accessory ~~structures~~ uses.

~~(a)~~ *Generally.* Enclosed accessory ~~structures~~ uses in the C-OPI Office, Professional and Institutional 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.~~ **Moved to Supplementary Uses Section**

~~Sec. 134-1212. 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 134-1207 which involve more than 2,000 square feet of building floor area of buildings in the C-OPI office, professional and institutional 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.~~ **Moved to Site Plan Approval process in Procedures.**

~~Sec. 134-1213. Lot, yard and area requirements—Generally.~~

~~In the C-OPI office, professional and institutional 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. For three-story buildings, the minimum front yard setback is five feet.~~
 - ~~d. 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 additionally, 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.~~ **Incorporate into Landscape Code**
 - ~~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.~~
- ~~(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-OPI 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 three-story buildings, the minimum rear yard setback is ten feet.~~
- ~~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.~~

~~(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. For three-story buildings, the maximum building height is 35 feet.~~
- ~~d. In this district, the maximum building height is two stories, with provision for a special exception for three stories. See special exception provisions in sections 134-227 through 134-233, section 134-1214, and article III of this chapter.~~
- ~~e. 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 35 percent.~~
- ~~c. For three-story buildings, the maximum lot coverage is 25 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.~~
- ~~c. For three-story buildings, the maximum building length is 150 feet.~~
- ~~d. 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. For three-story buildings, the minimum landscaped open space is 30 percent.~~
- ~~d. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-OPI district.~~

~~(12) Floor area:~~

- ~~a. For one-story buildings, the maximum gross floor area of buildings is 30,000 square feet.~~

- b. ~~For two-story buildings, the maximum gross floor area of buildings is 30,000 square feet.~~
- c. ~~For three-story buildings, the maximum gross floor area of buildings is 30,000 square feet.~~
- d. ~~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 floor area.~~ **Moved dimension regulations to Table 134-1105.**

Sec. 134-1214. Same—Exception.

- (a) ~~In the C-OPI office, professional and institutional district, c~~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.~~
- (g) ~~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.~~ **Added (g) and moved to Supplementary Regulations**

~~Sec. 134-1215. 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-OPI office, professional and institutional 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: *Three-story guidelines*. Lot coverage not more than 25 percent.~~ **Revised and moved to Sec. 134-1209(8).**

Sec. 134-12162. Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-OPI Office, Professional and Institutional district are contained in article VIII of this chapter.

Sec. 134-12173. Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-OPI Office, Professional and Institutional district are contained in article IX of this chapter. Editor's note(s)—See note at section 134-1210.

Sec. 134-12184. Signs.

The sign regulations which may be applicable in the C-OPI Office, Professional and Institutional district are contained in article XI of this chapter.

Sec. 134-12195. 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.

~~Sec. 134-1220. 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.~~ **Moved to revised Sec. 134-1162(f) to be relocated to Supplementary Regulations.**

~~Sec. 134-1221. Lot grade topography and drainage.~~

~~In the C-OPI, office, professional and institutional 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.~~ **Addressed in Sec. 134-1600**

Sec. 134-1216. Landscape Code

The landscaping requirements which may be applicable in the C-OPI Office, Professional and Institutional district are contained in division 3 of chapter 66.

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DIVISION 11.
C-PC PLANNED CENTER DISTRICT

Sec. 134-1256. Purpose and intent.

It is the intent of the C-PC Planned Center district to preserve and enhance an area of unique character oriented toward a combination of office, professional and retail uses to be developed either as a unit or as individual parcels. Further, it is the intent of this district to enhance the town-serving character of the area through limitation on maximum gross ~~leasable~~ floor area (~~GLA~~) (GFA).

Sec. 134-1257. Permitted uses.

- (a) The permitted uses in the C-PC Planned Center district commercial district, with a maximum of 3,000 with no limitations on gross ~~leasable area (GLA)~~ floor area (GFA) are as follows:

- ~~(1) Appliance services.~~
- ~~(2) Bookstore/newsstand.~~
- ~~(3) Business and professional offices/services and executive office suites, excluding veterinarian offices.~~
- ~~(4) Churches, synagogues and other houses of worship.~~
- ~~(5) Dance instruction/studio.~~
- ~~(6) Drugstore/pharmacy.~~
- ~~(7) Florist.~~
- ~~(8) Formal wear rental.~~
- ~~(9) Furniture.~~
- ~~(10) Hardware/home improvements.~~
- ~~(11) Hobby shop.~~
- ~~(12) Laundry/dry cleaning.~~
- ~~(13) Locksmith.~~
- ~~(14) Medical services.~~
- ~~(15) Optician/optometrist.~~
- ~~(16) Picture framing.~~
- ~~(17) Photocopying.~~
- ~~(18) Photographic studio.~~
- ~~(19) Print shop.~~
- ~~(20) Secretarial services.~~
- ~~(21) Shoe repair.~~
- ~~(22) Tobacconist.~~
- ~~(23) Tailor/dressmaker.~~
- ~~(24) Temporary help.~~
- ~~(25) Travel agent.~~
- ~~(26) Yard goods.~~
- (1) Town-Serving retail establishments.
- (2) Town-Serving personal service establishments.
- (3) Town-Serving office establishments.

~~(27)~~ (4) Essential services.

~~(5)~~ Public parks.

~~(28) Maximum 3,000 square feet of GLA. All other retail shops, personal services and banks and financial institutions not specifically cited under the permitted uses in subsection.~~

~~(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter). However, all future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of 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, or from one generic use (residential, commercial, public/private group use) 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-foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. 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 licensed 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.~~ **Edit and move to the non-conforming section of new Procedures Section.**

Sec. 134-1258. Accessory uses.

~~(1) Off-street parking and loading.~~

~~(2) Signs.~~

~~(3) Drive-in business service facilities.~~

~~(3)(1)~~ Accessory u **Uses that are subordinate and customarily incident to the permitted or approved special exception primary uses on the same lot.**

Sec. 134-1259. ~~Special exception~~ Conditional uses.

~~(a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception~~ Conditional **uses in the C-PC Planned Center district are as follows:**

~~(1) Public or private parking or storage garages.~~

~~(2) Private, social, swimming, tennis and yacht clubs.~~

~~(3) Public structures/uses.~~

~~(4) Essential services related to town-owned municipal buildings and structures.~~

- (5) Supplemental parking ~~per sections 134-2177 and 134-2182~~ as defined in Sec. 134-2.
 - (6) Restaurants, excluding formula restaurants as defined in section 134-2, ~~theaters, nightclubs, lounges/bars.~~
 - (7) Theaters.
 - ~~(7)(8) Museums.~~
 - ~~(8) Veterinarian/animal clinic.~~
 - ~~(9) Auto-rental.~~
 - ~~(10) Banks and financial institutions.~~
 - ~~(11)(9)~~ (9) All retail and personal service ~~activities~~ establishments exceeding 3,000 square feet gross ~~leasable floor-area~~ square feet not specifically cited under the permitted uses in subsection 134-1257(a)(2).
 - ~~(12)~~ (10) Timesharing uses at a maximum of nine units per acre and hotels at a maximum of 26 units per acre.
 - ~~(13)~~ (11) Roof-deck automobile parking.
 - ~~(14)~~ (12) Nonprofit cultural centers.
 - ~~(15) Veterinarian offices.~~
 - ~~(16) Outdoor seating in conjunction to permitted restaurants. See section 134-1260 for additional conditions.~~
 - ~~(17)~~ (13) 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.
 - ~~(18)~~ (14) Dining rooms when not more than 15 percent of the gross floor area of a building; no exterior or external advertising to be permitted.
 - ~~(19) Retail specialty foods, including incidental sale of prepared foods for takeout.~~
- ~~(b) An owner or tenant of a property, located within the C-PC 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. Moved to Chapter 114 - Taxation.~~

Sec. 134-1260. ~~Reserved.~~ Prohibited Uses.

The Prohibited Uses in the C-PC Planned Center district are any use not listed in the table as "Permitted Uses" or "Conditional Uses", including but not limited to:

- (1) Auto Rental Lots
- (2) Drive in business service facilities.
- (3) Executive/employee/group, vacation/retreats.
- (4) Pawn shops.
- (5) Retail Tobacco or Nicotine Products Dealer and Smoke Shops.
- (6) Tattoo parlors.

Sec. 134-1261. 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 134-1257 which involve more than 2,000 square feet of building floor area of buildings in the C-PC planned center 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. **Moved to Site Plan Approval process in Procedures Section.**

Sec. 134-1262. Lot, yard and area requirements—Generally:

In the C-PC planned center 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.~~ See article III of this chapter for site plan review requirements.
- (5) ~~Front yard.~~ 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 additionally, 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. **Incorporate into Landscape Code**
- (6) ~~Side yard.~~ There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided.
- (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.
- (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 70 percent.~~
- ~~b. For two-story buildings, the maximum lot coverage is 35 percent.~~
- ~~(10) Length. The maximum building length is 150 feet.~~
- ~~(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.~~

Moved dimension regulations to Table 134-1105.

Sec. 134-1263. Same—Exceptions

- ~~(a) In the C-PC planned center district, cCornices, 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.~~
- ~~(g) 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.~~ **Added (g) and moved to Supplementary Regulations.**

Sec. 134-12640. Supplementary district regulations.

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

Sec. 134-12651. Off-street parking and loading.

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

Sec. 134-12662. Signs.

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

Sec. 134-12673. 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. 134-1268. 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. Moved to revised Sec. 134-1162(f) to be relocated to Supplementary Regulations.~~

~~Sec. 134-1269. Lot grade topography and drainage:~~

~~In the C-PC, planned center 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. Addressed in Sec. 134-1600.~~

Sec. 134-1164. Landscape Code

The landscaping requirements which may be applicable in the C-PC Planned Center district are contained in division 3 of chapter 66.

DIVISION 12.
C-B COMMERCIAL DISTRICT

Sec. 134-1301. Purpose and intent.

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

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~~ Business district are as follows:
- ~~(1)~~ Town-Serving retail establishments.
 - ~~(2)~~ Town-Serving personal service establishments.
 - ~~(3)~~ Town-Serving office establishments. ~~Business and professional offices/services and executive office suites, excluding veterinarians.~~
 - ~~(2)~~ ~~Banks and financial institutions.~~
 - ~~(3)~~~~(4)~~ Churches, synagogues or other houses of worship.
 - ~~(4)~~~~(5)~~ 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)~~~~(6)~~ Public parks.
 - ~~(5)~~~~(7)~~ Essential services.

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~~ Business district are as follows:
- ~~(1)~~ ~~Off-street parking and loading.~~
 - ~~(2)~~ ~~Signs.~~
 - ~~(3)~~~~(1)~~ ~~Accessory u~~Uses that are subordinate and customarily incident to the ~~permitted or approved special exception~~ primary uses on the same lot.

Sec. 134-1304. ~~Special exception~~ Conditional uses.

- ~~(a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception~~ Conditional uses in the C-B ~~commercial~~ Business district are as follows:
- ~~(1)~~ Public or private parking lots or storage garages.
 - ~~(2)~~ ~~Auto rental lot.~~
 - ~~(3)~~~~(2)~~ Supplemental parking as defined in section 134-2.
 - ~~(4)~~ ~~Public or private academic schools.~~
 - ~~(5)~~~~(3)~~ Hotels at a maximum of 26 units per acre.
 - ~~(6)~~~~(4)~~ Timesharing uses at a maximum of nine units per acre.

- ~~(7)~~(5) 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)~~(6) Nonprofit cultural centers.
- ~~(10)~~(7) Outdoor Cafe seating for restaurants, 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)~~(9) Essential services related to town-owned municipal buildings and structures.
- ~~(13)~~ (8) Dining rooms when not more than 15 percent of the gross floor area of a building; no exterior or external advertising to be permitted.
- ~~(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. **Moved to Chapter 114 Taxation.**

Sec. 134-1305. ~~Reserved~~. Prohibited Uses.

The Prohibited Uses in the C-B Business district are any use not listed in the table as "Permitted Uses" or "Conditional Uses", including but not limited to:

- (1) Auto Rental Lots
- (2) Drive in business service facilities.
- (3) Executive/employee/group, vacation/retreats.
- (4) Pawn shops.
- (5) Retail Tobacco or Nicotine Products Dealer and Smoke Shops.
- (6) Tattoo parlors.

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~~ uses.

- ~~(a)~~ Generally. Enclosed accessory ~~structures~~ uses in the C-B ~~commercial~~ Business 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. **Moved to Supplementary Section.**

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. **Moved to site plan approval process in Procedures section.**

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.~~
- ~~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.~~ **Incorporate into Supplementary Regulations**

~~(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.~~ **Moved dimension regulations to Table 134-1105.**

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.~~
- ~~(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 the required side or rear yard setback.~~
- ~~(h) 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. Added (h) and moved to Supplementary Regulations~~

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.~~ Addressed in Table 134-2.

Sec. 134-131107. Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-B ~~commercial~~ Business district are contained in article VIII of this chapter.
Editor's note(s)—See note at section 134-1305.

Sec. 134-131208. Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-B ~~commercial~~ Business district are contained in article IX of this chapter.
Editor's note(s)—See note at section 134-1305.

Sec. 134-131309. Signs.

The sign regulations which may be applicable in the C-B ~~commercial~~ Business 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. 134-131410. 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.~~ Moved to revised Sec. 134-309(g) to be relocated to Supplementary Regulations.

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) Addressed in Sec. 134-1600

Sec. 134-1311. Landscape Code

The landscaping requirements which may be applicable in the C-B Business are contained in division 3 of chapter 66.

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ADDENDUM TO THE COMMERCIAL ZONING DISTRICT AMENDMENTS TOWN OF PALM BEACH PZC MEMO

BACKGROUND - TOWN-SERVING:

The concept of “Town-Serving” in the Town of Palm Beach dates back almost fifty years. The first public presentation on the matter was made on January 9, 1979 by the Garden Club to the Town Council about the concern in the decrease in small businesses and services that once catered primarily to Town Residents. The Garden Club addressed the Town Council with “their dismay at the collapse of services to the residents since last season”.¹ The Garden Club listed a number of local businesses, including a fish market, gas station, florist, hardware store, a water/ice business, landscape company and a small restaurant, all of which had left or were leaving.

The Garden Club suggested a number of ideas that are still being discussed or recently have been implemented, including:

- Keeping small businesses and service-oriented businesses.
- Stopping all conversion from residential to commercial.
- Limiting new business construction in the Town.
- Implementing parking meters.
- Studying the possible usefulness of a resort tax for municipalities which has been carried out successfully in Europe.
- Publishing a Town newsletter to inform the Town residents of various Town problems from the Town Council’s viewpoint, among others.

In April 1979, the Town Council adopted Ordinance No. 5-79, implementing a moratorium on commercial development. What began as a study (1979 Study) of the Town’s commercial development, ultimately formed the basis for the Town-Serving definition and associated maximum size of commercial buildings to be considered Town-Serving by right. At that time, there were only two commercial districts, C-A (which was later divided into four different zoning districts as explained hereinafter) and C-B.

The 1979 Study reviewed the existing composition of commercial development in the C-A and C-B Zoning Districts with the intent of encouraging personal-service commercial uses for residents and discouraging high volume retail and other commercial uses directed towards serving non-resident clientele. Much of the 1979 Study dealt with trying to

¹Town of Palm Beach Study of “Town-Serving” Provisions, September 30, 2010

determine the character of the Town's commercial sector and the extent to which "region serving" businesses were located in the Town's commercial districts. The 1979 Study found that based on general marketing patterns and local knowledge of the character and makeup of commercial establishments in the Town, that commercial uses that consist of a gross leasable area (GLA) over 4,000 were the uses most likely to be serving a market beyond the Town limits.²

The inventory of the businesses in the Town in the 1979 Study indicated that about 80% of the retail and service businesses in the Town contained 2,000 or less of GLA. Consequently, the Town determined that it was prudent to set this as the threshold beyond which substantiation would be required to show that the majority of customers of the business could be expected to be Town Persons. The definition of Town Persons was established and included all full-time or seasonal residents living in, or employees working in, or visitors staying overnight in the Town.³

The findings of the 1979 Study established the maximum square footage threshold of 2,000 GLA to be defined as Town-Serving. To expand an existing commercial use or establish a new commercial use involving over 2,000 GLA, the 1979 Study called for the requirement to obtain approval of a "special exception". The 1979 Study also recommended the creation of new commercial zoning districts and associated uses that would give different treatment to commercial uses providing services to the immediate residential neighborhood.

The result of the 1979 Study was the creation of 5 commercial zoning districts out of the 2 that were present at that time in the Town. The C-B Commercial Business District did not change. However, the C-A district was divided into the following 4 districts that have remained today:

1. C-TS Town-Serving District
2. C-OPI Office, Professional and Institutional District
3. C-PC Planned Commercial District
4. C-WA Worth Avenue District

In 2009, a similar study was undertaken on the commercial businesses, attached hereto as Exhibit A. At that time, data was collected from the Town's Business Tax Receipts (BTRs). In the C-TS District, the figures indicated the average GLA of retail and service businesses in the C-TS District to be 1,427 and the vast majority of uses contained 2,000 or less. Almost 92% consisted of a GLA or less than 4,000. Restaurants were the most prevalent use in the C-TS district with over 4,000 GLA on average.⁴

In the C-WA District, larger businesses were more prevalent and of greater size than in the C-TS District. The 2010 Study indicated that there were 18 businesses with over 4,000 GLA

² Ibid

³ Ibid

⁴ Ibid

in this District. The largest GLA was the former Neiman Marcus at 49,917 and the former Saks Fifth Avenue at 48,661. Fourteen of the businesses with a GLA of 4,000 or more were merchants, 2 were restaurants and 2 were banks.⁵

The C-PC District consists of the Royal Poinciana Plaza. In 2009, the Playhouse was vacant and the remaining stores in the Plaza were largely devoted to office type uses including administrative, real estate, property management, law, consulting, banks, retail merchants and medical offices. There were also 3 restaurants at that time. With the exception of the Playhouse, with a GLA of 148,150 and the law firm of Alley Maass Rogers & Lindsay, with a GLA of 12,256, most of the uses (59%) did not exceed a GLA of 2,000.

The C-OPI District had the highest average size per business (3,123 square feet) and a lower percentage of businesses of 2,000 square feet or less, recorded in the 2010 Study. Except for the Rehabilitation Center for Children and Adults, the largest businesses were all financial and related institutions as they are today.

The 2010 Study concluded that Town Council approved 191 special exception uses during the years 1990 through 2009 to allow businesses with more than 2,000 square feet of commercial floor area. The 2010 Study found that there were no applications for a special exception to the 2,000 square foot limitation that was denied since at least 1995.

The recommendations of the 2010 Study were as follows:

1. C-WA District: Eliminate the Town-Serving provision in this district or not have it apply in the 100 block of Worth Avenue and increase the threshold to uses over a GLA of 6,000 for the balance of the district.
2. C-TS District: Retain the Town-Serving provision but increase the threshold to uses over a GLA of 4,000 square feet, above which it becomes necessary to prove that the majority of its patrons will be Town Persons.
3. C-OPI and C-B Districts: Eliminate the Town-Serving provision in these districts.
4. C-PC District: Retain the Town-Serving provision as it applied at that time, which was no more than a GLA of 2,000.

On April 13, 2011, the Town Council adopted Ordinance No. 2-11. The Ordinance increased the GLA threshold in commercial zoning districts and exempted the hotel, motel and timeshare use and the uses within the C-OPI zoning district from the Town-Serving requirements. Ordinance No. 2-11 changed the GLA thresholds to what they are today, 3,000 for all commercial districts except C-WA which changed to 4,000 to be considered Town-Serving.

⁵ Ibid

Most recently, PZB staff collected data from January 2018 to present on the number of special exceptions that were requested, approved or denied due to the development project exceeding the Town-Serving threshold. A review of the “Summary of the Actions Taken at the Development Review Town Council Meetings” found that over this 8+ year period, 50 Special Exceptions to exceed the Town-Serving Commercial Establishment threshold were granted, two were withdrawn and one was denied. The denial, however, was for the use of the property, as a specialty retail food store, not for the size of the retail bay. It is worth noting, at the Town Council meeting of January 1, 2022, the Town Council decided that there should be no change to the Town-Serving Commercial Establishment thresholds of 3,000 GLA for the C-B, C-OPI, C-PC and C-TS districts and 4,000 GLA for the C-WA district.

Further, by approval to transmit Ordinance No. 012-2026, to the Department of Commerce Ordinance, the PZC and the Town Council have shifted from determining the gross leasable area (GLA) of a building to the actual gross square footage (GSF) in regard to the threshold of Town-Serving. However, the Town has historically required applicants to provide the GLA on the BTR applications not the GSF, therefore, the data collected in the following tables are GLA. This will change going forward now that the Town Council has adopted GSF to replace GLA.

Almost without exception, the GLA of a tenant’s space is smaller than the actual physical measurements of the space. For instance, consider a 5,000 square foot office space. The leasable area is more often less, as it excludes common areas, stairwells and other parts of the building that the tenant does not occupy. Therefore, the leasable area could have a GLA of 4,300, or 4,500, or 4,700. ⁶

The findings of the current analysis, now referred to as the 2026 Study, are provided in the following tables:

SIZE OF COMMERCIAL BUILDINGS BY GROSS LEASABLE AREA PER ZONING DISTRICT						
Zoning District	2,000 GLA and less	%	2,001 to 3,000 GLA	%	3,001 to 4,000 GLA	%
C-B	6 out of 12	50%	3 out of 12	25%	0 out of 12	0%
C-OPI	57 out of 108	53%	15 out of 108	14%	14 out of 108	13%
C-PC	44 out of 61	72%	8 out of 61	13%	1 out of 61	2%
C-TS	277 out of 348	80%	32 out of 348	9%	5 out of 348	1%
C-WA	173 out of 225	77%	29 out of 225	13%	6 out of 225	3%

⁶ <https://ipgsf.com/what-is-gla-gross-leasable-area/#:~:text=Almost%20without%20exception%2C%20the%20gross,Thus%2C%20that>

TOTAL NUMBER OF COMMERCIAL ESTABLISHMENTS BY GROSS LEASABLE AREA							
2,000 GLA and less	%	2,001 GLA to 3,000 GLA	%	3,001 GLA to 4,000 GLA	%	Over 4,000 GLA	%
577 of 754	76%	87 out of 754	12%	26 out of 754	3%	64	8%

The data collected found that the number of commercial establishments under 2,000 GLA has decreased since 2009, but not significantly. The overall percentage of commercial establishments in all commercial zoning districts that have a GLA of 2,000 or less is 76% as compared to 80% in 2009.

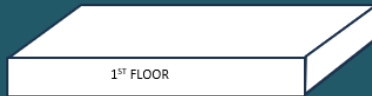
BACKGROUND - MAXIMUM INTENSITY STANDARD - FLOOR AREA RATIO (FAR)

During the Evaluation and Appraisal Review of the Town's Comprehensive Plan in 2024, the Town of Palm Beach received an Objectives, Recommendation, and Comments (ORC) Review by the State Department of Commerce. The State's only objective was that the Town **does not** have an intensity standard for non-residential uses, only density standards for residential uses. An intensity standard is required by the State Community Planning Act. Staff recommended to the PZC and TC that Floor Area Ratio (FAR) should be implemented as the method for calculating intensity of a non-residential building. This recommendation has been approved by the TC to be incorporated into the Town of Palm Beach adopted Comprehensive Plan, as amended in 2026.

A FAR is the measurement of a building's floor area in relation to the size of the lot on which the building is located. It is expressed as a decimal number and is derived by dividing the total area of the building by the total area of the lot (building area ÷ lot area). A FAR is the professionally accepted methodology for calculating the size of a commercial building on a development site and is used in conjunction with other development standards such as building height, setbacks, on-site parking, lot coverage and lot area. In this context, higher FAR values allow more built space per unit of land.

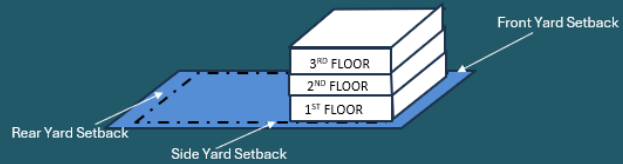
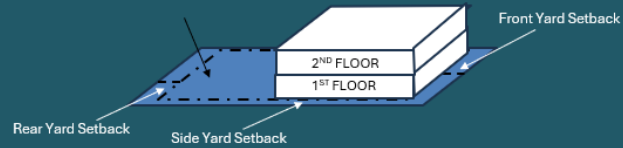
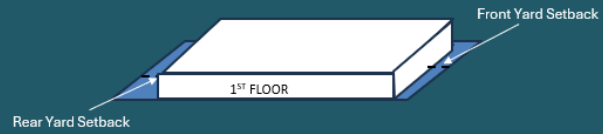
At the January 6, 2026 PZC meeting, the discussion of FAR was added with illustrations of how an FAR of 1.0 is calculated for one-story, two-story and three-story buildings. Two slides in that presentation are shown below. The first slide illustrates that with an *established* maximum FAR of 1.0 in the Zoning Code, the *resulting* FAR is actually only 0.65 when other dimensional requirements, such as lot coverage and setbacks in the Zoning Code are included.

CALCULATING FAR

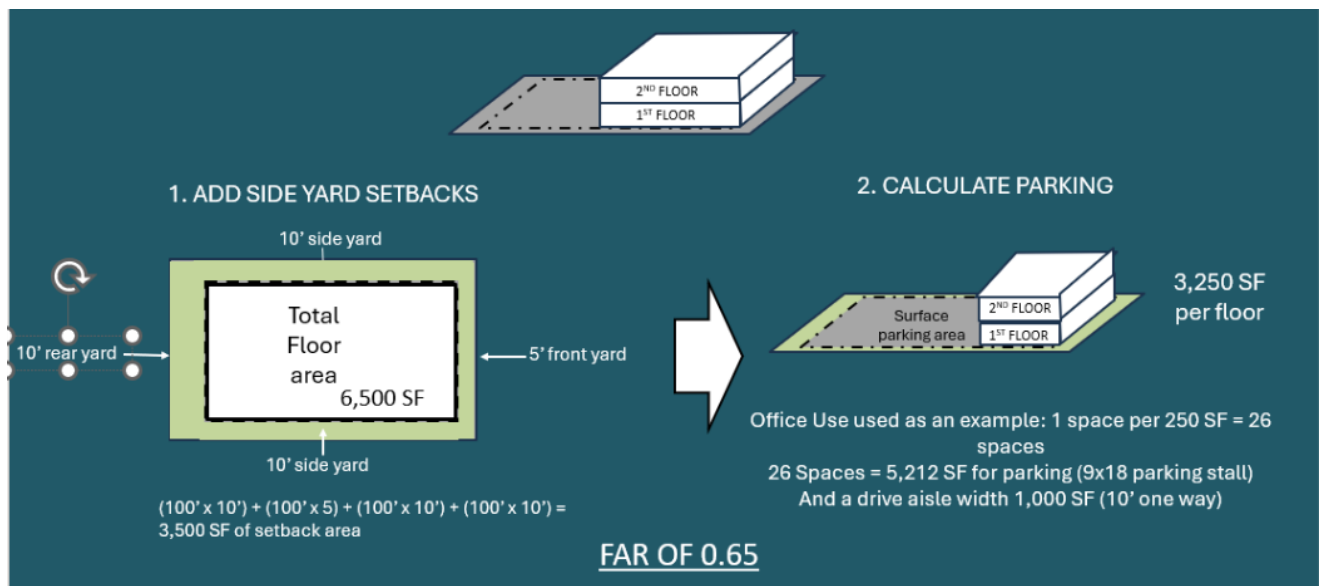


Floor Area Ratio (FAR) of 1.0

FAR is calculated by dividing the total (gross) floor area of a building by the total area of the lot on which it is built.



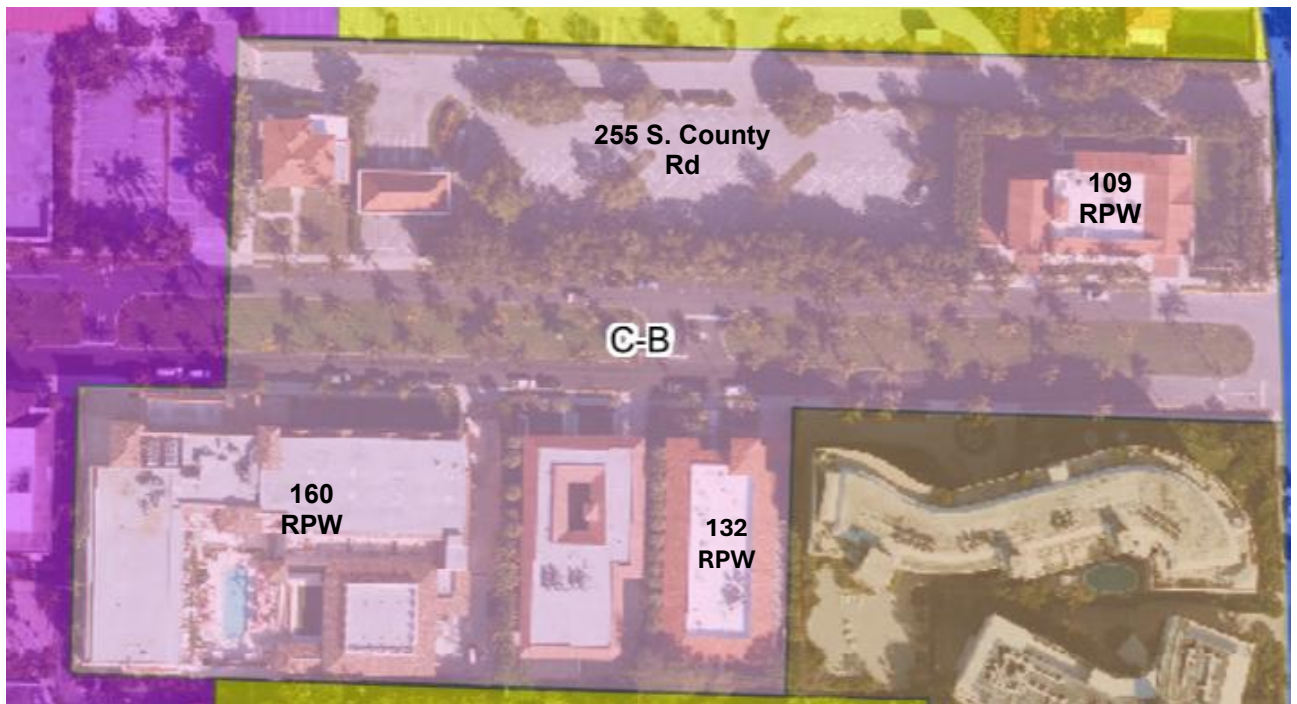
EXAMPLE OF FAR OF 1.0 IN FOR A 10,000 SF LOT



The following tables provide a list of existing buildings within each commercial zoning district. The grouping of buildings per district is enumerated beginning with the highest FAR and highlighted in a red font color.

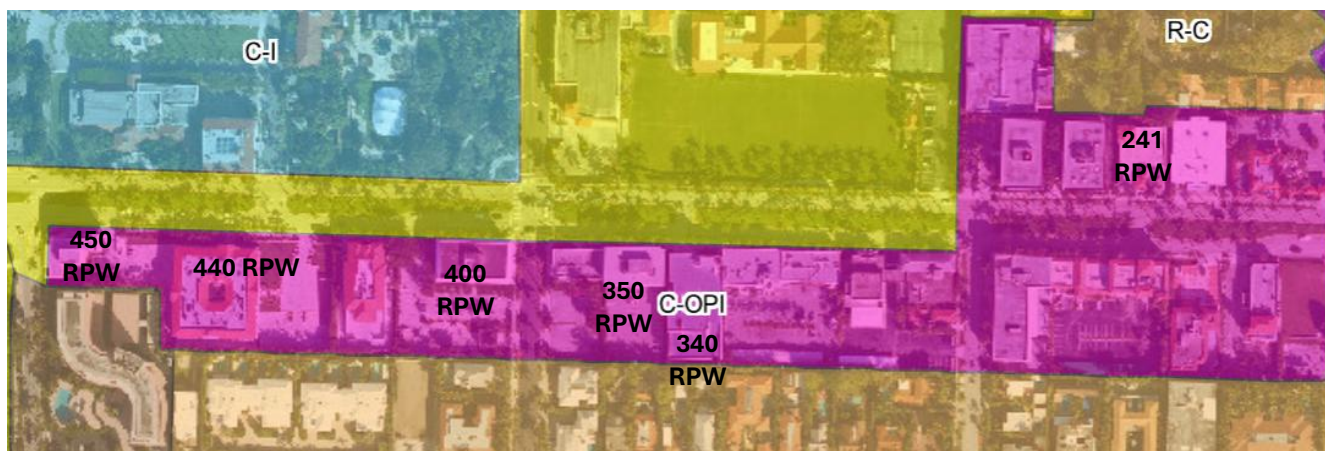
SAMPLING OF COMMERCIAL BUILDINGS IN THE C-B BUSINESS DISTRICT			
Location	Building Size	Lot Size	FAR
160 Royal Palm Way (RPW)- Palm House	82,827 SF	1.38 Acres= 60,112 SF	1.38
132 Royal Palm Way- Bank of America	13,846 SF	0.46 Acres= 20,037 SF	0.69
109 Royal Palm Way – Tudor Investments Corp	10,860 SF	0.48 Acres= 20,908 SF	0.52
255 S County Road - Wells Fargo	14,563 SF	2.71 Acres = 118,048 SF	0.12

C-B BUSINESS DISTRICT



SAMPLING OF COMMERCIAL BUILDINGS IN THE C-OPI DISTRICT			
Location	Building Size	Lot Size	FAR
450 Royal Palm Way – Morgan Stanley	25,716 SF	0.45 Acres= 19,602 SF	1.31
350 Royal Palm Way - Safra	25,776 SF	0.46 Acres= 20,037 SF	1.29
340 Royal Palm Way - CIBC Banking Center	21,632 SF	0.46 Acres= 20,037 SF	1.08
440 Royal Palm Way - Northern Trust	61,336 SF	1.38 Acres= 60,112 SF	1.02
241 Royal Palm Way - JP Morgan	12,709 SF	0.31 Acres= 13,503 SF	0.94
400 Royal Palm Way - Corcoran	28,548 SF	0.80 Acres= 34,848 SF	0.82

C-OPI COMMERCIAL OFFICE, PROFESSIONAL AND INSTITUTIONAL DISTRICT



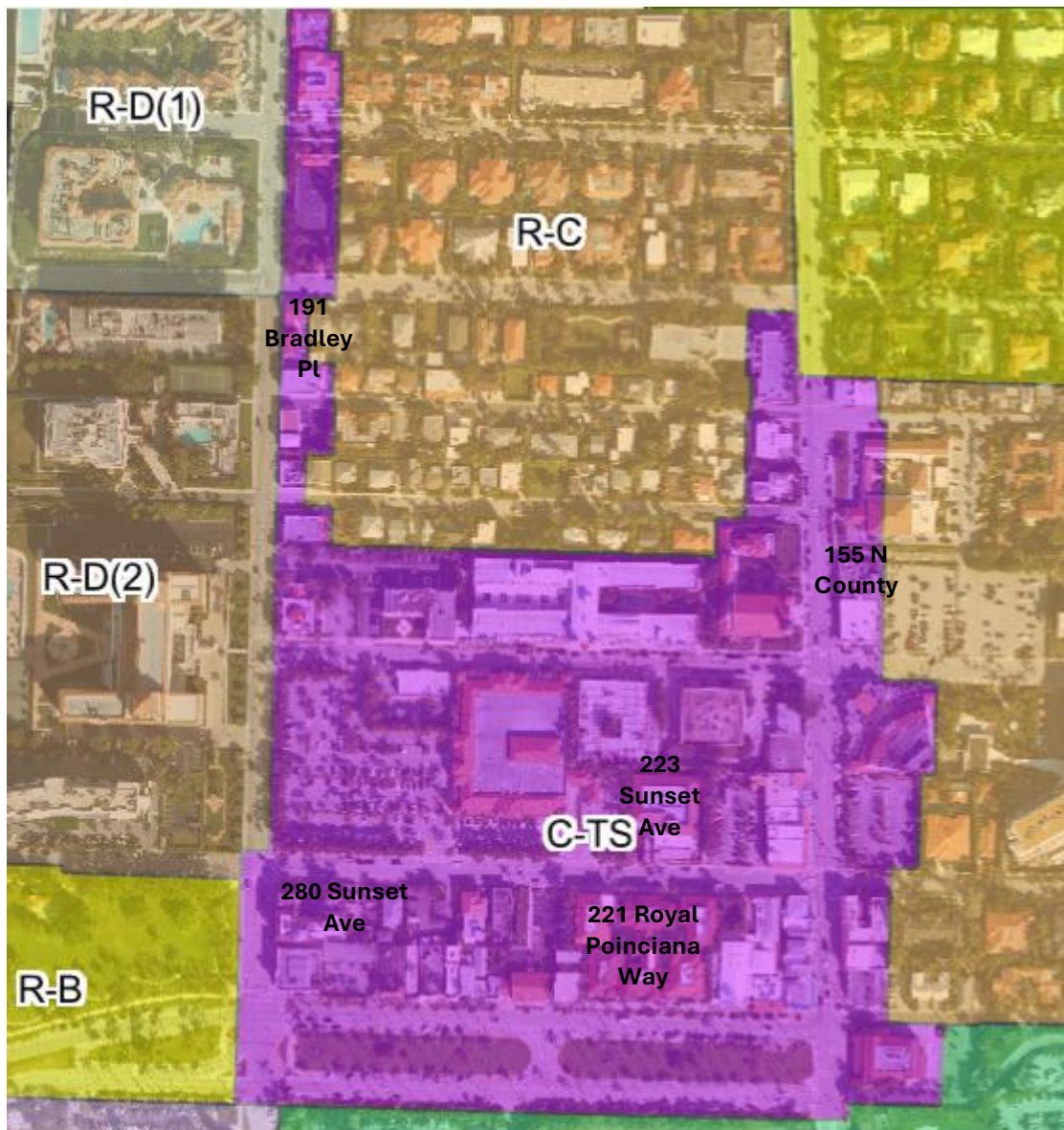
SAMPLING OF COMMERCIAL BUILDINGS IN THE C-PC DISTRICT			
Location	Building Size	Lot Size	FAR
340 Royal Poinciana Way - Plaza	148,150 SF	11.38 Acres= 495,712.8 SF	0.29

C-PC PLANNED CENTER DISTRICT



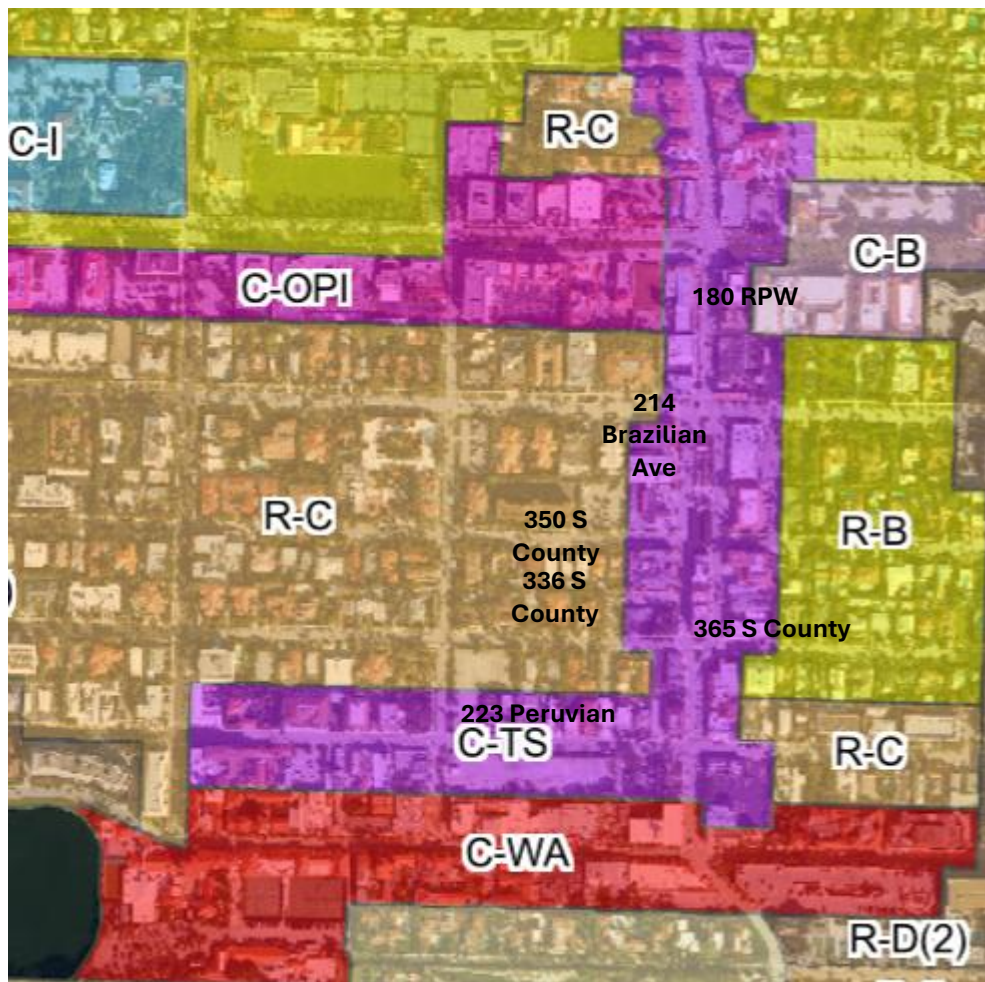
SAMPLING OF COMMERCIAL BUILDINGS IN THE C-TS DISTRICT (Northend)			
Location	Building Size	Lot Size	FAR
280 Sunset Avenue – White Element Hotel	28,668 SF	0.46 Acres= 20,037 SF	1.43
221 Royal Poinciana Way – Via Flagler	59,943 SF	1.21 Acres= 52,707 SF	1.13
155 N. County Road – Amici Market	6,308 SF	0.14 Acres= 6,098 SF	1.03
191 Bradley Place – Meat Market	5,236 SF	0.13 Acres= 5,662 SF	0.92
223 Sunset Avenue – Trevini Ristorante	22,689 SF	0.60 Acres= 26,136 SF	0.87

C-TS TOWN-SERVING DISTRICT (NORTHEND)



SAMPLING OF COMMERCIAL BUILDINGS IN THE C-TS DISTRICT (Midtown)			
Location	Building Size	Lot Size	FAR
214 Brazilian Avenue - CRE Tower	18,796 SF	0.24 Acres= 10,454 SF	1.80
290 S. County Road – La Goulue	16,885 SF	0.29= 12,632 SF	1.33
365 S. County Road –Historic Inn	12,035 SF	0.25 Acres= 10,890 SF	1.11
180 Royal Palm Way – First Horizon Bank	19,500 SF	0.46 Acres= 20,037 SF	0.97
336 S. County Road – C. Orrico	6,252 SF	0.15 Acres= 6,534 SF	0.95
350 S. County Road – Palm Beach Gallery	26,389 SF	0.72 Acres= 31,363 SF	0.84
223 Peruvian Avenue – Coe & Broberg	4,341 SF	0.14 Acres= 6,098 SF	0.71

C-TS TOWN-SERVING DISTRICT (MIDTOWN)



SAMPLING OF COMMERCIAL BUILDINGS IN THE C-WA DISTRICT

Location	Building Size	Lot Size	FAR
201 Worth Avenue – The Worth Avenue Building	35,278 SF	0.44 Acres= 19,166 SF	1.84
347 Worth Avenue - Via Parigi	74,101 SF	0.95 Acres= 41,382 SF	1.79
125 Worth Avenue - Truist Bank	49,401 SF	0.79 Acres= 34,412 SF	1.43
301 Worth Avenue – Chanel	22,047 SF	0.38 Acres= 16,552 SF	1.33
312 Worth Avenue – Maus & Hoffman	9,509 SF	0.17 Acres= 7,405 SF	1.28
150 Worth Avenue – Esplanade	99,459 SF	2.04 Acres= 88,862 SF	1.11
222 Worth Avenue – Louis Vuitton	7,592 SF	0.17 Acres= 7,405 SF	1.02
350-356 Worth Avenue – Everglades	98,837 SF	2.64 Acres= 114,998 SF	0.85
204 Worth Avenue – Ferragamo	15,025 SF	0.76 Acres= 33,105 SF	0.45

C-WA WORTH AVENUE DISTRICT



SUMMARY AND RECOMMENDATION

With regard to the Town-Serving thresholds, given the climate in the state legislature, creating any change in zoning law to be *more restrictive or burdensome*, is not permitted under SB 180 (2025). After a thorough review of the current GLA in the commercial zoning districts, staff recommends maintaining the thresholds of 3,000 in the C-B, C-OPI, C-PC and C-TS and 4,000 in the C-WA. The reasoning is that with the conversion from GLA to GSF, the size of the establishments will increase as the total space is calculated not just the leasable space. Further, PZB staff will be bringing forward for consideration new criteria for granting Special Exceptions (which will be renamed to Conditional Use) within the Procedures Section of the Zoning Code. The requirements for approval will be more quantitative in nature.

With the FAR analysis, the data found that the existing FAR for the Town’s commercial districts due to the age of construction of buildings, all over 50 years plus, if constructed on raw land today, **the FAR would never reach the maximum proposed FAR of any commercial district**. This conclusion is due to the Zoning Code’s land development regulations pertaining to setbacks, lot coverage, parking and height requirements that

restrict the size of a building on the lot. Therefore, staff is recommending the following FAR specific to each commercial district:

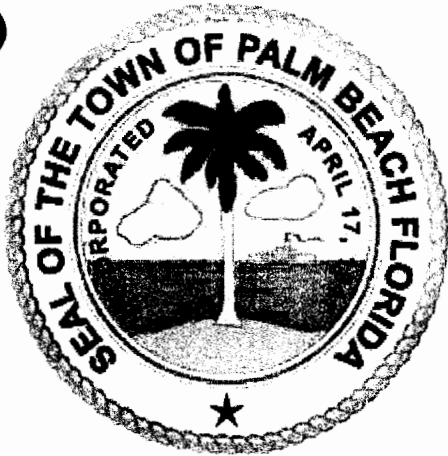
Zoning District	Proposed FAR
CB	1.5
C-OPI	1.5
C-PC	0.5
C-TS	2.0
C-WA	2.0

It is important to be clear that the recommended FAR for each commercial zoning district as set forth above addresses the following:

- The Florida Department of Commerce’s objection made in the Evaluation and Appraisal Review (EAR) of the Town’s Comprehensive Plan under review in 2024 for not having an intensity standard for commercial uses.
- The recommended FAR is not more restrictive or burdensome in violation of SB 180 (2025).
- The recommended FAR will not bring any building into nonconforming status as it pertains to building size with the Zoning Code.
- **The recommended FAR is not expected to result in more intense commercial development within the various commercial zoning districts because of other established dimensional requirements in the Zoning Code (e.g., setbacks, height limits, open space and lot coverage requirements, and off-street parking requirements).**

Therefore, the proposed amendments to the Commercial District Regulations that will establish a FAR intensity standard for each commercial zoning district meets the State imposed obligations under the Town’s Comprehensive Plan, which was the basis for establishing an intensity standard. Additionally, maintaining the Town-Serving Commercial Establishment thresholds upholds the purpose and intent of the Town-Serving characteristics of the commercial zoning districts.

WB:JGM:PH:JH;jh



Town of Palm Beach

Study of “Town – Serving” Provisions

September 30, 2010

Prepared by:

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Serving Florida Local Governments Since 1988

TABLE OF CONTENTS

I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT.....	1
II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY.....	2
III. CURRENT MIX OF USES BY ZONING DISTRICT TYPE OF USE, AND SQUARE FOOTAGE.....	5
C-TS, TOWN-SERVING DISTRICT.....	9
C-WA, WORTH AVENUE DISTRICT.....	10
CB, OFFICE DISTRICT.....	11
C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT.....	12
C-PC, PLANNED CENTER DISTRICT.....	13
IV. COMPARISON OF 1979 and 2009 PATTERNS.....	14
TOWN CENTER COMMERCIAL AREA.....	14
ROYAL POINCIANA COMMERCIAL AREA.....	18
V. APPROVALS OF SPECIAL EXCEPTIONS BETWEEN 1990 & 2009 FOR BUSINESSES OVER 2,000 SF.....	20
VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980.....	23
VII. CONCLUSIONS AND RECOMMENDATIONS.....	24
CONCLUSIONS.....	24
1. Relevancy of the "Town-Serving" concept and continued need for a "Town Serving" provision.....	24
2. Ramifications of eliminating the "Town-Serving" provision.....	25
3. Are there better alternatives to the "Town-Serving" provision?.....	26
RECOMMENDATIONS.....	26
Table 1 Commercial Retail and Service Anchor Establishments Major Commercial Areas 1979-80.....	3
Map, Commercial Zoning, 1979.....	4
Table 2 Square Footage of Commercial Retail Service Establishments 1979-80.....	5
Map, Commercial Zoning, 2009.....	6
Table 3 Business Square Footage by Zoning District 2009.....	7
Table 4 Distribution of Business by Zoning District 2009.....	8
Table 5 Gross Leasable Area of Businesses C-TS District 2009.....	9
Table 6 Gross Leasable Area of Businesses C-WA District 2009.....	10
Table 7 Gross Leasable Area of Businesses C-B District 2009.....	11
Table 8 Gross Leasable Area of Businesses C-OPI District 2009.....	12
Table 9 Gross Leasable Area of Businesses C-PC District 2009.....	13
Table 10 Number and Size of Businesses by Zoning District Town Center Commercial Area 1979 and 2009.....	15
Table 11 C-WA District Business by Type and Square Footage 1979 and 2009.....	16
Table 12 C-TS District (Town Center Commercial Area) Businesses by Type and Square Footage 1979 and 2009 ...	17
Table 13 Number and Size of Businesses by Zoning District Royal Poinciana Commercial Area 1979 and 2009.....	18
Table 14 Royal Poinciana Commercial Area Businesses of 4,000 and More Square Feet by Type and Square Footage 1979 and 2009.....	19
Table 15 Approvals Businesses in Excess of 2,000 Square Feet Town of Palm Beach, Florida 1990-2009.....	20
Table 16 Special Exception Approvals Businesses in Excess of 2,000 Square Feet by Type of Use Town of Palm Beach, Florida 1990 - 2000.....	21
Table 17 Special Exception Approvals Businesses in Excess of 2,000 Square Feet by Zoning District Town of Palm Beach, Florida 1990-2009.....	22

I. BACKGROUND TO THE "TOWN-SERVING" CONCEPT

At the Town Council meeting on January 9, 1979, Mrs. Barbara Hoffstot, representing the Garden Club, made a presentation to the Council concerning the changing condition of the Town and the Garden Club's dismay at the collapse of services to the residents including the then recent loss of small local oriented retail and service businesses. She noted the demise of a gas station, car repair shop, bakery, fish market, florist, hardware store, hotel, small restaurant, water/ice business and a landscape company. It was this initial presentation that ignited the Town Council's concern over what was perceived to be an evolving trend that was changing the character of the Town's commercial sector.

In April of 1979 the Town Manager, George Frost, provided a memorandum to the Town Council outlining the basis for adopting Ordinance No. 5-79 implementing a Commercial Moratorium. In this memorandum the following paragraphs described the purpose of the study of the Town's commercial development that ultimately formed the basis for the "Town-Serving" provision and associated limitation on gross floor area for commercial uses in the Town.

- "9. Review the existing composition of commercial development in the C-A and C-B Zoning Districts with the intent of encouraging and providing a necessary balance of 'personal service' commercial uses for residents of the Town and discouraging high-volume retail and other commercial uses whose principal purposes are to serve other than residents of the Town."
- "3. Via memoranda dated March 28 and April 3rd on topics of the 1980 Zoning Hearings, Mr. Adley has been requested to study and recommend on the creation of a new commercial zoning district(s) and other relevant techniques and approaches which would differentiate between various types of commercial uses and which would give different treatment to commercial uses providing services to the immediate residential neighborhood..."

In a memorandum dated April 28, 1979 from Harry C. Adley, President of Adley Associates, Inc., the Town's Planning and Zoning Consultant, to the Town Manager, the primary objective of the study to be conducted during the Commercial Moratorium was described as follows:

"1. Primary Objective: Modification of Character of Town's Commercial Areas

To halt, and where possible reverse, the trend by which the Town's commercial districts are changing from a "Town-Serving" function to a region-serving function, changes which are resulting in an increase in traffic congestion, parking demand, loss of convenience to the Townspeople and related problems."

II. BASIC FINDINGS: 1979-80 COMMERCIAL DISTRICT STUDY

Adley Associates, Inc. conducted its study of the uses in the Town's commercial areas during the late summer of 1979 and provided initial findings in October of that year. In December of 1979, the firm presented its "Summary of Research and Findings" for the Commercial District Study. These findings served as the basis for establishing the "Town-Serving" concept and requirement to obtain approval of a special exception to expand an existing commercial use, or establish a new commercial use, involving over 2,000 square feet of gross leasable area (GLA).

Market analysis based on population and spending patterns indicated that the square footage of retail and service type commercial uses in the Town were not likely supportable by the local population. It was also suggested that the loss of small local serving businesses at that time was due to rising rents and property values spurred by competition from larger businesses eager to take advantage of a Palm Beach location and name.

Much of the original Commercial District study dealt with trying to determine the character of the Town's commercial sector and the extent to which "region serving" businesses were located in the commercial districts. However, early on it was suggested, based on general marketing patterns and local knowledge of the character and makeup of commercial establishments in the Town, that commercial uses of over 4,000 square feet were the uses most likely to be serving a market beyond the Town limits.

Inventory of the businesses in the Town indicated that about 80% of the retail and service businesses in the Town contained 2,000 square feet or less of gross floor area. Consequently, the Town determined that it was prudent to set this as the threshold beyond which substantiation would be required to show that the majority of customers of the business could be expected to be "Townpersons". The definition of "Townpersons" included all full-time or seasonal residents living in, or employees working in, or visitors staying overnight in the Town.

Businesses of 2,000 square feet or less were therefore automatically considered "Town-Serving" by virtue of their small size, which was the defining and predominant characteristic among businesses in the Town. A business over 2,000 square feet that could substantiate that the majority of its customers were "Townpersons," was also deemed to be "Town-Serving." While the investigation into the sizes and character of businesses in the Town in 1979-80 was limited to the type and sizes of retail and service businesses in the Town, it was also found that much of the competition for commercial space was due to demand for office space. Occupational license information for 1979 indicated that there were slightly over 400 office-type businesses in the Town. The gross floor area of these businesses was not identified at that time.

At the time the Commercial District Study was undertaken, there were only two commercial zoning districts in the Town, C-A and C-B. The C-B district encompassed only a very small area along Royal Palm Way between South County Road and South Ocean Boulevard. While there was, and still is, a small area of commercial zoning in the vicinity of South Ocean Boulevard and the Lake Worth Bridge, the primary commercial areas in the Town were located, as they are now in two areas of the Town - the Town Center and Royal Poinciana areas. These two areas are identified on the map on the following page.

The Town Center area included Worth Avenue, Peruvian Avenue, South County Road and Royal Palm Way, all zoned C-A, as well as the small area along Royal Palm Way zoned C-B. This area was referred to in the 1979-80 study as the "Worth Avenue Commercial District". The other commercial concentration was mainly in the vicinity of the Royal Poinciana Plaza and along Royal Poinciana Way, Bradley Place, Sunrise and Sunset Avenues, and North County Road. This area was referred to as the "Royal Poinciana Commercial District" in the 1979-80 Study.

The number, type and scale of the larger retail and service establishments in each of these two areas are illustrative of each district's character. The Town Center area was the larger of the two with about 450,000 square feet of retail and service space compared to about 180,000 square feet in the Royal Poinciana area. The former was overwhelmingly devoted to shoppers' type goods and, as can be seen in the Table 1, more and larger retail anchor stores (except for the Publix supermarket which is considered a convenience-oriented retail outlet).

Table 1
Commercial Retail and Service Anchor Establishments
Major Commercial Areas
1979-80

TOWN CENTER AREA		ROYAL POINCIANA AREA	
Anchor Stores	Square Footage	Anchor Stores	Square Footage
Saks Fifth Ave.	16,380	Publix	32,000
Brinkley's Grocery	9,750	Sara Fredericks	10,286
Bonwit Teller	9,576	Stanley Nelson Boutique	4,679
Frances Brewster	8,550	Worrills	10,136
Gucci	5,400		
Sara Fredericks	5,225		
Maus-Hoffman	4,320		
Stagg Ltd.	4,240		
Major Restaurants	Square Footage	Major Restaurants	Square Footage
Taboo	9,678	Restaurant Pappagallo	4,725
Nandos	6,300	Capriccio	4,679
Petit Marmite	5,796	Maurice	4,642
Mandarin	5,400	Testa's	4,125
Flame	4,500	O'Hara's	4,125
Source: 1979-90 Commercial District Study, Adley Associates, Inc. LaRue Planning & Management Services, Inc.			

[illegible]



C-A
C-B

A black and white map of a city grid. The map shows a series of streets and blocks. A large circle is drawn over the central part of the map, and a smaller circle is drawn over the 'SEAWAY' area. The map is oriented with 'LAKE' on the left and 'VIA BETHESDA' at the top. The streets are labeled with names: 'PEANUTS', 'BARTON', 'CLARK', 'LAITER', 'SAGE', 'SEASIDE', 'SEAWAY', 'ROYAL PALM', 'BRADLEY', 'AUSTRALIAN', 'OCEAN', 'PERUVIAN', and 'OCEAN'. The map shows a grid of streets and blocks, with some blocks shaded in black. The large circle highlights a central area, and the smaller circle highlights the 'SEAWAY' area.

The inventory of retail and service uses in 1979 excluded offices, financial institutions and hotels. Using raw data from the 1979 inventory of retail and service uses, the information in the following table indicates that about 76% of the uses were comprised of 2,000 square feet or less. This is reasonably consistent with the initial estimate of about 80% during the 1979-80 study.

Table 2
Square Footage of
Commercial Retail and Service Establishments
1979-80

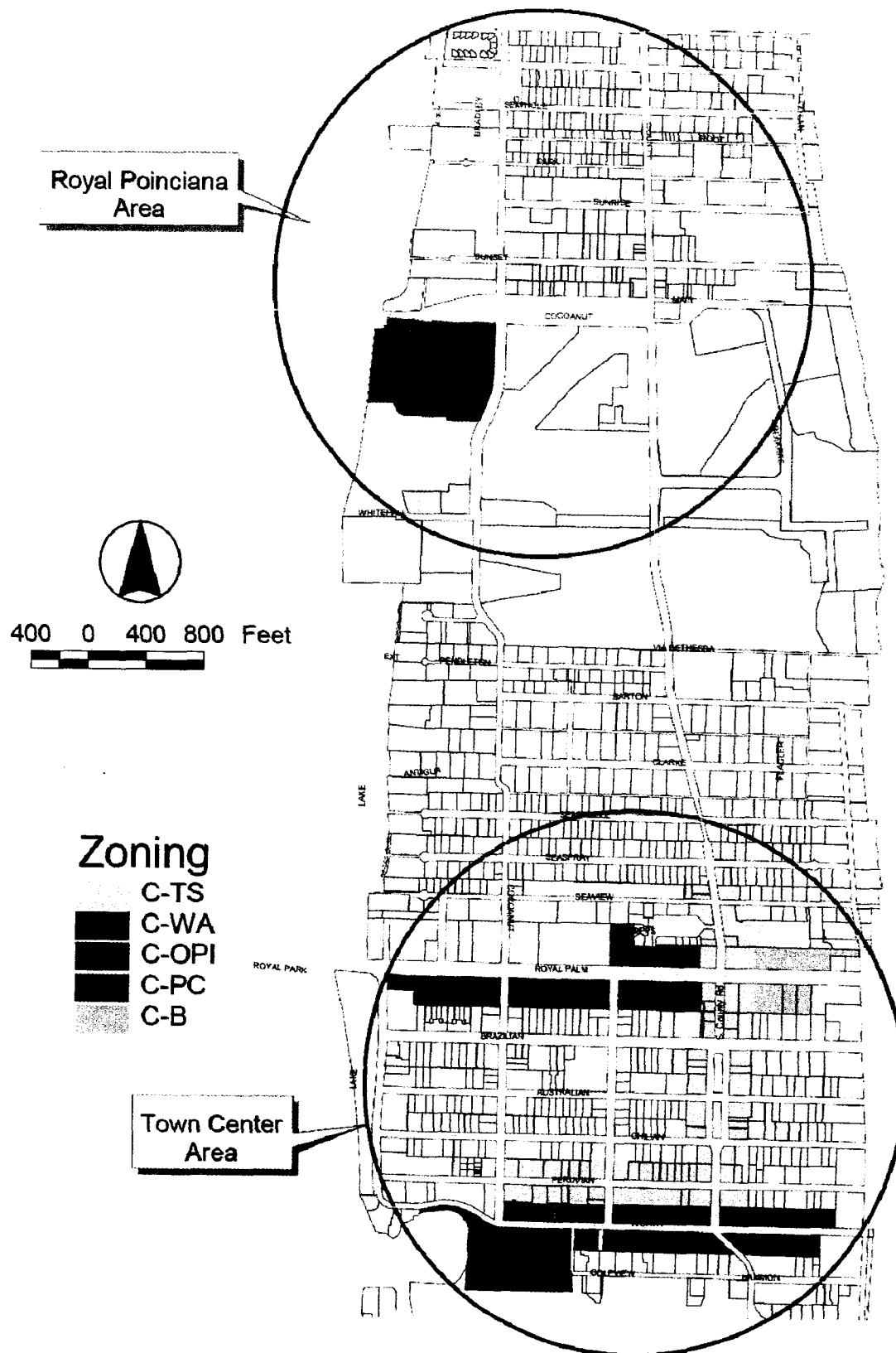
	"WORTH AVENUE"		"ROYAL POINCIANA"		TOTAL	
Square Feet	Number	Percent	Number	Percent	Number	Percent
Up to 2,000	177	78.7	57	69.5	234	76.2
2,001 to 4,000	32	14.2	15	18.3	47	15.3
Over 4,000	16	7.1	10	12.2	26	8.5
Total	225	100.0	82	100.0	307	100.0
Average	1,598		2,243		1,770	
Median	1,080		1,332		1,152	
Source: 1979-90 Commercial District Study, Adley Associates, Inc. LaRue Planning & Management Services, Inc.						

III. CURRENT MIX OF USES BY ZONING DISTRICT, TYPE OF USE, AND SQUARE FOOTAGE

Since 1980, there have been five commercial zoning districts in the Town. The C-A district was divided into the first four districts listed below. The C-B district involves the same geographic area as in 1980. The map on the following page shows the delineation of the Town's five commercial zoning districts listed below.

- C-TS, Commercial – Town-Serving
- C-WA, Commercial – Worth Avenue
- C-OPI, Commercial – Offices, professional and institutional
- C-PC, Commercial – Planned center
- C-B, Commercial – Offices

COMMERCIAL ZONING, 2009



Unlike the 1979-80 study which relied on physical visits to the site of each business to estimate its square footage based on a rough measurement of the geometry of the specific building or unit, the 2009 information is taken from the Town's computerized records of Business Tax Receipts.

Obvious examples of businesses with multiple BTRs (e.g., a restaurant that also carried a BTR for its nightclub or catering operation, or for individual lawyers within a firm which had been issued a BTR), were deleted from the list. Hotels and offices were not included in the 1979 inventory. Therefore hotels and the very largest banks and brokerage and administrative offices have been excluded from the 2009 inventory of the C-TS and C-WA zoning districts. However, since banks and offices have been subject to the need for a special exception to exceed 2,000 square feet, these smaller banks and offices up to 10,000 square feet are included in the 2009 inventory. This leaves 639 BTRs of which 473 (74%) contain complete information. It is these 463 businesses upon which the information in Tables 3 through 9 and associated analyses are based.

**Table 3
BUSINESS SQUARE FOOTAGE
BY ZONING DISTRICT
2009**

DISTRICT	TOTAL BTRs ⁽²⁾	BTRs WITH DATA ⁽¹⁾		TOTAL SQ. FT.	AVERAGE SQ. FT.
		NUMBER	PERCENT		
C-TS	266	180	68%	256,096	1,423
C-WA	233	181	78%	397,120	2,194
C-OPI	79	62	78%	193,640	3,123
C-PC	47	39	83%	105,718	2,711
C-B	14	11	79%	25,748	2,341
TOTAL	639	473	74%	978,322	2,068
⁽¹⁾ Based on active BTRs for which square footage data is available, but with obvious duplications removed. ⁽²⁾ Includes all BTRs but with obvious duplications removed. Source: Business Tax Receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.					

Among the 473 businesses included in the analysis, the average size was computed to be 2,068 square feet of gross leasable area. As would be expected based on the intended character of the zoning districts, the lowest average is found in the C-TS district and the highest in the C-OPI and C-PC districts. Because of the small number of uses in the C-B District, data for this district has little significance in this analysis.

As can be seen in Table 4, almost 78% of the businesses contain 2,000 square feet or less and almost 89% contain fewer than 4,000 square feet. Again the C-TS District has the largest percentage of small businesses with over 84% containing 2,000 or fewer square feet and just under 92% of the businesses have less than 4,000 square feet. A substantial majority of businesses in all districts have less than 4,000 square feet of gross leasable area.

Table 4
DISTRIBUTION OF BUSINESSES BY SQUARE FOOTAGE CATEGORY
BY ZONING DISTRICT
2009

SQUARE FEET	C-TS	C-WA	C-OPI	C-PC	C-B	TOTAL		
						NUMBER	PERCENT	CUMULATIVE
2,000 & Under	152	145	39	23	9	368	77.8%	77.8%
2,001- 2,999	9	12	5	5	1	32	6.8%	84.6%
3,000 - 3,999	4	6	9	1	0	20	4.2	88.8%
4,000 - 4,999	6	3	0	3	0	12	2.5%	91.3%
5,000 - 5,999	2	4	2	4	0	12	2.5%	93.9%
6,000 - 6,999	4	2	1	1	0	8	1.7%	95.6%
7,000 - 7,999	2	1	1	0	0	4	0.8%	96.4%
8,000 - 8,999	0	0	0	0	0	0	0.0%	96.4%
9,000 - 9,999	0	4	0	0	0	4	0.8%	97.3%
10,000 - 12,999	0	1	1	2	0	4	0.8%	98.1%
13,000 or more	1	3	4	0	1	9	1.9%	(1)
TOTAL	180	181	62	39	11	473	(1)	
2,000 or less	84.4%	80.1%	63.9%	59.0%	81.8%	77.2%		
Less than 4,000	91.7%	90.1%	86.9%	74.4%	90.1%	88.8%		

(1) Parts to not add to 100.0 due to internal rounding

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Service, Inc

C-TS, TOWN-SERVING DISTRICT

The average square footage of retail and service businesses in the C-TS District is 1,427 square feet and the vast majority of uses contain 2,000 square feet or less. Almost 92% contain less than 4,000 square feet (See Table 5). The largest retail and service uses in the C-TS are the Palm Ballroom (which is now vacant) at 235 Sunrise Avenue and the Bank of America at 140 North County Road. Including the Palm Ballroom (which held BTRs for restaurant, catering and nightclub operations) there are six restaurants in the C-TS District. Restaurants are the most prevalent uses with over 4,000 square feet in the C-TS District.

Table 5
GROSS LEASABLE AREA OF BUSINESSES
C-TS DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Club Collette	6,734	2,000 & Under	152	84.4%
Café L'Europe	6,774	2,001 — 2,999	9	5.0%
Palm Beach Historic Inn	7,000	3,000 — 3,999	4	2.2%
Bank of America	7,700	4,000 — 4,999	6	3.3%
The Palm Ballroom	14,000	5,000 — 5,999	2	1.1%
		6000 — 6,999	4	2.2%
		7000 — 7,999	2	1.1%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	0	0.0%
		13,000 or more	1	0.6%
TOTAL			180	(1)
TOTAL SF		256,096		
AVERAGE SF		1,423		

(1) Parts to not add to 100.0 due to internal rounding

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

C-WA, WORTH AVENUE DISTRICT

Table 6 provides data for businesses in the C-WA, Worth Avenue District. Worth Avenue remains primarily a location for high-end shopping goods. Larger businesses are more prevalent and of considerably greater size in the C-WA District than in the C-TS District. The average square footage is over 1½ times that prevailing in the C-TS District. There are 18 businesses with over 4,000 square feet in this District. The largest are Neiman Marcus (49,917 square feet) and Saks Fifth Avenue (48,661 sf). Both are located on Worth Avenue east of South County Road. Neiman Marcus was first approved in 1998 and the expansion of Saks Fifth Avenue was also approved in 1998. Fourteen (14) of the businesses with 4,000 or more square feet are merchants, two are restaurants and two are banks.

Table 6
GROSS LEASABLE AREA OF BUSINESSES
C-WA DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Tiffany and Company	11,360	2,000 & Under	145	80.1%
Polo Ralph Lauren	15,816	2,001 — 2,999	12	6.6%
Neiman Marcus	49,917	3,000 — 3,999	6	3.3%
Saks Fifth Avenue	48,661	4,000 — 4,999	3	1.7%
		5,000 — 5,999	4	2.2%
		6000 — 6,999	2	1.1%
		7000 — 7,999	1	0.6%
		8000 — 8,999	0	0.0%
		9000 — 9,999	4	2.2%
		10,000 — 12,999	1	0.6%
		13,000 or more	3	1.7%
TOTAL			181	(1)
TOTAL SF		397,120		
AVERAGE SF		2,194		

(1) Parts do not add to 100.0 due to internal rounding

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

CB, OFFICE DISTRICT

The C-B District was retained from the original zoning in 1979. It was intended to provide for office type uses in structures compatible with nearby residential neighborhoods. It is fully developed in office type uses including banks, law, real estate, business and administrative offices. It is also the home of the Palm House (formerly the Heart of Palm Beach Hotel). Because of its small size and limited scope of uses, the C-B District has little relevance to this study of the "Town-Serving" provision. The data provided on Table 7, following, are provided in support of this assertion.

Table 7
GROSS LEASABLE AREA OF BUSINESSES
C-B DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Palm Beach Board of Realtors Inc	2,970	2,000 & Under	9	81.8%
U S Trust	13,300	2,001 — 2,999	1	9.1%
		3,000 — 3,999	0	0.0%
		4,000 — 4,999	0	0.0%
		5,000 — 5,999	0	0.0%
		6000 — 6,999	0	0.0%
		7000 — 7,999	0	0.0%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	0	0.0%
		13,000 or more	1	9.1%
TOTAL			11	100.0%
TOTAL SF		25,748		
AVERAGE SF		2,341		
Source: Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc.				

C-OPI, OFFICES, PROFESSIONAL AND INSTITUTIONAL DISTRICT

The C-OPI District is located along both sides of Royal Palm Way, the central entrance to the Town from the mainland via the Royal Park Bridge. It is characterized by banks and other financial institutions, law and real estate firms, and business and administrative offices. In prior years some restaurants were located in this district, but have since been replaced by office type uses. This district has the highest average size per business (3,123 square feet) and has a considerably lower percentage of businesses of 2,000 square feet or less than the neighboring C-TS and C-B districts and the nearby C-WA District. Except for the Rehabilitation Center, the largest businesses are all financial and related institutions.

Table 8
GROSS LEASABLE AREA OF BUSINESSES
C-OPI DISTRICT
2009

LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
UBS Financial Services Inc	11,000	2,000 & Under	39	62.9%
Merrill Lynch Pierce Fenner & Smith	14,164	2,001 — 2,999	5	8.1%
Morgan Stanley and Co Inc	14,318	3,000 — 3,999	9	14.5%
JP Morgan Securities	22,185	4,000 — 4,999	0	0.0%
Rehabilitation Center for Children and Adults	30,000	5,000 — 5,999	2	3.2%
		6000 — 6,999	1	1.6%
		7000 — 7,999	1	1.6%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	1	1.6%
		13,000 or more	4	6.5%
TOTAL			62	100.0%
TOTAL SF		193,640		
AVERAGE SF		3,123		

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

C-PC, PLANNED CENTER DISTRICT

The Poinciana Plaza is considered a planned commercial center and its most recognizable fixture has been the Royal Poinciana Playhouse which was recently given Landmark status by the Town. Apart from the now vacant Playhouse, the C-PC District is largely devoted to office type uses including administrative/business, real estate and property management, law, consulting and banks (19) and medical offices (11). The remaining uses are retail merchants (9), services (5) and restaurants (3). The largest use is the law firm of Alley Maass Rogers & Lindsay with 12, 256 square feet (see Table 9) While most of the uses (59%) do not exceed 2,000 square feet in gross leasable area, this percentage is even less than that recorded for the C-OPI District.

Table 9
GROSS LEASABLE AREA OF BUSINESSES
C-PC DISTRICT
2009

C-PC DISTRICT				
LARGEST FIRMS	SIZE (sf)		NUMBER	PERCENT
Palm Beach Grill	6,515	2,000 & Under	23	59.0%
Island Hospitality Mgt Inc	10,000	2,001 — 2,999	5	12.8%
Alley Maass Rogers & Lindsay PA	12,256	3,000 — 3,999	1	2.6%
		4,000 — 4,999	3	7.7%
		5,000 — 5,999	4	10.3%
		6000 — 6,999	1	2.6%
		7000 — 7,999	0	0.0%
		8000 — 8,999	0	0.0%
		9000 — 9,999	0	0.0%
		10,000 — 12,999	2	5.1%
		13,000 or more	0	0.0%
TOTAL			39	(1)
TOTAL SF		105,718		
AVERAGE SF		2,711		

(1) Parts do not add to 100.0 due to internal rounding.

Source: Business tax receipts, Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

IV. COMPARISON OF 1979 and 2009 PATTERNS

The information contained in the 1979-80 Commercial Study is not directly comparable to that collected for 2009. This is because there was only one major commercial zoning district in 1979, the C-A District. Consequently, the 1979 inventory was developed on a geographic basis, separating the Town Center commercial area from the Royal Poinciana commercial area. The Towns current commercial zoning employs five different zoning districts one of which, the C-TS District, is located in both the Town Center and Royal Poinciana areas. The Town Center area contains the C-WA, C-TS, C-B and the C-OPI Districts. The Royal Poinciana area now contains the C-TS District and the C-PC District. The following discussion will compare these areas to the extent that valid comparisons can be made.

TOWN CENTER COMMERCIAL AREA

Because the C-B and C-OPI districts are limited primarily to office type uses for which we have little 1979 data, for the purposes of this analysis these districts are excluded. The Town Center area includes all uses in the C-WA District as well as uses in the C-TS District along Peruvian Avenue, South County Road and parts of Phipps Plaza.

As can be seen in Table 10, overall the average business size in this area has increased by 18% since 1979. This is largely due to changes along Worth Avenue where average size has risen by 28%. The new Nieman Marcus store and the expansion of Saks Fifth Avenue combined with other large stores has resulted in a 64% increase in businesses of 4,000 square feet or more since 1979. More dramatic, however, is the fact that the total square footage associated with these types of businesses has increased to almost 2 1/2 times what it was in 1979, from 81,738 square feet to 197,480 square feet.

A listing of retail and service businesses located in the C-WA District and having 4,000 square feet or more of gross leasable in 1979 and 2009 is provided in Table 11.

Change in the C-TS district has been relatively modest, with average square footage per business increasing less than 7% since 1979. A listing of retail and service businesses of 4,000 square feet or more located in the Town Center C-TS District is provided in Table 12.

Table 10
NUMBER AND SIZE OF BUSINESSES BY ZONING DISTRICT
TOWN CENTER COMMERCIAL AREA
1979 AND 2009

C-WA DISTRICT				
GLA (SF)	1979		2009	
	Number	Percent	Number	Percent
2,000 & Less	106	80.9%	145	80.1%
2,001 — 3,999	14	10.7%	18	9.9%
4,000 & Over	11	8.4%	18	9.9%
TOTAL	131	100.0%	181	(1)
AVERAGE	1,715		2,194	
C-TS DISTRICT				
2,000 & Less	70	77.8%	118	84.9%
2,001 — 3,999	17	18.9%	10	7.2%
4,000 & Over	3	3.3%	11	7.9%
TOTAL	90	100.0%	139	100.0%
AVERAGE	1,345		1,434	
TOTAL TOWN CENTER COMMERCIAL AREA				
2,000 & Less	176	79.6%	263	82.2%
2,001 — 3,999	31	14.0%	28	8.8%
4,000 & Over	14	6.3%	29	9.1%
TOTAL	221	(1)	320	(1)
AVERAGE	1,577		1,864	
(1) Does not add to 100.0 % due to internal rounding.				
Source: 1979 Commercial District Study, Adley Associated, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc				

Table 11
C-WA DISTRICT
BUSINESSES BY TYPE AND SQUARE FOOTAGE
1979 and 2009

1979		
BUSINESS NAME	GLA (sf)	TYPE
Saks Fifth Avenue	16,380	Merchant
Frances Brewster	8,550	Merchant
Taboo	9,678	Restaurant
Bonwit Teller	9,576	Merchant
Wally Findlay Galleries Inc	8,073	Art Gallery
Petit Marmite	5,796	Restaurant
Gucci	5,400	Merchant
Sara Fredericks	5,225	Merchant
The Flame	4,500	Restaurant
Stagg Ltd.	4,240	Merchant
Maus & Hoffman	4,320	Merchant
Number	11	
Total Square Footage	81,738	
2009		
Neiman Marcus	49,917	Merchant
Saks Fifth Avenue	48,661	Merchant
Polo Ralph Lauren	15,816	Merchant
Tiffany And Company	11,360	Merchant
Chanel	9,526	Merchant
Mary Mahoney	9,200	Merchant
Escada	7,100	Merchant
Taboo	6,334	Restaurant
Brooks Brothers	6,000	Merchant
Trevini Restaurant	5,243	Restaurant
Maus & Hoffman Inc	5,200	Merchant
St John	5,200	Merchant
Wally Findlay Galleries Inc	5,140	Art Gallery
Giorgio Armani	4,683	Merchant
Giorgio's Of Palm Beach	4,100	Merchant
AB Levy Palm Beach	4,000	Merchant
Number	16	
Total Square Footage	197,480	
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc		

Table 12
C-TS DISTRICT (Town Center Commercial Area)
BUSINESSES BY TYPE AND SQUARE FOOTAGE –
1979 and 2009

1979			
BUSINESS NAME	GLA (sf)	TYPE	ADDRESS
Brinkleys	9,750	Grocery	354 S. County Rd
Mandarin	5,400	Restaurant	323 S County Rd
Courtyard Plaza Interiors	4,125	Interior Decorator	240 S County Rd
Grill & Bar	2,700	Restaurant	264 S County Rd
Number	4		
Total Square Footage	21,975		
2009			
Cafe L'Europe	6,774	Restaurant	331 S County Rd
Club Collette	6,734	Restaurant	215 Peruvian Ave
C Orrico	5,500	Merchant	336 S County Rd
Amici Ristorante & Bar	5,270	Restaurant	375 S County Rd
264 The Grill	4,816	Restaurant	264 S County Rd
Church Mouse	4,759	Merchant	374 S County Rd
Number	6		
Total Square Footage	33,583		
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc			

ROYAL POINCIANA COMMERCIAL AREA

The Royal Poinciana commercial area includes all uses in the Royal Poinciana Plaza (the C-PC District) and along Royal Poinciana Way, Bradley Place, Sunrise and Sunset Avenues, and North County Road (C-TS District).

As can be seen in Table 13, the average size of businesses in this area has not increased appreciably since 1979. For example, in the C-TS portion of this area, the average was 2,109 in 1979 and 2,113 in 2009. In the C-PC District it was 2,842 in 1979 and 2,711 in 2009. However, we have less confidence in the data for this portion of the C-TS district than other areas of the Town because only 59% of the businesses with BTRs include square footage information for 2009. Nevertheless, while there does not appear to have been a significant change in size of businesses in this area, there has been a marked shift in the character of the Royal Poinciana Plaza from retail/service orientation to more of an office complex.

A listing of retail and service businesses of 4,000 square feet or more located in the Royal Poinciana commercial area in 1979 and 2009 is provided in Table 14.

Table 13
NUMBER AND SIZE OF BUSINESSES BY ZONING DISTRICT
ROYAL POINCIANA COMMERCIAL AREA
1979 AND 2009

C-TS DISTRICT				
GLA (SF)	1979		2009	
	Number	Percent	Number	Percent
2,000 & Less	64	69.6%	34	81.0%
2,001 — 3,999	19	20.6%	3	7.1%
4,000 & Over	9	9.8%	5	11.9%
TOTAL	92	100.0%	42	100.0%
AVERAGE	2,109		2,113	
C-PC DISTRICT				
2,000 & Less	10	58.8%	23	62.2%
2,001 — 3,999	3	17.6%	6	16.2%
4,000 & Over	4	23.5%	10	21.6%
TOTAL	17	(1)	39	100.0%
AVERAGE	2,842		2,711	
(1) Parts do not add to 100.0 due to internal rounding.				
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc				

Table 14
ROYAL POINCIANA COMMERCIAL AREA
BUSINESSES OF 4,000 AND MORE SQUARE FEET
BY TYPE AND SQUARE FOOTAGE
1979 and 2009

1979			
BUSINESS NAME	GLA (sf)	TYPE	ADDRESS
C-PC DISTRICT			
Sara Fredericks	10,286	Merchant	Royal Poinciana Plaza
Stanley Nelson Boutique	4,679	Interior Deco.	Royal Poinciana Plaza
Cappriccio	4,679	Restaurant	Royal Poinciana Plaza
C-TS DISTRICT			
Publix	32,000	Supermarket	265 Sunset Avenue
Restaurant Pappagallo	4,725	Restaurant	107 Bradley Place
Maurice	4,642	Restaurant	Bradley Place
Testa's	4,125	Restaurant	223 Royal Poinciana Way
Ohara's	4,125	Restaurant	128 North County Rd.
2009			
C-PC DISTRICT			
Alley Maass Rogers & Lindsay Pa	12,256	Law Firm	Royal Poinciana Plaza
Island Hospitality Mgt Inc	10,000	Adm. Office	
Palm Beach Grill	6,515	Restaurant	Royal Poinciana Plaza
Innkeepers USA Trust	5,620	Adm. Office	Royal Poinciana Plaza
Brown Harris Stevens Of Palm Beach	5,125	Real Estate	Royal Poinciana Plaza
Suntrust South Florida NA	5,020	Bank	Royal Poinciana Plaza
Island Dermatology Laser & Anti-Aging	5,000	Medical	50 Cocconut Row
Michael R McCarty's	4,648	Restaurant	50 Cocconut Row
Sotheby's International	4,100	Real Estate	Royal Poinciana Plaza
Murphy Reid LLP	4,062	Law Firm	Royal Poinciana Plaza
C-TS DISTRICT			
Publix	32,000	Supermarket	265 Sunset Avenue
Palm Ballroom (vacant)	14,000	Caterer, Nightclub, Restaurant	235 Sunrise
Bank of America	7,700	Bank	140 North County Rd.
Echo	4,585	Restaurant	230 Sunrise
Island Hotel, Inc.	4,360	Unclassified	235 Sunrise
251 PB	4200	Restaurant	251 Sunrise
Source: 1979 Commercial District Study, Adley Associates, Inc., 1980 Business tax receipts, Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc			

V. APPROVALS OF SPECIAL EXCEPTIONS BETWEEN 1990 & 2009 FOR BUSINESSES OVER 2,000 SF

The Town provided a handwritten list of 191 special exceptions, each involving more than 2,000 square feet of commercial floor area, that were approved by Town Council during the years 1990 through 2009. Data for the Palm House (formerly the Heart of Palm Beach Hotel) was available but was excluded because hotels were not included in the 1979-80 study. Of the 191 businesses, 161 contained sufficient data for analysis. It should be noted that, according to the Town's Zoning Administrator, no application for a special exception to the 2,000 square foot limitation has been denied since at least 1995.

As can be seen in Table 15, the average approval involved 5,956 square feet. The largest number of approvals was at the lower end of the spectrum. A little less than half (46.6%) involved floor area of less than 4,000 square feet and more than 70% of the approvals involved less than 6,000 square feet.

**Table 15
APPROVALS
BUSINESSES IN EXCESS OF 2,000 SQUARE FEET
TOWN OF PALM BEACH, FLORIDA
1990 - 2009**

TOTAL SQUARE FEET	958,895		
NUMBER OF APPROVALS	161		
AVERAGE SF PER APPROVAL	5,956		
Percent			
Square Footage	Number	By Bracket	Cumulative
2,001 to 2,999	46	28.6%	28.6%
3,000 to 3,999	29	18.0%	36.6%
4,000 to 4,999	26	16.1%	62.7%
5,000 to 5,999	13	8.1%	70.8%
6,000 to 6,999	12	7.5%	78.3%
7,000 to 7,999	6	3.7%	82.0%
8,000 to 8,999	5	3.1%	85.1%
9,000 to 9,999	4	2.5%	87.6%
10,000 to 12,999	12	7.5%	95.1%
13,000 SF or more	8	5.0%	(1)
TOTAL	161	(1)	

(1) Parts do not add to 100.0 due to internal rounding.

Source: Town of Palm Beach, 2010
LaRue Planning & Management Services, Inc.

The establishments with the greatest amount of floor space were two retail stores, Saks Fifth Avenue and Neiman Marcus. Both were approved in 1998 and are located on Worth Avenue east of South County road. These involved 48,661 and 49,917 square feet, respectively.

While retail/service uses are by far the most prevalent in the list of approved special exceptions, banks and financial institutions consistently involve the greater floor areas. In fact, if the two largest retail approvals cited above are excluded, all retail/services, offices, and restaurants average in the range of 4,000 to 5,000 square feet, whereas banks and financial institutions together average 8,994 square feet, almost twice that of the average of all other uses (4,527).

Table 16
SPECIAL EXCEPTION APPROVALS
BUSINESSES IN EXCESS OF 2,000 SQUARE FEET BY TYPE OF USE
TOWN OF PALM BEACH, FLORIDA
1990 - 2009

Type of Use	#	Avg. SF	Largest (SF)
Banks	24	8,545	19,852 and 22,185
Financial	9	10,188	16,088
Offices	29	4,760	20,730
Restaurants	31	4,409	7,074
Retail/Services	64	5,833	48,661 & 49,917
House of Worship	2	4,072	3,820 & 4,323
TOTAL	159	5,944	
Source: Town of Palm Beach, 2010 LaRue Planning & Management Services, Inc			

Most of the special exception approvals were for businesses located in the C-TS District, followed by the C-WA District. The average square footage was the lowest in the C-TS, followed by the C-WA District, with the highest average occurring in the C-OPI District. There were an inconsequential number of approvals in the C-PC District and none in the C-B District.

Whereas a slim majority of approvals in the C-TS and C-WA Districts involved less than 4,000 square feet, less than half of the approvals in the C-OPI District involved less than 8,000 square feet.

Table 17
SPECIAL EXCEPTION APPROVALS
BUSINESSES IN EXCESS OF 2,000 SQUARE FEET BY ZONING DISTRICT
TOWN OF PALM BEACH, FLORIDA
1990 – 2009

Zoning	#	Avg. SF	Adjusted Avg. & Basis for Adjustment
C-TS	81	4,950	Excludes Publix, 52% < 4,000 sf; 85% < 6,000 sf
C-WA	56	6,405	52% < 4,000 sf; 68% < 6,000 sf; 80% < 8,000 sf
C-OPI	21	9,013	10% < 4,000 sf; 19% < 6,000 sf; 48% < 8,000 sf
C-PC	2	NA	Approvals were for 3,000 sf and 4,648 sf
TOTAL	160		
Source: Town of Palm Beach, 2010 LaRue Planning & Management Services,			

VI. OTHER RELEVANT FACTORS AND CHANGES SINCE 1980

Since the 1979-80 Commercial District Study was conducted and the "Town-Serving" provisions were incorporated into the Town's Zoning Code, eight new shopping malls have been constructed in Palm Beach County. These include:

The Gardens Mall
City Place
Legacy Place
Downtown at the Gardens
Town Center at Boca Raton
Mizner Park
The Mall at Wellington Green
Boynton Mall

While a number of these include some retail outlets that are located in the Town of Palm Beach, two – The Gardens Mall and Town Center at Boca Raton – are high-end malls that cater to the same type of customer as shops in the Town of Palm Beach, particularly those on Worth Avenue. As such, they represent competition for customers living outside the Town who, in the past, had no alternative other than Palm Beach in order to patronize such high-end retailers. High-end tenants in these malls that could be expected to be competition to Worth Avenue merchants include:

The Gardens Mall

Gucci

Hamilton Jewelers

Tourneau

Nordstrom

Louis Vuitton

Lilly Pulitzer

Brooks Brothers

Town Center at Boca Raton

Neiman Marcus

Cartier

Tiffany & Company

Louis Vuitton

Michael Kors

Lilly Pulitzer

Ralph Lauren

The advent of such competition could reduce the extent to which Worth Avenue shops attract residents of, and visitors to, areas outside of the Town of Palm Beach. In fact, these high-end malls pose competition to residents and visitors staying in the Town of Palm Beach as well. Despite its beauty, history and charm, Worth Avenue must compete with the newer malls' climate-controlled facilities. The Avenue's exposure to the elements is, in today's world, a potential drawback. Larger establishments like Neiman Marcus and The Esplanade may work to minimize the loss of local patrons who might otherwise be drawn to the newer climate-controlled malls outside of the Town.

VII. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The following address each of the issues required to be addressed as set forth on page 3 of the Scope of Services.

1. Relevancy of the "Town-Serving" concept and continued need for a "Town-Serving" provision.

We believe the data and analysis contained in this report indicates that the "Town-Serving" concept is still relevant and useful, however less so and perhaps in a different context, than was perceived to be the case at its inception.

The Town's commercial sector continues to be characterized by small establishments. Fully 78% of the businesses contain less than 2,000 square feet of gross leasable area and 89% contain less than 4,000 square feet.

Despite the C-TS District being the subject of the greatest number of special exception approvals, there has been only a slight increase in the average size of establishments in this district. While smaller businesses continue to be the rule rather than the exception in the C-TS District, and this may be due somewhat to the "Town-serving" provision, it is also due at least in part to the inclusion of office uses in the 2009 inventory. Overall, office-type uses tend to be smaller than other uses in the C-TS District, and office uses were not included in the 1979 inventory. Office uses account for about one-third of the uses in the C-TS District for which data is available.

While small shops still dominate the Worth Avenue Zoning District, it has undergone significant change, particularly with the addition of more and much larger anchor establishments than was the case in 1979. The most notable examples are Neiman Marcus and the enlarged Saks Fifth Avenue, each with almost 50,000 square feet. With these, the 100 block of Worth Avenue is not of the same character as the area further west.

Looking at the C-OPI District, it appears clear to us that the current character of the District as well as the history of special exception approvals indicate that the "Town-Serving" concept has little relevance in the C-OPI District. The uses that predominate in this area are primarily financial institutions and professional offices. While they may rely on the aura of a Palm Beach address, the nature of modern banks and financial institutions in particular rely less and less on physical visitation by its customers, thereby possibly minimizing the potential effects of such businesses on the Town. The history of special exception approvals also indicates that the Town recognizes this characteristic, as the average square footage of such approvals is considerably higher than in other districts.

2. Ramifications of eliminating the "Town-Serving" provision.

C-OPI & C-B Districts: We do not believe that eliminating the "Town-Serving" provision in the C-OPI or C-B Districts will have any significant effect upon the Town. This is primarily because of the nature of the businesses located in these districts, specifically as described above. Further, there are already certain limitations in place in these districts on the size and/or appearance of structures in these districts that will inhibit an increase in the size of structures, although it would allow some increase in the size of businesses within them.

C-WA District: Eliminating the "Town-Serving" provision in the C-WA District could result in some increases in the size of businesses, but we find it difficult to envision, after the approval of Saks Fifth Avenue and Neiman Marcus, that any business could not demonstrate that it would meet the "Town-Serving" requirements. Further, with the advent of the Gardens Mall and Town Center at Boca Raton in particular, larger retail establishments in the Town are likely to attract fewer persons from areas outside the Town than may have been the case in 1979 because of the increased availability of more conveniently located high-end retail establishments in competing malls. These factors give credence to the possibility that the "Town-Serving" provision may no longer be necessary or effective in the C-WA District.

C-TS District: With regard to the C-TS District, we believe that, despite some approvals of larger establishments, the "Town-Serving" provision remains valuable, although it would appear that the threshold could be raised to 4,000 square feet without undue effect. A little over half the special exception approvals have been for uses less than 4,000 square feet. In fact, 85% of the approvals for retail and service uses (except restaurants) involved no more than 4,000 square feet. While there can be no objective confirmation, we believe the size limitation as applied in the C-TS District may have encouraged some applicants to limit business sizes to less than may have been the case without the "Town-Serving" provision.

C-PC District: There have been only two special exception approvals for businesses in excess of 2,000 square feet in the C-PC District since 1990. Therefore, there is little basis for modifying the regulations of this district. In fact, the Town has expressed considerable concern in the past over the possibility of creating "increased development opportunities" in the C-PC District because of the possible effect upon the 1979 agreement between Town and the Royal Poinciana Plaza with regard to the continued existence of the Royal Poinciana Playhouse. Consequently, we recommend retaining the "Town-Serving" provision as it now applies to this district.

3. Are there better alternatives to the "Town-Serving" provision?

The current use of gross leasable area allows for a degree of objectivity in determining whether or not a business qualifies as "Town-serving". For this reason, we cannot recommend any alternative approach. We believe that the "Town-Serving" provision is still appropriate and useful in the Town in some instances but that some modification may be warranted. These modifications are incorporated into our recommendations, which follow.

RECOMMENDATIONS

1. **C-WA District:** Eliminate the "Town-Serving" provision in this district. If this is not acceptable, as an alternative we would suggest that the "Town-Serving" provision not apply in the 100 block of Worth Avenue, and that the threshold be increased to uses over 6,000 square feet for the balance of the district.
2. **C-TS District:** Retain the "Town-Serving" provision but increase the threshold to uses over 4,000 square feet, above which it becomes necessary to prove that the majority of its patrons will be "Townpersons".
3. **C-OPI and C-B Districts:** Eliminate the "Town-Serving" provision in these districts.
4. **C-PC District:** Retain the "Town-Serving" provision as it now applies in the C-PC District.
5. Exclude short-term occupancy uses (hotels, motels, bed & breakfasts, and time-sharing) in commercial districts and multi-family residential districts from the "Town-Serving" provision. Such uses are by definition "Town-Serving". The Town's code already limits accessory commercial uses in such uses. For example, Sec. 134-1906 requires that accessory commercial uses in hotels and condominiums be limited to not more than 15% of the total floor area and requires that such accessory commercial uses be entirely located within the principal building with no outside entrances thereto.
6. The "Town-Serving" provision is now applied to any special exception use. This becomes problematic when applied to a use that is not located in a commercial district or which use is not commercial in nature. For example, in the **R-B** district houses of worship, non-profit cultural centers and private and public academic schools are special exceptions and are subject to the provision of Sec. 134-229 that "The proposed use will not attract the principal portion of its customers/clients from off-island locations..." We suggest that the "Town-Serving" special exception criteria should only be applied to commercial enterprises.

7. It appears to us that once a business has proven to the Town Council's satisfaction that it is "Town-Serving" it should not be necessary to prove or certify each year that it continues to qualify. If the information provided initially was adequate, it is entirely likely that the business will be able to substantiate continued compliance. The Town, however, should retain the right to request substantiating documentation by the business if the Town has reason to believe that the business is not continuing to meet the "Town-Serving" criteria.
8. Finally, it should be recognized that the "Town-Serving" concept and the 2,000 square foot limitation is contained in the text of the Future Land Use Element of the Town's Comprehensive Plan which describes the intent and types of uses envisioned as allowable within the Commercial Future Land Use Category. Any change to the "Town-Serving" square foot threshold or to areas and types of uses that may be excluded from this concept will necessitate a text amended to the Comprehensive Plan.

TOWN OF PALM BEACH

Town Council Meeting on: April 13, 2011

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 2-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 And 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum from John Page dated March 28, 2011
- Ordinance No. 2-11

TOWN OF PALM BEACH

Information for Town Council Meetings on: April 13, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building Department

Re: Modifications and Changes to the Town-Serving Regulations in the Town's Comprehensive Plan and Chapter 134, Zoning.

ORDINANCE NO. 2-11

Date: March 28, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 2-11 on first reading to transmit proposed comprehensive plan amendments to the Florida Department of Community Affairs. In addition, staff recommends that the Council approve companion Ordinance No. 1-11, on first reading.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY RECOMMENDATION

The Planning and Zoning Commission/Local Planning Agency, at its meeting of February 22, 2011, recommended by a 7-0 vote, approval of Ordinance Nos. 1-11 and 2-11 which modify the comprehensive plan and zoning code regulations for Town-serving regulations, as modified by the Town Council.

GENERAL INFORMATION

On October 19, 2010, the Planning and Zoning Commission, as the Local Planning Agency (LPA), considered and made recommendations on proposed modifications to the Town-serving regulations. The recommendations to the Town Council were as follows:

1. Retain the Town-serving provisions in the C-WA zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
2. Retain the Town-serving provisions in the C-TS zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.

3. Eliminate the Town-serving provisions in the C-OPI zoning district. Retain the Town-serving provisions in the C-B zoning district and increase the threshold from 2,000 square feet to 3,000 square feet.
4. Retain the existing Town-serving provisions in the C-PC zoning district.
5. Eliminate the Town-serving provisions for short-term occupancy uses such as hotels, motels and timesharing in the multi-family residential zoning districts (PUD-A, R-C, R-D(1) and R-D(2)).
6. Retain existing “Town-serving” special exception criteria for all special exception uses, not just to commercial uses as is recommended in the Study.
7. Eliminate the necessity to certify each year that a business is “Town-serving”, but retain the right to request substantiating documentation if the Town has reason to believe that the business is not continuing to meet the “Town-serving” criteria.
8. Process the necessary comprehensive plan amendments required to complete the changes to the land development regulations identified above.

The Town Council, at its November 10, 2010 meeting, considered the LPA’s recommendations and the presentation by Mr. William Brisson, LaRue Planning and Management Services, Inc. The Council concurred with all of the LPA’s recommendations with the exception to allow an increase in the Town-serving threshold in the Commercial Worth Avenue (C-WA) to 4,000 square feet gross leasable area in lieu of the 3,000 square feet recommended by the LPA. On February 22, 2011, the LPA by a vote of 7-0 recommended approval of the attached Ordinance Nos. 1-11 and 2-11 which address the necessary comprehensive plan amendments and zoning text amendments to adopt the proposed changes.

If you have any questions about the attached Ordinances, please contact Paul Castro, Zoning Administrator, at 227-6406.

March 28, 2011
Page 3

TOWN ATTORNEY REVIEW

Ordinance No. 2-11 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachments

PBE:jsp:pc

cc: Planning and Zoning Commission
Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
Veronica B. Close, AICP, Asst. Director, Planning, Zoning and Building Department
Paul W. Castro, AICP, Zoning Administrator
John Lingdren, AICP, Planning Administrator
pf

ORDINANCE NO. 2-11

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 AND 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

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

WHEREAS, after considering the data in the Report from LaRue Planning and Management Services, Inc., the Local Planning Agency and the Town Council have determined that there should be a change in the Town-serving threshold in different commercial zoning districts;

WHEREAS, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, Zoning, of the Code of Ordinances, be amended as hereinafter set forth.

Section 1. Amend ARTICLE I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read rules of construction, to read as follows:

Sec. 134-2. Definitions and rules of construction.

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain ~~2,000~~ 4,000 or less square feet of interior gross leasable area (GLA) ~~and in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district.~~ Establishment would also not engage in advertising designed to attract other than townpersons.

Section 2. Amend Article II, ADMINISTRATION, Sec. 134-229. Requirements for granting, to read as follows:

Sec. 134-229. Requirements for granting.

The requirements of granting a special exception use under this chapter are as follows:

...

(12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

Section 3. Amend Article VI, DISTRICT REGULATIONS, Commercial Town-serving district, Sec. 134-1107, Permitted uses, at subsection (a) and (b) to read as follows:

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 ~~2,000~~ 3,000 square feet gross leasable area (GLA), are as follows:

(1) Antiques.

(2) Apparel and accessories.

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 ~~2,000~~ 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 ~~2,000~~ 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 ~~2,000~~ 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 section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000~~ 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 ~~any of the C-TS or C-WA districts~~ 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 ~~2,000~~ 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 ~~2,000~~ 3,000 square feet.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Commercial Town-serving district, Sec. 134-1109, Special exception uses, at subsection (a)(11) and subsection (b) to read as follows:

Sec. 134-1109. Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-TS town-serving district area as follows:

(11) Any commercial establishment with greater than ~~2,000~~ 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(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 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing ~~occupational license~~ business tax receipt.

Section 5. Amend Article VI, DISTRICT REGULATIONS, Commercial Worth Avenue district, Sec. 134-1157, Permitted uses, at subsection (a) and (b) to read as follows:

Sec. 134-1157 Permitted uses.

(a) *Enumeration; maximum gross leasable area.*

The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of ~~2,000~~ 4,000 square feet gross leasable area (GLA), are as follows:

(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 ~~2,000~~ 4,000 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 ~~2,000~~ 4,000 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 ~~2,000~~ 4,000 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 section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 4,000 square feet, in a district with a ~~2,000~~ 4,000 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~~ 10,000 square feet exists in ~~any of the C-TS or C-WA districts~~ and the owner wishes to change to an antique store of the same size or subdivide into two ~~4,000~~ 5,000 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 ~~2,000~~ 4,000 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 ~~2,000~~ 4,000 square feet.

Section 6. Amend Article VI, DISTRICT REGULATIONS, Commercial Worth Avenue district, Sec. 134-1159, Special exception uses, (a)(11) and (b) to read as follows:

Sec. 134-1159. Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-WA Worth Avenue district area as follows:

(11) Any commercial establishment with greater than ~~2,000~~ 4,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

...

(b) An owner or tenant of a property, located within the C-WA 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 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing ~~occupational license~~ business tax receipt.

Section 7. Amend Article VI, DISTRICT REGULATIONS, C-PC Planned Center district, Sec. 134-1259, Special exception uses, at subsection (b), to read as follows:

Sec. 134-1259. Special exception uses.

(b) An owner or tenant of a property, located within the C-PC 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 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing ~~occupational license~~ business tax receipt.

Section 8. Amend Article VI, DISTRICT REGULATIONS, C-B Commercial district, Sec. 134-1302, Permitted uses, at subsection (c) and (d), to read as follows:

Sec. 134-1302. Permitted uses.

(c) There is a maximum gross leasable area. There is a maximum of ~~2,000~~ 3,000 square feet of gross leasable area (GLA)

(d) 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 ~~2,000~~ 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 ~~2,000~~ 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 ~~2,000~~ 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 section 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000~~ 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 ~~any of the C-TS or C-WA C-B districts~~ 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 ~~2,000~~ 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 ~~2,000~~ 3,000 square feet.

Section 9. Amend Article VI, DISTRICT REGULATIONS, C-B Commercial district, Sec. 134-1304, Special exception uses, at subsection (a)(8) and subsection (b) to read as follows:

Sec. 134-1304. Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-B Commercial district area as follows:

(8) Any commercial establishment with greater than ~~2,000~~ 3,000 square feet of gross leasable area, provided the town council has found as a fact, that the proposed use is town serving.

(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 ~~(12)~~ prior to being granted a new occupational license. This subsection shall not apply to renewal of an existing-~~occupational license~~ business tax receipt.

Section 10. 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 11. 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 12. Codification.

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

Section 13. Effective Date.

This Ordinance shall take effect 31 days subsequent to its passage on second and final reading.

PASSED AND ADOPTED in regular, adjourned session assembled on first reading this 13th day of April, 2011, and second and final reading on this ____ day of _____, 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Susan A. Owens, Town Clerk

Richard M. Kleid, Town Council Member

Michael J Pucillo, Town Council Member

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on: May 5, 2026

To: Planning and Zoning Commission

Via:

From: Wayne Bergman, Director of Planning, Zoning, & Building

Re: Discussion on Fill

Date: 4/22/2026

ATTACHMENT

Section Diagram Examples

STRATEGIC PLAN

Strategic Priorities:

Safe and Resilient Community, Community Culture and Character

Strategic Focus Areas:

Emergency Management

Quality of Life

Community Preservation

FUNDING

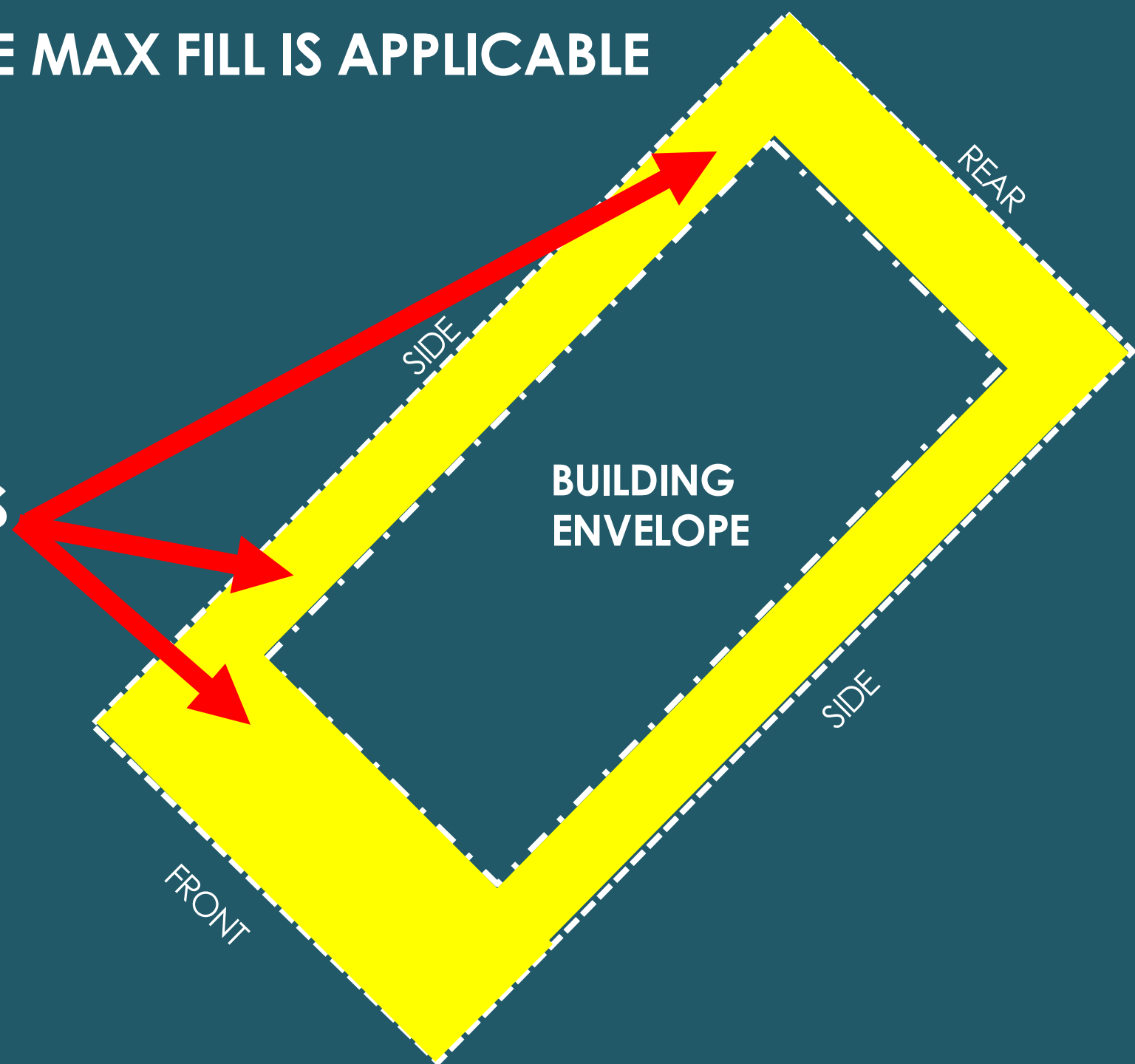
No Fiscal Impact

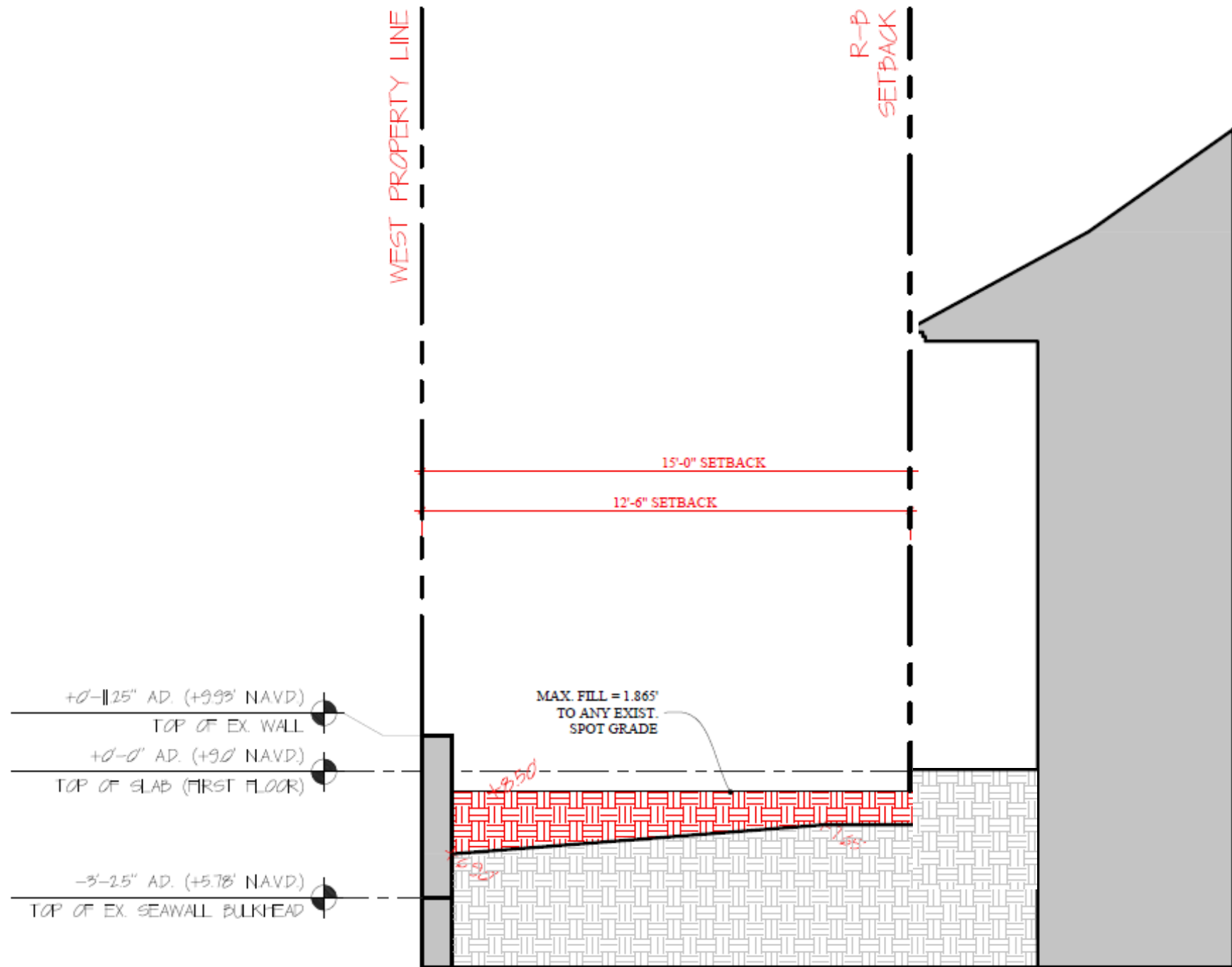
13

MODIFY
FILL

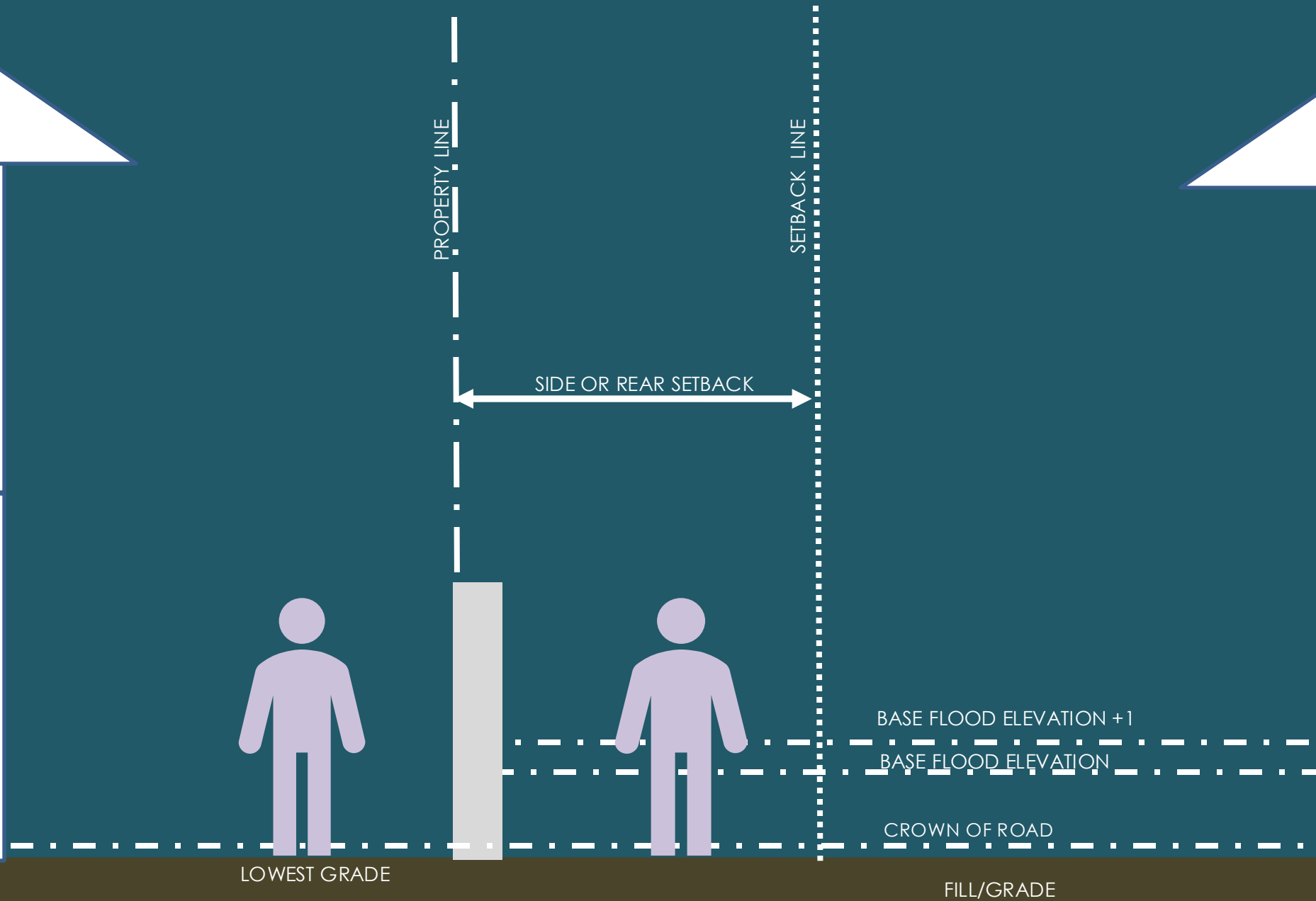
AREAS WHERE MAX FILL IS APPLICABLE

FILL LIMITATIONS

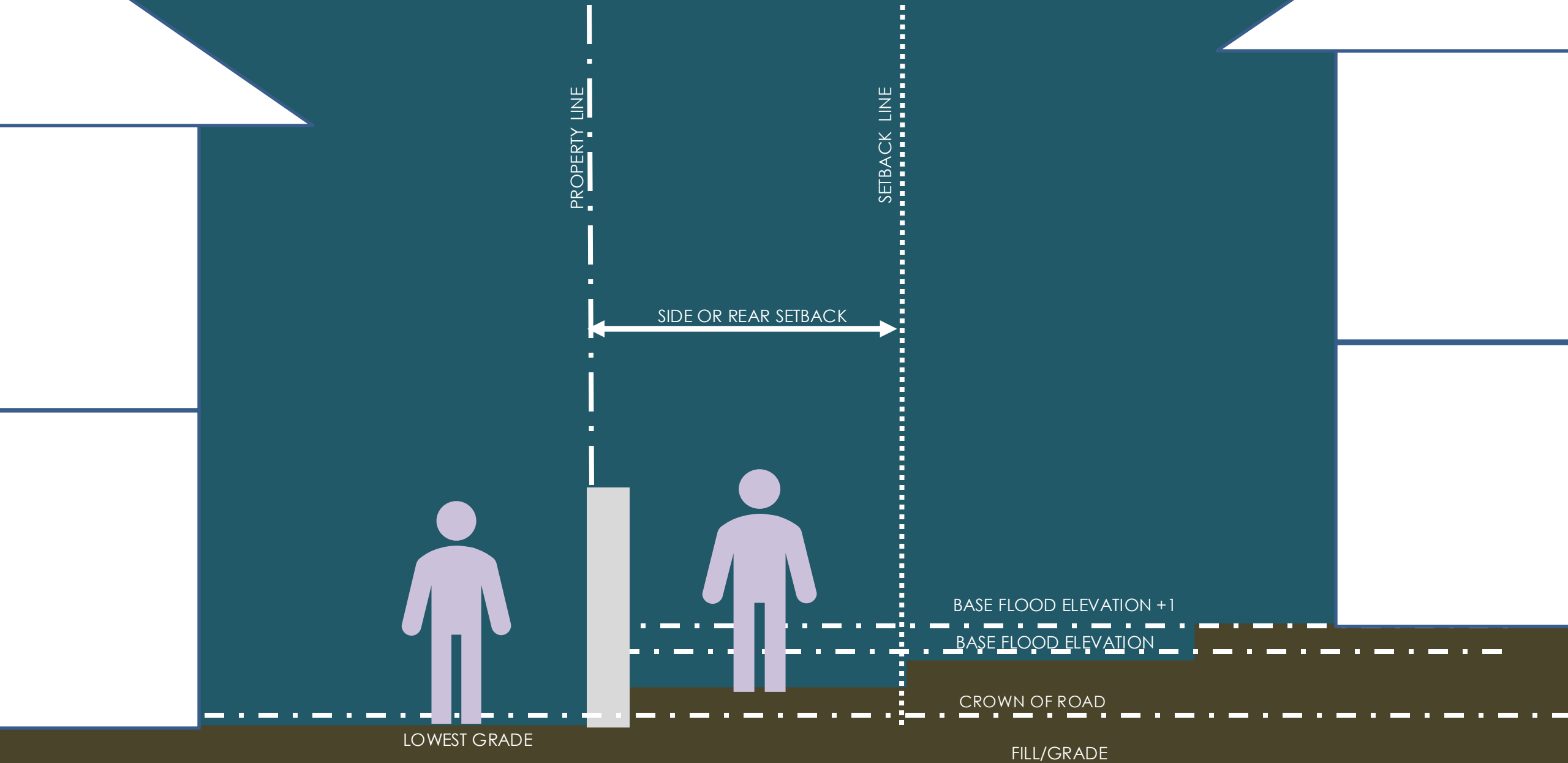




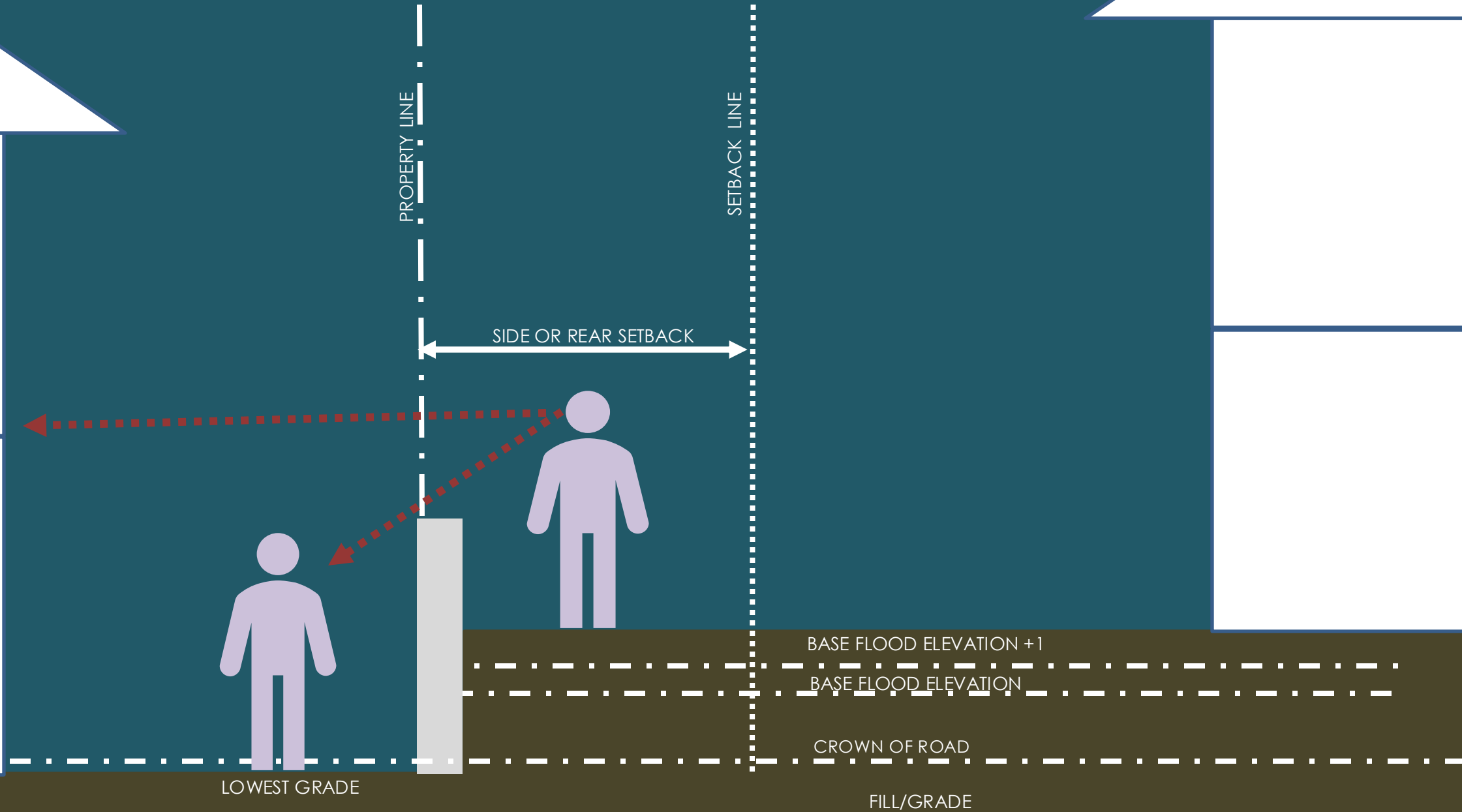
NO FILL USED



CORRECTED FILL ORDINANCE



UNREGULATED FILL



PRE-FILL ORDINANCE EXAMPLES



PRE-FILL ORDINANCE EXAMPLE

