



**INFILL/REDEVELOPMENT SUBCOMMITTEE MEETING  
WEDNESDAY MAY 13, 2009, 2:00PM – 4:00PM  
2300 NORTH JOG RD, WEST PALM BEACH  
2ND FLOOR CONFERENCE ROOM, 2E-12**

**AGENDA**

- A. CALL TO ORDER**
  - 1. Roll Call
  - 2. Amendments to the Agenda
  - 3. Motion to Adopt the Agenda
  - 4. Adoption of April 8, 2009 Meeting Minutes (*Exhibit A*)
  
- B. DRAFT CODE**
  - 1. Purpose and Intent (*Exhibit B*) - Bill Cross
  - 2. Applicability and General Standards (*Exhibit C*) – Bill Cross
  - 3. Non-conformities – Preliminary Draft (*Exhibit D*) - Maryann Kwok
  
- C. USE REGULATIONS**
  - 1. Discuss Use Matrix and Supplementary Uses (*Exhibit E*)
  
- D. URA UPDATES**
  
- E. NEXT MEETING TOPICS**
  
- F. ADJOURN**



## EXHIBIT A

### INFILL/REDEVELOPMENT SUBCOMMITTEE A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### MINUTES OF THE APRIL 8, 2009 SUBCOMMITTEE MEETING PREPARED BY EILEEN PLATTS, ZONING SECRETARY

On Wednesday, April 8, 2009 at 2:00 p.m. the Infill/Redevelopment Subcommittee met in the Second Floor Conference Room (VC-2E-12), at 2300 North Jog Road, West Palm Beach, Florida.

#### A. CALL TO ORDER

##### 1) **Roll Call**

Wendy Tuma, Chairperson called the meeting to order at 2:05 p.m., Eileen Platts, Zoning Secretary, called the roll.

##### **Members Present**

Wendy Tuma – Chair  
Joni Brinkman – Vice Chair  
Raymond Puzzitiello – LDRAB/GCBA  
Edward Wronsky – AIA  
Jeff Brophy – ASLA  
Jose' Jaramillo – LDRAB/AIA  
Bradley Miller – Planner  
Chris Roog – Gold Coast Builders Assoc.

**Members Present - 8**

##### **Professional Staff Present:**

Maryann Kwok (Zoning)  
William Cross (Zoning)  
Joanne Koerner (Land Development)  
Edward Nessenthaler (Planning)  
Eileen Platts (Zoning)

##### **Members Absent**

Joanne Davis – LDRAB/BCC Dist.1  
David Carpenter – LDRAB/BCC Dist.2  
Barbara Katz – LDRAB/BCC Dist.3  
Jim Knight – LDRAB/BCC Dist.4  
Steven Dewhurst – LDRAB/AGCA  
Wes Blackman – LDRAB/PBC Plan Cong.  
Ron Last – LDRAB/FES  
Ken Tuma – Engineer  
Katharine Murray – LUAB  
Nancy Lodise – Interested Citizen  
Rick Gonzalez – Architect

**Members Absent - 11**

##### **Other:**

Thuy Shutt (WCRAO)  
Diane Burress (Building)  
Stephanie Gregory (Planning)  
Quazi Bari (Traffic)  
Jamie Gentile (Gentile, Holloway,  
O'Mahoney & Assoc.)

##### 2) **Amendment & Motion to Adopt Agenda**

Prior to adopting the Agenda Maryann welcomed everyone back and explained that there is a minor change to the title of this Subcommittee per Jon MacGillis. It will no longer be the Infill Redevelopment Task Force it is now the Infill Redevelopment Subcommittee. Nothing but the title has changed this is still a LDRAB subcommittee.

## EXHIBIT A

Wendy Tuma asked if any of the staff had any Amendments to the Agenda. There were no amendments. Raymond Puzzitiello made the motion to adopt the April 8, 2009 Agenda, Bradley Miller seconded the motion. The motion passed unanimously (8-0).

### 3) **Adoption of December 17, 2008 Minutes (*Exhibit A*)**

Edward Wronsky made the motion to adopt the December 17, 2008 Minutes, Raymond Puzzitiello seconded the motion. The motion passed unanimously (8-0).

### B) **FOLLOW-UP TO MARCH 24, 2009 BCC WORKSHOP**

Bill Cross provided a summary of the March 24<sup>th</sup> BCC Workshop Presentation.

Maryann Kwok gave a brief summary on the feedback from the Commissioners and advised the members that there will be another workshop in July.

Bill Cross gave the members a draft format of what the IR-O Matrix will look like. He explained that this handout is just for the format of the Matrix and asked the Members to please review and provide feedback. If there are any Uses that are not on the Matrix that you may want to add we will discuss at the next meeting.

Maryann suggested that the members look through the current Use Matrix (Commercial only) to give us their input on what they would like to see.

Substantial discussion ensued amongst the Subcommittee members regarding multiple projects that might require a Development Order Amendment (DOA) to prior BCC approvals. The discussion included clarification that smaller straight zoned infill sites would most likely be able to go straight to DRO as currently proposed.

The Subcommittee members also discussed what uses would be allowed in the IR-O.

### C) **NEXT MEETING TOPICS**

Review Use Matrix and update Supplementary Notes.

### D) **ADJOURNMENT**

Raymond Puzzitiello made the motion to adjourn, Jose Jaramillo seconded the motion. The motion passed unanimously (8-0).

The Infill/Redevelopment Task Force meeting adjourned at 3:30 p.m.

# EXHIBIT B

## INFILL REDEVELOPMENT – OVERLAY (IRO) **DRAFT** – PURPOSE AND INTENT

### CHAPTER B OVERLAYS

### SECTION 16 INFILL REDEVELOPMENT OVERLAY (IR-O)

#### **A. PURPOSE AND INTENT**

The purpose and intent of the Infill Redevelopment Overlay (IR-O), is as follows:

1. Facilitate commercial revitalization in the Urban/Suburban Tier, by incrementally retrofitting commercial corridors and isolated land uses with sustainable development that creates a sense of place, improved streetscapes and integration into the surrounding community;
2. Implement the Goals, Objectives and Policies of the Comprehensive Plan that mandate sustainable, walkable urban/suburban redevelopment;
3. Accommodate TCRPC regional goals, along with other State and Federal requirements that address future growth management challenges and problems (e.g. TCRPC Strategic Regional Policy Plan);
4. Utilize Smart Growth and Form Based Coding principles to establish standards that create a predictable built form that improves the streetscape and relates to the pedestrian realm (e.g. storefronts, street trees, sidewalks, and other public use areas and amenities);
5. Advocate walking, cycling and mass transit as viable alternatives to automobile use;
6. Foster interconnectivity between non-residential and other non-residential or residential uses;
7. Foster sustainability by integrating the social, economic and ecological needs of the community with overall regional and national policy;
8. Mitigate adverse impacts of commercial development to surrounding residential uses and the community as a whole;
9. Promote commercial and residential mixed use;
10. Respect market realities, industry trends, and property rights;
11. Address multi-disciplinary regulatory and development review processes;
12. Offer property development incentives that will encourage developers or business owners to utilize the IR-O (e.g. reduced setbacks, reduced parking, increased FAR, enhanced landscaping to increase efficiency in uses of properties);
13. Streamline the development review process; and,
14. Establish a Countywide Redevelopment Overlay within the Urban/Suburban Tier that unifies multiple redevelopment efforts such as the Westgate/Belvedere Homes CRA Overlay (WCRA-O) and the Urban Redevelopment Area (URA) by bridging goals while allowing for similar benefits outside of such areas.

# EXHIBIT C

## INFILL REDEVELOPMENT – OVERLAY (IRO) DRAFT – APPLICABILITY AND GENERAL STANDARDS

### CHAPTER B OVERLAYS

#### SECTION 16 IRO, INFILL REDEVELOPMENT OVERLAY

##### 1. APPLICABILITY AND GENERAL STANDARDS

The provisions of the IRO are optional. An applicant may elect to use the IRO regulations for parcels, or a defined affected area of an existing development, that meet the following criteria:

##### 1. BOUNDARIES

Parcels shall be located in the U/S Tier, defined as that area being located within the USA, as depicted on the Service Areas Map of the Plan.

##### 2. OTHER OVERLAYS

The IRO overlaps several other zoning overlays, as such, the following shall apply:

- a. The IRO shall not be permitted in the IOZ, NBOZ, SCGCFO, URAO, or SR7EDO;
- b. The IRO shall not be permitted in the WCRAO, with exception to the UH sub-area, provided all applicable WCRAO and UH sub-area specific provisions are retained;
- c. The IRO may be used in conjunction with the COZ, GAO, LOSTO, LWRCCO, NEO, PBAIO, and TAPO, provided that where there is a conflict between the provisions of the IRO and another overlay, the provisions of the other overlay shall prevail.

##### 3. FLU DESIGNATION

Parcels shall have a CL-O, CL, CH-O or CH FLU designation. An IRO project may have multiple FLU designations. Uses allowed, density and intensity shall be determined by the FLU designation of the affected area. Density may be transferred from one portion of the project to another based on the gross acreage of the project.

##### 4. ZONING DISTRICTS

Parcels shall have a CN, CL-O, CC, CH-O, CH, or MUPD Zoning district. It is the intent of the IRO to limit instances where re-zonings are required; therefore exceptions are permitted for parcels with previously established zoning districts, provided the limitations of Prior Approvals do not apply. An IRO project may have multiple zoning districts.

##### 5. PRIOR APPROVALS

Parcels having prior BCC approvals for rezoning, requested or conditional uses may require a DOA to amend any conditions, limitations or representations that were made as part of such approvals. Projects with prior approvals shall be reviewed on a case by case basis to ascertain if conditions, or any public record

##### a. Alternative Rezoning

##### b. PDD Resolutions

##### c. Conditional Use Resolutions

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**Comment [w1]:** Keeping short and as simple as possible. Being tied to FLU, USA, other overlays, prior approvals, and other Plan policies makes it difficult.

**Comment [w2]:** Link to Planning USA map.

**Comment [w3]:** To access "Service Areas Map" be sure to use Control on the keyboard, and then select (click) with mouse to open weblink.

**Comment [w4]:** The IOZ and NBOZ are predicated upon Inter-local agreements.

**Comment [w5]:** SCGCFO use limitations do not include commercial FLU (see Glades USA [e.g. Glades U/S Tier]).

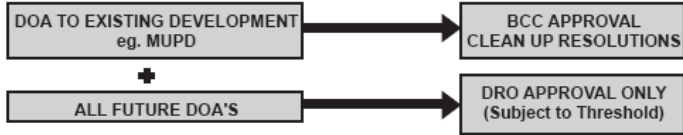
**Comment [w6]:** Proposed to be developed in ULDC Amendment Round 2009-01 (Jorge Perez, Senior Planner, Planning PM coordinating implementation of amendments made to the Plan in Round 2008-02).

**Comment [w7]:** Pending final approval by WCRAO. Initial discussions held with Thuy in 2008 –redresses need to adopt UH sub-area redevelopment regulations.

**Comment [w8]:** Abandon in entirety and absorb into IRO – See limited FLU Sub-objective 1.2.3, RRIO and LWRCCO. See also future expansion of URA.

**TABLE 3.B, IRO – BCC PROCESS TO REDRESS PRIOR APPROVALS**

**SCENARIO ONE - REQUIRE 1 TIME BCC APPROVAL**



**SCENARIO TWO - REQUIRE NO BCC APPROVAL**



\*May affect and need code for change in WFH, TDR, etc.

**SCENARIO THREE - REQUIRE BCC APPROVAL**

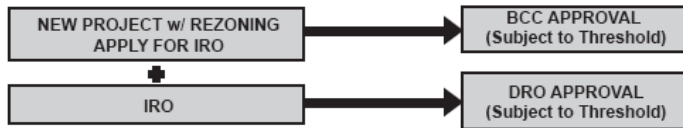


EXHIBIT D

INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
NON-CONFORMITIES  
SUMMARY OF AMENDMENTS

(Updated 05/5/09)

Part .1 ULDC, Articles 1.F.1, General, 1.F.2, Non-Conforming Use, and 1.F.3, Non-Conforming Structure, are hereby deleted in entirety, and replaced with new Articles 1.F.1, General, 1.F.2, Non-Conforming Use, and 1.F.3, Non-Conforming Structure, as follows:

**Reason for amendment:** Reorganize Art.1.F.1 General, move general items under this Section. Add code language to allow applicant to hire own appraiser to determine current assessed value instead of utilizing the Property Appraiser Office’s data. Revise Section 2, Nonconforming Use to clarify differences between Major and Minor nonconforming uses. Increase percentages for each category of improvements: Expansion, Maintenance, Renovation and Damage Repair.  
Revise Section 3, Nonconforming Structure to allow higher percentages for each category of improvements.

CHAPTER F NONCONFORMITIES

Section 1 General

A. Purpose and Intent

To establish regulations to address uses, structures, lots and other site elements that were lawfully established before this Code was adopted or amended, that now do not conform to the terms and requirements of this Code. The purpose and intent of this Section is to regulate and limit the continued existence of uses, structures, lots and other site elements, which do not conform to the provisions of this Code, and, where possible, bring them into conformance with this Code.

It is the intent of this Section to permit these nonconformities to continue, but not to allow nonconformities to be enlarged or expanded, except under the limited circumstances established in this Article. The provisions of this Article are designed to curtail substantial investment in nonconformities to preserve the integrity of this Code and the Plan.

B. Applicability

1. Determination of nonconforming status

In determining whether a nonconformity (use, structure, lot, site elements) will be regulated by the provisions of this Article, the following shall apply:

- a. Nonconforming status shall not be provided for any use, structure, lot or other site element, which was illegally commenced, constructed, created or unlawfully continued, or commenced after the use restrictions became applicable.
- b. Nonconforming status shall only be provided where a use, structure, lot or site element is actually commenced, constructed or created, not merely contemplated. Further, a use must be continuous during business hours and not an occasional or irregular use of the property. *Ask Lenny is this sufficiently defined, or needs clarification.*
- c. An accessory nonconforming use shall not become the principal use.

2. Submittal Document

Documents submitted in a form established by the Zoning Director shall be provided by the property owner to demonstrate that a use, structure, lot or site element existed lawfully prior to the adoption of applicable regulations. Affidavits alone are not sufficient evidence to establish nonconforming status.

3. Exemption

Public utility facilities with nonconforming structures on existing utility sites shall be exempt from the maintenance, renovation and damage repair limitations in this Section, if

Notes:

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
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(Updated 05/5/09)

- a. The expansion shall not change or increase the nonconforming feature(s) of the structure; and,
- b. The expansion shall not result in the expansion of a nonconforming use.

C. Current Assessed Value

Current assessed value of a structure accommodating a nonconforming use shall be determined by the County Property Appraiser Office. The value of a nonconforming structure shall be determined by taking 125 percent of the current assessed value of the structure for non-government facilities, and an additional 60 percent of the most current assessed value of the structure for government facilities.

1. Alternative

In lieu of the value determined by the Property Appraiser Office, the property owner may hire a Florida licensed Appraiser to provide a current assessed value for the structure.

**Typical Example:**

An applicant is proposing to expand, renovate and maintain a non-conforming structure with a conforming use; the applicant may utilize the maximum percentage allowed under the category of Expansion (10%) in addition to the maximum percentage allowed under either the categories of maintenance or renovation.

The applicant must utilize the [Non-conforming Building Modification Chart](#) to establish description and value of work under each category.

**Step One**

Assessed Value of Non-conforming structure = \$100,000

Establish Current Assessed Value: \$100,000 x 125% = \$125,000

**Step Two**

Establish maximum 10% allowed under Expansion = \$125,000 x 10% = \$12,500 (a)

**Step Three**

Establish Maximum percentage for Maintenance or Renovation

The applicant may choose to utilize the full 30% under renovation or maintenance; OR

Choose a certain % under renovation and maintenance so long the combined total percentage for the 2 categories does not exceed 30%.

In this scenario, the applicant chooses to utilize 20% under renovation and 10% for maintenance as follows:

\$125,000 X 20% renovation = \$25,000 (b); AND,

\$125,000 x 10% maintenance = \$12,500 (c).

**Step Four**

Therefore, the total allowable Expansion, Maintenance and Renovation costs for this project is (a)+(b)+(c) = \$50,000.

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(Updated 05/5/09)

**D. Cumulative Improvements in Total Value**

This Section shall apply to the cumulative improvements in total value as a nonconforming structure is expanded, maintained, renovated and repaired over the previous seven years. In determining the value of an improvement necessary to perform expansion, maintenance, renovation or damage repair, the "aggregate cost approach" as outlined in the most current building valuation data in Southern Building published by the Southern Building Code Congress International or other comparable guidelines adopted in law or accepted in practice by the Building Director, shall be used as the sole basis for calculation.

1. The maximum percent allowed within a 12 consecutive month period may include one or a combination of these categories of improvements: expansion, maintenance, renovation, or damage repair to a nonconformity but shall not mean one of each term. Under no circumstances, the maximum percentage for each of these categories of these improvements could be combined.

**E. Nonconforming Scenarios**

The following table is a description of different scenarios that may occur related to nonconforming use and structure.

	<b>Nonconforming use in a nonconforming structure</b>	<b>Nonconforming use in a conforming structure</b>	<b>Conforming use in a nonconforming structure</b>
<b>Expansion</b>	Shall not be permitted	May be permitted per requirement of this Chapter	May be permitted per requirement of this Chapter
<b>Renovation</b>	Shall not be permitted	May be permitted per requirement of this Chapter	May be permitted per requirement of this Chapter
<b>Maintenance</b>	May be permitted per requirement of this Chapter	May be permitted per requirement of this Chapter	May be permitted per requirement of this Chapter
<b>Damage Repair</b>	May be permitted per requirement of this Chapter	May be permitted per requirement of this Chapter	May be permitted per requirement of this Chapter

**Section 2 Nonconforming Use**

**A. Nonconforming Use classifications**

There are three classes of nonconforming uses: Major, Minor, Nonconforming to Airport Regulations.

**1. Major**

A major nonconforming use is a use that was legally established in a zoning district where the use is now prohibited under the terms of this Code. Major nonconforming uses are inappropriately located so as to create or threaten to create incompatibilities detrimental to the public welfare. In addition, Policy 2.2-e, FLUE of the Plan encourages the elimination or reduction of existing or previously approved land uses, and activities, which were lawful before the adoption of the Plan but are prohibited, regulated or restricted under the terms of the Plan. This shall be accomplished by prohibiting enlargement, expansion or extension of nonconforming future land use activity unless the action decreases the nonconformity.

**2. Minor**

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A minor nonconforming use is a use that was legally established in a zoning district where the review and approval processes of the use has been changed to a higher level under the terms of this Code, and where any DOAs or improvements to the use would exceed the development and approval thresholds or do not meet the property development regulations of this Code. Minor nonconforming uses do not create or threaten to create incompatibilities injurious to the public welfare. An applicant who is requesting modification or improvement to a minor nonconforming use is encouraged to apply for the higher review and approval process to correct the nonconforming status of the use for the benefit of future development order amendments and other types of improvements.

**3. Nonconforming to Airport Regulations**

Requirements for uses nonconforming to Airport regulations are set forth in [Art. 1.F.3.F, Uses and Structures within an Airport Zone](#). Uses that are nonconforming and are also nonconforming to the Airport zoning regulations shall comply with both the nonconforming provisions and the Airport nonconforming provisions.

a. Uses that are either a major or minor nonconforming use and are also nonconforming to the Airport zoning regulations shall be regulated as follows:

- 1) A major nonconforming use shall comply with the major nonconforming use provisions.
- 2) A minor nonconforming use shall comply with both provisions of the minor nonconforming use and the Nonconforming to Airport Regulations.

**B. Change in Use**

A nonconforming use shall not be changed to any other use, unless the new use conforms to this Code. A nonconforming use physically replaced by a permitted use shall not be re-established.

**C. Discontinuance or Cessation**

If a nonconforming use is discontinued, abandoned, or becomes an accessory use for a period of more than 180 consecutive days (six months), or for a total of 540 calendar days (18 months) during any 1,095 consecutive day (three year) period, then such use shall not be re-established as a principal use or resumed and any subsequent use in the same location unless in conformance with this Code. When government action impedes access to the premises as the reason for discontinuance or cessation, the time of delay caused by government action shall be documented and subtracted from this calculation.

**D. Expansion**

**1. Major Nonconforming Use**

A major nonconforming use shall not be expanded in area it occupies unless it is being expanded into an area within a structure, which was designed and approved for such use in a valid development order prior to becoming a major nonconforming use.

**2. Minor Nonconforming Use**

A minor nonconforming use in a conforming structure may be expanded on one occasion, subject to DRO approval, provided the expansion complies with the terms of this Code and in compliance with the following:

a. The expansion would not exceed ten percent of the approved floor area of the structure or ten percent of the current assessed value of the structures on site, whichever is less; or any other form of measure of intensity/density for the specific use such as but not limited to: beds for congregate living facilities; decks for restaurants; number of children for daycares; number of fueling stations or gas pumps for convenience store with gas sales or other traffic intensity measures; and,

- 1) For a convenience store with gas sales, the applicant may be allowed to either increase the floor area of the store or increase the number of pumps subject to the ten percent limitation and approval of a Traffic Study by the Engineering Department. Any fractional number of the pumps that may occur during the calculations shall be rounded upward to the nearest whole

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(Updated 05/5/09)

number for one half or more of a whole pump, and downward if the it is less than one half of a whole pump. The gas canopy of the fueling stations may be expanded along with and must be proportional to the increase of the fueling stations.

b. The expansion will result in a reduction of nonconforming features to the greatest extent possible.

E. Maintenance or Renovation

Maintenance or renovation may be performed in any 12 consecutive months not to exceed the following percentage of the current assessed value of the structure:

Table 1.F.-XXX

Types of Uses	Nonconforming	Maximum Percentage (%) of current assessed value of structure	Approval Process
Non-government	Major	20%	By Right
	Minor	30%	
Government	Major	30%	By Right
	Minor	45%	
1Within LWRCC-O, WCRA-O and IR-O	Major	40%	DRO
	Minor	50%	

1 Subject to compliance with applicable sections and performance criteria of Article 3.B, Overlays.

F. Damage Repair

Damage to a structure accommodating a major nonconforming use may be repaired by right up to 30 percent and 50 percent for a minor nonconforming use of its current assessed value at the time of damage. If the damage repair is in excess of 50 percent, the reconstruction shall be in compliance with this Code.

G. Relocation

A nonconforming use shall not be moved, unless the relocation decreases the nonconformity.

1. Exception

This Section of the Code does not apply to existing nonconforming uses in the AGR District.

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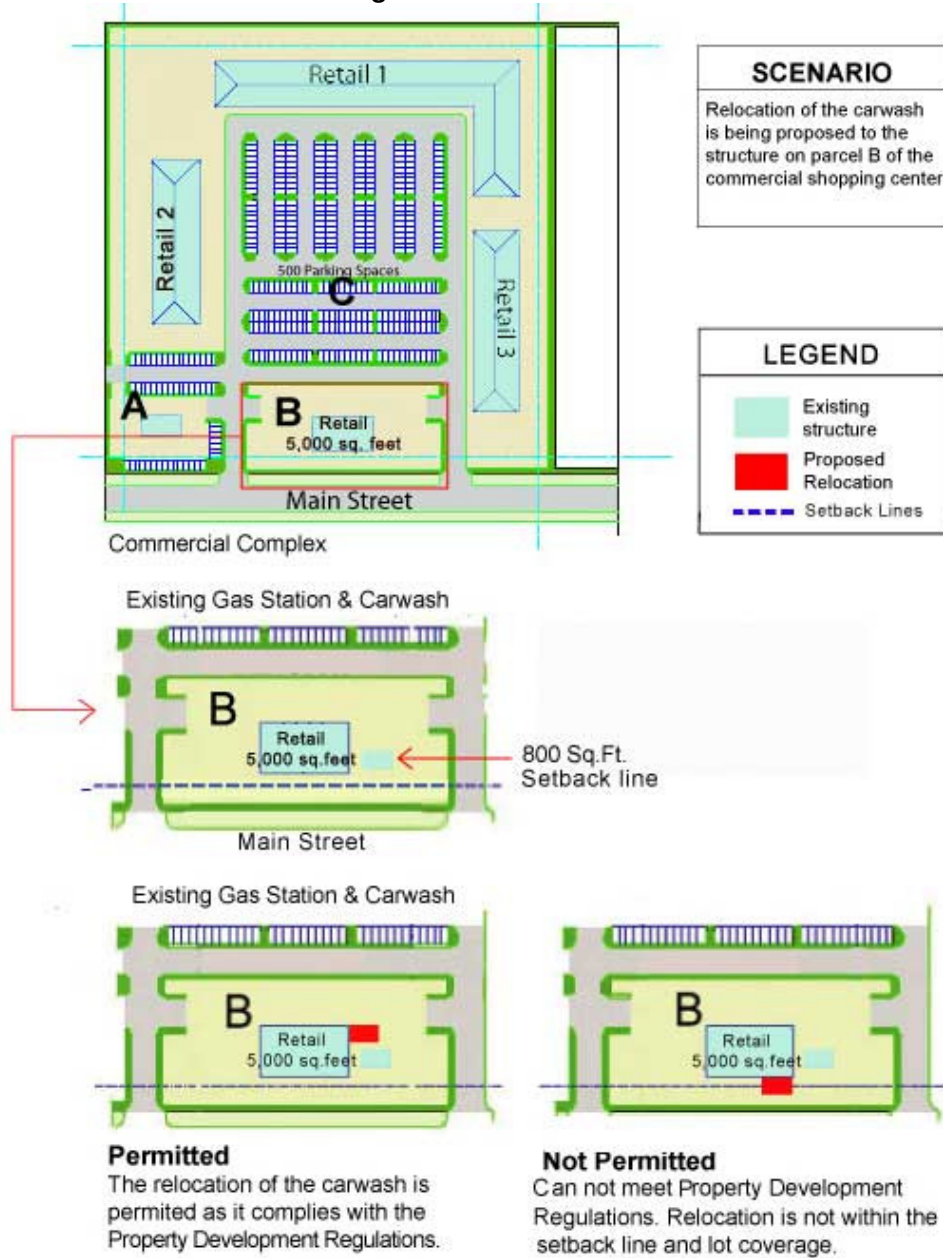
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(Updated 05/5/09)

Figure 1.F.2.F-12-Relocation



1  
2  
3

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Section 3 Non-Conforming Structure

A. General

A nonconforming structure may continue to exist in accordance with this Section.

B. Expansion

Expansion of a nonconforming structure may be performed in any 12 consecutive months and shall be in compliance with this Code, and shall not result in the intensification of a nonconforming use through the structural expansion.

C. Maintenance or Renovation

Maintenance or renovation of a nonconforming structure may be performed in any 12 consecutive months, subject to the following:

Table 1.F-XX

Types of Structures	Maximum Percentage (%) of current assessed value of structure	Approval Process
Non-government	20%	By Right
	>20%-≤30	DRO
Government	45%	By Right
Within LWRCC-O, IR-O	50%	Pursuant to Art.3.B <i>Pending completion of IR-O</i>

D. Damage Repair

A nonconforming structure which is damaged up to 50 percent of its current assessed value at the time of damage may be repaired by right. A nonconforming structure damaged in excess of 50 percent shall not be reconstructed, except in compliance with this Code.

E. Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards and requirements of the district in which it is located.

F. Uses and Structures within an Airport Zone

1. Applicability

Uses permitted prior to the effective date of the Airport regulations, November 1, 1996, that lie within regulated areas defined in [Art. 16, Airport Regulations](#), which does not comply with the Airport Land Use Compatibility Schedule or FDOT, "Guidelines for the Sound Insulation Residences Exposed to Aircraft Operations," or exceeds permitted height limitations shall be considered a nonconforming use unless the structure or use is brought into conformance with the provisions of [Art. 16, Airport Regulations](#).

a. Exemptions

Land Uses within regulated areas defined in [Art. 16.C.1.D.2, ALUNZs for Airports](#), which have not completed a Federal Aviation Regulation Part 150 Noise and Land Use Compatibility Study, are exempt from the requirements of this Article.

2. Existing Uses and Occupancy

The requirements of [Art. 16, Airport Regulations](#), shall not be construed to necessitate the removal, lowering or alteration of a structure or building supporting an existing use nonconforming to the requirements therein, or otherwise interfere with the continuance of such use which legally existed prior to November 1, 1996, provided the continuation does not jeopardize life or health. Construction

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or alterations which existed or had started prior to November 1, 1996, and is diligently pursued and completed in accordance with building permitting requirements as defined by PZB, shall not be required to comply with the provisions in [Art. 16, Airport Regulations](#).

**a. Change in Use and Occupancy**

If a change of use is proposed for an existing structure or building which does not comply with the Airport Zoning provisions for that particular use, as specified in the Airport Land Use Compatibility Schedule, the entire structure or building shall be brought into conformance with [Art. 16, Airport Regulations](#).

**3. Abandonment of a Use**

If a use nonconforming to the Airport Regulations has been abandoned for 365 days (one Year), a permit cannot be issued to repair, reconstruct or restore the structure to re-establish the use unless the extent of the repair, reconstruction or restoration complies with the requirements in [Art. 16.B.1, Airspace Height Regulations](#), and [Art. 16.C.1.E, General Land Use Regulations-Off Airport Land Use Compatibility Schedule](#).

**4. Repair, Reconstruction, Restoration, or Alteration of a Structure**

**a. Height Restrictions**

No permit shall be granted that would allow an existing structure to become higher or become a greater hazard to air navigation than it was as of November 1, 1996. All structures shall comply with [Art. 16.B.1, Airspace Height Regulations](#).

**b. Use Regulations**

Any permits to substantially alter, repair, restore, reconstruct or rebuild a structure supporting a nonconforming use shall comply with [Art. 16.C.1.E, General Land Use Regulations-Off Airport Land Use Compatibility Schedule](#). In such cases the entire building or structure shall be brought into conformance with these requirements. For the purposes of this Article, substantially alter shall mean:

- 1) the structure is more than 80 percent torn down, destroyed, deteriorated, or decayed; or
- 2) the cost of repair, reconstruction or restoration exceeds 80 percent of the assessed value of the existing building or structure; or
- 3) the non-structural alterations or repairs exceed 50 percent of the assessed value of the existing building or structure.

If the structure does not meet these criteria, then only the new construction, alteration or repair shall be subject to the requirements of [Art. 16, Airport Regulations](#).

**5. Relocated Buildings**

Buildings or structures moved into or within Palm Beach County, into a RPZ or ALUNZ shall comply with the height and noise level reduction provisions in Art. 16, Airport Regulations.

**6. Obstruction and Marking Requirements**

Any repair restoration, reconstruction or alteration to a nonconforming structure or establishment of a new use shall require compliance with the Obstruction Marking and Lighting provisions in [Article 16.B.1, Airspace Height Regulations](#).

**Section 4 Nonconforming Lot**

**A. Applicability**

This section shall only apply to non-conforming lots that do not meet the minimum dimensional criteria of this Code, if all of the following conditions are met: **[Ord. 2008-037]**

**1. Legal Access Requirements**

**Notes:**

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Language ~~crossed-out~~ indicates language proposed to be deleted.

.... (ellipses) indicates language not amended which has been omitted to save space.

Relocated language is shown as *italicized* with reference in parenthesis.

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
 NON-CONFORMITIES  
 SUMMARY OF AMENDMENTS

(Updated 05/5/09)

a. **Development of a Single-family Dwelling Unit**

The lot has legal access in accordance with [Art. 1.H.1.B.2, Legal Access](#). [Ord. 2008-037]

b. **Development of Non-residential and Residential Other than SFD**

The lot has frontage on, and legal access to, a public R-O-W, or any other street that meets the requirements of Table 11.E.2.A, Chart of Access Hierarchy. [Ord. 2008-037]

2. **Legal Lot of Record**

The lot complies with one of the following: [Ord. 2008-037]

a. Is depicted on either a plat of record, affidavit of exemption, or affidavit of waiver; or [Ord. 2008-037]

b. Existed prior to February 5, 1973 in its current configuration as evidenced by a chain of title; or [Ord. 2008-037]

c. Art. 1.H.1.B.1.b, Option 2 – Creation on or Subsequent to February 5, 1973 and before June 16, 1992. [Ord. 2008-037]

3. **FLU and Zoning Consistency**

The existing zoning or any rezoning is in compliance with the requirements of [Art. 3.C.1, Future Land Use Designation and Corresponding Districts](#). [Ord. 2008-037]

4. **Lot Recombination Requirements**

Where applicable, the lot or lots have complied with the lot recombination requirements of Plan FLUE Policy 2.2.1-f, and [Art. 11, Subdivision, Platting and Required Improvements](#). [Ord. 2008-037]

B. **Subdivision (Includes Lot Combinations)**

Non-conforming lots may be combined with any other conforming or non-conforming lot without obtaining variance relief for non-conforming lot dimensions, inclusive of frontage, width, depth and size, if all of the following conditions are met: [Ord. 2008-037]

1. The newly created lot complies with the lot dimensions of this Code, or reduces the non-conformity; and, [Ord. 2008-037]

2. Can comply with the requirements of [Art. 11, Subdivision, Platting and Required Improvements](#). [Ord. 2008-037]

C. **Residential Development Regulations**

A nonconforming residential lot may utilize the following setbacks for a single-family dwelling unit only.

1. **Minimum Setback Requirements:**

a. If the minimum depth dimension is nonconforming:

Front: 30 percent of lot depth

Rear: 20 percent of lot depth.

b. If the minimum width dimension is nonconforming:

Side Interior: 15 percent of lot width.

Side Street: 20 percent of lot width.

c. Nonconforming lots that are 100 feet or less in width and 100 feet or less in depth may apply a 25-foot setback from the affected property line.

2. The maximum lot coverage is 40 percent of the total lot area or the maximum district coverage whichever is more restrictive.

3. Accessory structures shall comply with all applicable Code requirements.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
NON-CONFORMITIES  
SUMMARY OF AMENDMENTS

(Updated 05/5/09)

Figure 1.F.4.B-14-Nonconforming Lots & Setbacks

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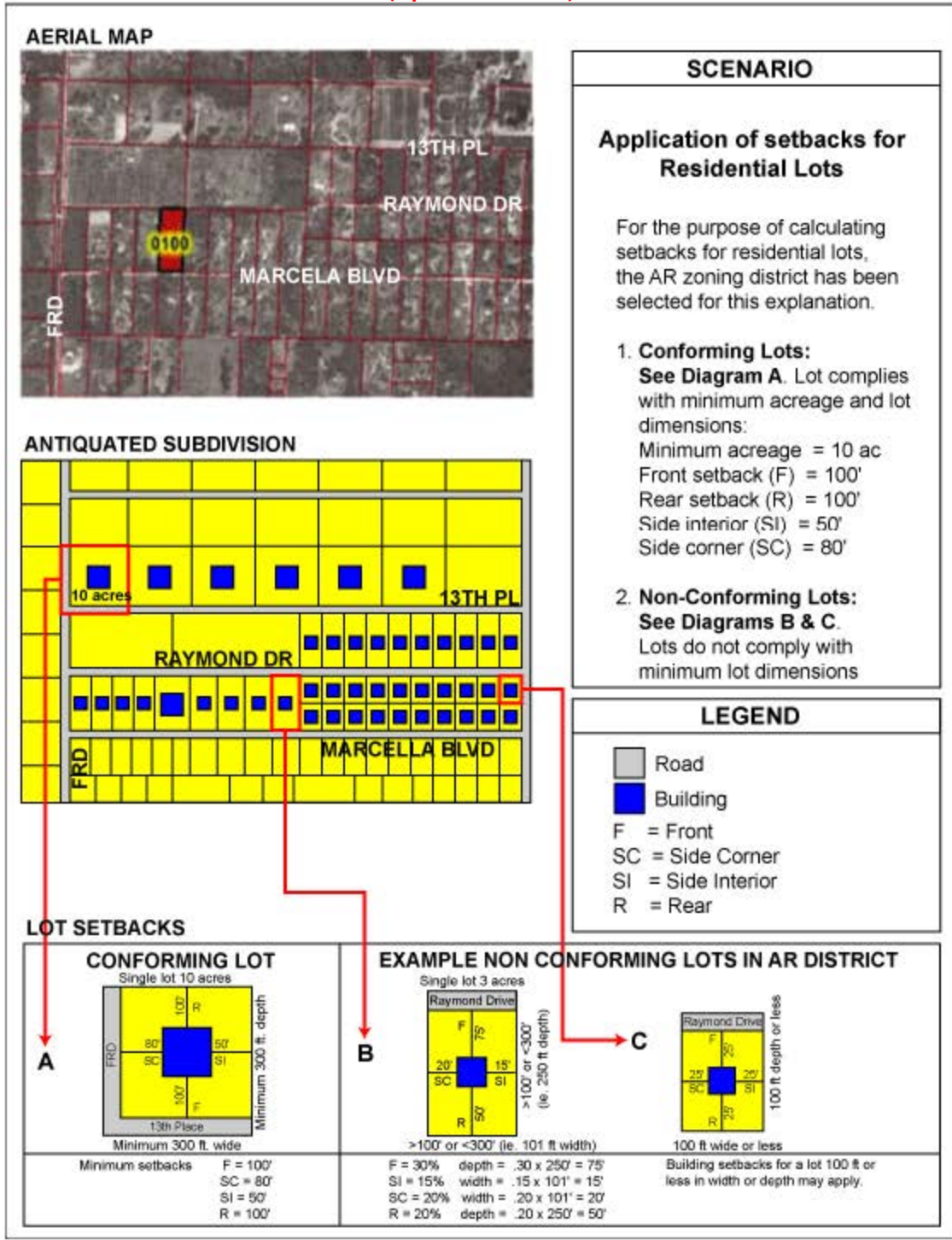
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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
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SUMMARY OF AMENDMENTS

(Updated 05/5/09)



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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
NON-CONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 05/5/09)

[Ord. 2005-002]

D. Accessory Dwellings

Accessory dwellings on non-conforming lots with a RR FLU designation that are equal to or less than 1.5 acres may utilize a 25-foot side or rear setback, subject to the following where the setback is less than the setback required for the SFD unit: [Ord. 2006-004]

- 1. A minimum five-foot high continuous solid opaque visual screen consisting of a hedge, fence or wall, shall be installed and maintained along the property line adjacent to the length of the accessory dwelling. [Ord. 2006-004]
- 2. Ingress/egress to the accessory dwelling shall not be oriented towards the adjoining property. [Ord. 2006-004]

E. Non-Residential Development & or Residential Development Other Than Single Family

Non-residential development and residential development other than single family may be developed, subject to the following: [Ord. 2008-037]

- 1. The proposed use is allowed by this Code; and
- 2. All other property development regulations, supplemental development regulations and setbacks for the use are met, or variances are obtained pursuant to the requirements of [Art. 2.B.3, Variances](#). [Ord. 2008-037]
- 3. Variances may be exempt for a site that is found in compliance with the IR-O property development regulations.

Part . ULDC, Articles 1.I.2.N.31 and 32, Definitions as follows:

**Reason for amendment:** Redefine Nonconforming use, Minor since it was erroneously defined, and move definitions of Art.1.I.N.31 and 32 under Art.1.F.2.

30. **Non-Conforming Use** - a use that was lawfully established prior to the adopted code or amendment that creates the nonconformity and now does not conform to the use regulations of the zoning district in which it is located.

~~31. **Non-Conforming Use, Major** - a major nonconforming use is a use that was legally established in a zoning district where the use is now prohibited under the terms of this Code. Major nonconforming uses are inappropriately located so as to create or threaten to create incompatibilities detrimental to the public welfare.~~

~~32. **Non-Conforming Use, Minor** - a minor nonconforming use is a use that was legally established in a zoning district where the use is now prohibited under the terms of this Code. Minor nonconforming uses do not create or threaten to create incompatibilities injurious to the public welfare.~~

33. **Non-Conformities** - for the purposes of Art. 1, uses of land, structures, lots and property development regulations and site development standards that were lawfully established before this Code was adopted or amended, that are not in conformity with the terms and requirements of this Code.

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