

LDRAB/LDRC

AMENDMENTS TO THE AGENDA  
 Wednesday, November 18, 2009  
 (Updated 11-17-09)

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Amendments to the Agenda:

#1	<p><b>Page 6, Minutes</b></p> <p><b>Reason for Amendment: [Zoning]</b> To amend glitch to minutes that inadvertently omitted relocated Exhibits B-1 and B-2, amending Exhibit C – Lifestyle Commercial Center.</p> <p><b>2. <u>Agenda items B1, B2 and Exhibit C – Lifestyle Commercial Center, reordered from above.</u></b>                  These items were reordered from above: <u>Exhibit B1, B2 and Exhibit C, that would have been for review by LDRAB.</u> William Cross stated that Staff ...</p>
	<p><b>Page 6, Minutes</b></p> <p><b>Reason for Amendment: [Zoning]</b> To amend glitch in minutes; whereas, Exhibit B-2, amending Exhibit C – as well, as Agenda Item D.1, TDR Moratorium where inadvertently omitted.</p> <p><b>2. Consistency Determination</b>                  Mr. Cross stated that item 2 is being amended to include <u>Exhibit C, as amended by Exhibit B-2, and agenda items D.1. and D.3. through D.9. and the LCC language indicated in Exhibit C. John Rupertus confirmed that Exhibit C, as amended, and agenda items, D.1. and D.3. through D.9, were consistent with the Comprehensive Plan. Exhibit B-1, items D3 through D9 and the LCC language indicated in Exhibit C. John Rupertus confirmed that Exhibit B-1, Exhibit D3 through Exhibit D9 and Exhibit C, as amended, were consistent with the Comp Plan.</u></p>
#2	<p><b>Page 9, Exhibit C</b></p> <p><b>Reason for Amendment: [Zoning]</b> Inclusion of Flex Space White Paper:</p> <p>- See language below:</p>

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**INTRODUCTION:**

To address recommendations from the industry to draft new code provisions in the Unified Land Development Code (ULDC) to address the need for flex space in commercial and industrial zoning districts. There is an ongoing trend in the industry to allow flexibility to a use to have limited office and retail along with the commercial or industrial use. In unincorporated PBC the zoning code allows office/warehouse that allows limited flexibility. The new regulations being proposed would allow the tenant to have primarily a commercial or industrial use but some limited office and retail. The Zoning Division did send a copy of the final proposed code provisions to the League of Cities for input.

**BACKGROUND AND SUMMARY:**

In 2007, the Palm Beach County League of Cities commissioned an “Industrial Land Use and Economic Development Strategy” study. The study was to address and focus on the countywide need for industrial land. The study indicated that many industrial areas had been converted to allow residential or commercial development. In 2008, the Planning Division recommended that the Board of County Commissioners (BCC) amend the Comprehensive (Comp) Plan to include a definition for flex space. Following adoption of the Comp Plan amendment and in conjunction with direction from the Board of County Commissioners (BCC) the Zoning Division established a Task Team to further address the issue. The first Task Team meeting was held on February 24, 2009 and was attended by industry representatives and staff that would be responsible for developing standards and regulations to allow flex space. At the Land Development Regulation Advisory Board (LDRAB) Organizational Meeting on February 25, 2009, the Flex Space Subcommittee was formally established. The Subcommittee was comprised of Task Team, LDRAB and Staff members.

The issues put forth by the Subcommittee:

- *Current regulations limit the ability to attract certain businesses*
- *Allowing higher percentages of office in industrial areas*
- *Reducing the costs for “start-up” businesses*

**LDRAB SUBCOMMITTEE MEETINGS**

An LDRAB Flex Space Subcommittee was established to consider recommendations from industry and staff on drafting new code provisions in the Unified Land Development Code (ULDC) that would address

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1 flexibility in both commercial and industrial zoning districts for how a space could have limited office and  
2 retail in addition to the commercial and industrial uses. Also, to ensure any new regulations were  
3 consistent with Planning Ordinance 2008-54, and Comp Plan Policy 2.2.2 Commercial and 2.2.4  
4 Industrial Land Use Policies as well as the Com Plan Flex Space Definition.

#### 5 6 **Subcommittee Members:**

7 **LDRAB** – Michael Cantwell, David Carpenter, Jose Jaramillo, Raymond Puzzitiello

8 **Industry** – Michael Falk, Neil Gaeta, Dale Hedrick, Steve McCraney, Edna Trimble, Rob Rennenbaum

9 **Staff** – Jon MacGillis, Barbara Pinkston-Nau, Isaac Hoyos, Nick Uhren, Scott Rodriguez, Ann DeVeaux

#### 10 11 **Motion from Subcommittee**

12 A motion was made by the Committee on **November 3, 2009** to recommend the proposed code language  
13 be sent to LDRAB for review and recommendation of approval.

#### 14 15 **The objectives of the Subcommittee were as follows:**

- 16
- 17 1. Review examples of Flex Space projects and regulations from other municipalities as well as  
18 other parts of country;
  - 19 2. Develop regulations consistent with Comp Plan definition and requirements;
  - 20 3. Review existing Use Charts in the ULDC to identify uses that could benefit from Flex Space;  
21 and
  - 22 4. Review potential impacts on parking, traffic and impact fees
- 23

#### 24 **Subcommittee Meetings**

25 The first Flex Space Subcommittee meeting was convened on March 17, 2009. The meetings continued  
26 until the final recommendation was made on November 3, 2009. During the first meeting industry  
27 expressed concerns that the existing Comp Plan language did not allow sufficient flexibility to address  
28 their concerns. Industry representatives were concerned the percentage allotment of office and retail in  
29 both commercial and industrial was too limiting. Staff advised the committee that the proposed ULDC  
30 amendments would have to be consistent with the Comp Plan. In order to make amendments to the  
31 Comp Plan language the BCC would have to approve any changes recommended by Planning staff. The  
32 Subcommittee voted to recommend that the Planning Division amendments to the Comp Plan definition  
33 for Flex Space in the 2009-02 Round for adoption on November 19, 2009. It was also agreed that the  
34 committee would continue to meet on a less frequent basis from February to September while the Comp  
35 Plan amendments were being prepared by Planning.

36  
37 Meetings reconvened in September 2009, and continued discussion on how to address related to: traffic,  
38 monitoring, parking, approval processes, thresholds, and flex space users. Staff drafted code language  
39 based on Comp Plan directives as well as consensus with industry and committee members.

#### 40 41 **Subcommittee Recommendations:**

- 42
- 43 • Allow maximum amount of flexibility for commercial and industrial land owners so they can attract  
44 business to PBC.
  - 45 • Address office and retail uses in commercial and industrial zoning districts to ensure tenant can  
46 have flexibility under Flex Space to operate
  - 47 • Reviewed all Uses in Article 4 of the ULDC and identified those that are typical uses that might  
48 need the ability to apply for Flex Regulations
  - 49 • Examined the existing review process to ensure that this process can be folded into existing  
50 review process to not to extend review timelines for Public Hearing, DRO and Building Permit  
51 Review
- 52

53 All Agendas, Minutes and Attendance for Subcommittee meetings can be reviewed by visiting the Zoning  
54 Web Page, Code Revisions, LDRAB Subcommittees at:

55  
56 [http://www.pbcgov.com/pzb/zoning/LDRAB/subs/subcom\\_meetings.htm](http://www.pbcgov.com/pzb/zoning/LDRAB/subs/subcom_meetings.htm)

#### 57 58 **Planning Requirements:**

59  
60 2009-02 Round, Revisions to Flex Space Definition- to address outdated references and percentages  
61 within the flex space definition are being updated as flex space provisions are concurrently being added  
62 to the ULDC.

63  
64 FLEX SPACE - A building type with a mix of non-residential uses allowed in the  
65 Industrial, Economic Activity Development Center, and Commercial High future land use

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1 designations (FLU). Flex space allows each use to be a flexible percentage of the  
 2 permitted uses allowed in the Use Matrix per the applicable FLU. The uses shall predominately consist of  
 3 light and medium industrial uses and commercial high uses and related services, such as research and  
 4 development, office, retail accessory to industrial activities, light to medium industrial processing. Flex  
 5 space uses shall consist of no less than 30% retail, accessory to industrial uses, and office combined,  
 6 and no more than 70% light industrial/warehouse uses of the total uses allowed, In General,  
 7 approximately 75% of the total floor area is devoted to light industrial uses including research and  
 8 development, light manufacturing, processing, storage and/or warehousing, with the remaining 25%  
 9 allowed for retail, office and display areas for products manufactured or distributed from the industrial  
 10 portion, as determined in the Unified Land Development Code (ULDC). Within IND and EDC FLU, retail  
 11 and office square footage is limited to accessory only, and shall not exceed 30%.

**Existing Industrial reference to Flex Space**

**2.2.4 Industrial**

**Policy 2.2.4-a:** The County shall apply Industrial future land use categories at appropriate locations and intensities to satisfy the need for industrial space and to promote economic development consistent with the County's economic development directives. The County shall also encourage a broad range of employment opportunities by permitting Flex Space. *Remainder of policy relocated to Regulation Section*

#3	<b>Page 61, Exhibit E, line 11-13 and Page 62, Exhibit E, Part 4, Line 2</b> <b>Reason for Amendment: [Zoning]</b> 1) Revise to indicate minimum dimensional criteria includes acreage, width, frontage and depth pursuant to Table 3.D.1.A, property Development Regulations, and 2) Add new language to clarify that a lot, which has been reduced in size as a result from a right-of-way dedication or conveyance, and without compensation to the property owner, shall not be considered as a nonconforming lot.
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**A. Applicability**

This section shall only apply to non-conforming lots that do not meet the minimum [lot acreage and dimensional criteria pursuant to Table 3.D.1.A, Property Development Regulations](#) of this Code, if all of the following conditions are met: **[Ord. 2008-037]**

....

#4	<b>Page 65, Exhibit E, Part 4, Lines 46-47</b> <b>Reason for Amendment: [Zoning]</b> Revise text to replace the word higher level to more restrictive, e.g. from a DRO review/approval to a Public Hearing review/approval.
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**2. Minor**

A minor nonconforming use is a use that was legally established in a zoning district [under a prior code, where the review and approval processes of the](#) ~~The~~ use has been changed [to a more restrictive review and approval process a higher level](#) under the terms of this Code, and

....

#5	<b>Page 66, Exhibit E, Part 4, lines 24-27</b> <b>Reason for Amendment: [Zoning]</b> 1) Relocate text to Art.4.B.18, Auto Service station and Art.4.B.37, Convenience Store with Gas Sales since this requirement is specific to a use with sales of gasoline.
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~~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.~~

#6	<b>Page 70, Exhibit E, Part 5, Lines 6-10</b> <b>Reason for Amendment: [Zoning]</b> Revise text to indicate this is specific to Art.1.F, Nonconformities and Art.4.B, Supplementary Use Standards.
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**H. Gasoline Pumps**

For ~~calculation the~~ purposes of [Art.1.F and Art.4.B](#), any fraction of the number of pumps shall be rounded upward to the nearest whole number for one half or more of a whole pump, and downward if it is less than one half of a whole pump.

....

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#7	Page 71, Exhibit E
	Reason for Amendment: [Zoning] Add definition for Gasoline Pump- Art.1.1.2.G.5

....

5. Gasoline Pump – For the purposes of Art.4.B, a mechanism that draws gasoline from underground storage tanks. A gasoline pump may have multiple dispensers and may be installed within a fueling island adjacent to queuing spaces.

#8	Page 71, Exhibit E
	Reason for Amendment: [Zoning] Revise text to replace the word higher level to more restrictive, e.g. from a DRO review/approval to a Public Hearing review/approval.

....

~~3233.~~ **Non-Conforming Use, Minor** - a minor nonconforming use is a use that was legally established in a zoning district ~~whor the use is now prohibited by the terms of this code under a prior code.~~ The ~~review and approval processes of the~~ use has been changed to a higher more restrictive level review and approval process 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.

#9	Page 71, Exhibit E-
	Reason for Amendment: [Zoning] Add new text to Art.4.B.18, Auto Service station and Art.4.B.37, Convenience Store with Gas Sales since this requirement is specific to a use with sales of gasoline.

....

**18. Auto Service Station**  
An establishment primarily engaged in the retail sale of gasoline or motor fuels. An auto service station may include accessory activities such as the sale of vehicle accessories or supplies, the lubrication of motor vehicles, the minor adjustment or minor repair of motor vehicles, the sale of convenience food items, or an accessory restaurant.

....

g. Nonconformities  
For an automotive service station with gasoline 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.

....

**37. Convenience Store with Gas Sales**  
A convenience store which includes accessory gasoline retail sales to the general public.

....

g. Nonconformities  
For a convenience store with gasoline 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.

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November 10, 2009

**Department of Planning,  
Zoning & Building**

2300 North Jog Road  
West Palm Beach, FL 33411-2741  
(561) 233-5000

Planning Division 233-5300  
Zoning Division 233-5200  
Building Division 233-5100  
Code Enforcement 233-5500  
Contractors Certification 233-5525  
Administration Office 233-5005  
Executive Office 233-5228  
[www.pbcgov.com/pzb](http://www.pbcgov.com/pzb)



**Palm Beach County  
Board of County  
Commissioners**

Jeff Koons, Chairman  
Burt Aaronson, Vice Chairman

Karen T. Marcus

Shelley Vana

Steven L. Abrams

Jess R. Santamaria

Priscilla A. Taylor

**County Administrator**

Robert Weisman



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Mr. Wesley Blackman, AICP, Chairman  
and Members of the Land Development Regulation Advisory Board (LDRAB)  
241 Columbia Drive  
Lake Worth, FL 33460

**RE: November 18, 2009 LDRAB/LDRC Meeting**

Dear Mr. Blackman:

Attached please find the agenda and supporting materials to assist you in preparing for the LDRAB/LDRC meeting on Wednesday, November 18, 2009.

The meeting will commence one hour early at **1:00 p.m.** in the Vista Center 1<sup>st</sup> Floor Conference Room (VC-1W-47), located at 2300 North Jog Road, West Palm Beach, Florida.

If you should have any questions or require additional information, please contact me at (561) 233-5232 or via email at [BCPinkst@pbcgov.org](mailto:BCPinkst@pbcgov.org) or William Cross, Principal Site Planner at [WCross@pbcgov.org](mailto:WCross@pbcgov.org).

Sincerely,

Barbara Pinkston-Nau  
Principal Site Planner, Zoning Division

Attachments: November 18, 2009 LDRAB/LDRC Agenda and Supporting Materials

c: Verdenia C. Baker, Deputy County Administrator  
Barbara Alterman, Esq., Executive Director, PZB  
Lenny Berger, Assistant County Attorney  
Jon MacGillis, ASLA, Zoning Director  
Maryann Kwok, Chief Planner, Zoning  
William Cross, Principal Site Planner, Zoning  
Isaac Hoyos, Principal Planner, Planning  
John Rupertus, Senior Planner, Planning

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# PALM BEACH COUNTY

## LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

**NOVEMBER 18, 2009**

### BOARD MEMBERS

**Wes Blackman, AICP, Chair** (PBC Planning Congress)

**David Carpenter, RLA, Vice Chair** (District 2)

**Raymond Puzzitiello** (Gold Coast Build. Assoc.)

**Joanne Davis** (District 1)

**Joni Brinkman** (League of Cities)

**Barbara Katz** (District 3)

**Ron Last, P.E.** (Florida Engineering Society)

**Jim Knight** (District 4)

**Jose F. Jaramillo** (A.I.A.)

**Lori Vinikoor** (District 5)

**Rosa Durando** (Environmental Organization)

**Mike Zimmerman** (District 6)

**Michael Cantwell** (PBC Board of Realtors)

**Martin Klein, Esq.** (District 7)

**(Vacant)** (Fl. Soc. of Prof. Surveyors)

**Brian Waxman, Esq.** (Member at Large/Alternate)

**Maurice Jacobson** (Condominium Association)

**Frank Palen, Esq.** (Member at Large/Alternate)

**Steven Dewhurst** (Association Gen. Cont. of America)

### Board of County Commissioners

**John F. Koons**  
Chairman, District 2

**Burt Aaronson**  
Vice Chair, District 5

**Karen T. Marcus**  
Commissioner, District 1

**Shelley Vana**  
Commissioner, District 3

**Steven L. Abrams**  
Commissioner, District 4

**Jess R. Santamaria**  
Commissioner, District 6

**Priscilla A. Taylor**  
Commissioner, District 7

**Robert Weisman**  
County Administrator



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2300 North Jog Road, West Palm Beach, Florida 33411 (561) 233-5200



**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)  
LAND DEVELOPMENT REGULATION COMMISSION (LDRC)  
Wednesday, November 18, 2009 AGENDA  
2300 North Jog Road  
1<sup>st</sup> Floor Conference Room (VC-1W-47), 1:00 p.m.**

**A. Call to Order/Convene as LDRAB**

1. Roll Call
2. Additions, Substitutions and Deletions
3. Motion to Adopt Agenda
4. Adoption of October 28, 2009 Minutes (Exhibit A)

**B. ULDC Amendments**

1. Exhibit B Article 5 – Supplementary Standards
2. Exhibit C Flex Space
3. Exhibit D Infill Redevelopment Overlay (IRO)
4. Exhibit E Prior Approvals and Non-conformities

**C. Convene as LDRC**

1. Proof of Publication
2. Consistency Determinations: See Exhibits listed above B.1 thru B.4.

**D. Reconvene as LDRAB**

**E. Public Comments**

**F. Staff Comments**

**G. Adjourn**

**EXHIBIT A**

**PALM BEACH COUNTY**

**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)  
LAND DEVELOPMENT REGULATION COMMISSION (LDRC)**

**Minutes of October 28, 2009 Meeting**

On Wednesday, October 28, 2009 at 1:00 p.m. the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the First Floor Conference Room (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida.

**A. Call to Order/Convene as LDRAB.**

**1. Roll Call**

Vice Chair David Carpenter called the meeting to order at 1:00 p.m. Ann DeVeaux, Code Revision Site Planner I, called the roll.

**Members Present:**

David Carpenter (District 2)  
Joni Brinkman (League of Cities)  
Ron Last (FL Eng. Society)  
Jose Jaramillo (A.I.A.)  
Michael Cantwell (PBC Board of Realtors)  
Maurice Jacobson (Condominium Assoc.)  
Steven Dewhurst (Assoc. Gen. Cont. of Amer)  
Joanne Davis (District 1)  
Jim Knight (District 4)  
Lori Vinikoor (District 5)  
Martin Klein (District 7)  
Frank Palen (Mem. At Large, Alternate)

Members Present – 12

**Members Absent:**

Wesley Blackman (PBC Planning Congress)  
Raymond Puzzitiello (Gold Coast Build.Assoc)  
Rosa Durando (Environmental Org.)  
Barbara Katz (District 3)  
Mike Zimmerman (District 6)  
Brian Waxman (Mem. At Large, Alternate)

Members Absent – 6  
Vacant - 1

**County Staff Present:**

Jon MacGillis, ALSA, Director  
Robert Banks, Assistant County Attorney  
Barbara Pinkston-Nau, Principal Site Planner, Zoning  
William Cross, Principal Site Planner, Zoning  
Monica Cantor, Site Planner II, Zoning  
Ann DeVeaux, Site Planner I, Zoning  
John Rupertus, Senior Planner, Planning  
Patrick Rutter, Principal Planner, Planning  
Michael Howe, Senior Planner, Planning

**2. Additions, Substitutions, and Deletions**

Staff presented an add/delete sheet with changes to page 3 of the Agenda. Item D.2, Exhibit E SR-7 EDO was withdrawn; item E-2 was amended to read D.1 and D.3 thru D-9 and pages 13, 23 and 47 was amended to correct the word "shall" that was inadvertently stricken.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (10 - 0)

**3. Motion to Adopt Agenda**

Motion to adopt, as amended by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (10 - 0).

**4. Adoption of September 23, 2009 Minutes (Exhibit A)**

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (10 - 0). It is noted that two LDRAB members arrived after the vote was taken on items 2, 3 and 4.

**B. ULDC Amendments**

**1. Exhibit B-1: LCC: Questions Raised by Board Members/Response by Staff**

Monica Cantor presented a summary list which detailed staff responses to LCC questions raised by Board Members at the September 23, 2009 LDRAB meeting.

**2. Exhibit B-2: Summary of Amendments: Lifestyle Commercial Center (LCC)**

William Cross and Monica Cantor gave a summary of the LCC amendments. The amendment includes a LCC restriction for retail, general and also clarifies that discount retail centers are part of the definition for "Big Box" in the Comp Plan. Joni Brinkman questioned whether there was a definition for "discount retail center." David Carpenter questioned why there was a definition for retail store and discount retail store. Mr. MacGillis clarified that Target and Walmart stores would be allowed in the LCC but would be limited to 65,000 square feet. Isaac Hoyos explained that the direction from the BCC was clear and no Big Box stores should be allowed in the Lifestyle

## EXHIBIT A

Commercial Centers. He stated that a Big Box in the Comp Plan is different from a Large Scale Development. Mr. Hoyos further stated that Big Boxes should be restricted in the Unified Land Development Code (ULDC) to be consistent with the Comp Plan. Staff requested items B and C be reordered to the end of the agenda to allow staff additional time to review the definition for Big Box.

### C. Convene as LDRC - Reordered

This item was reordered on the agenda and combined with item E – Reconvene as LDRC.

### D. Reconvene as LDRAB – ULDC Amendments (continued)

#### 1. Exhibit D: TDR Moratorium

Bob Banks stated that the Board of County Commissioners (BCC) directed Staff at the September 29, 2009, BCC Hearing to amend the Transfer of Development Rights (TDRs) – Special Density Programs to impose a moratorium on the use of TDR provisions in the ULDC. The moratorium would allow time to develop a new pricing structure and amend the Comp Plan. He stated that presently, the Comp Plan requires 50 percent of the TDRs to be workforce housing and be essentially free. The moratorium will be effective when the amendment is adopted and will remain in effect for one year of the effective date of the Comprehensive Plan amendments.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed (11 - 1).

#### 2. Exhibit E: SR-7 Economic Development Overlay (SR-7 EDO)

This exhibit was withdrawn.

#### 3. Exhibit F: Workforce Housing Program (WHP)

William Cross stated that the planning staff has taken the lead in working with industry to develop WHP amendments to address issues related to the economy. A power point presentation by Michael Howe summarized the proposed WHP amendment. Included in the proposed amendment are three options by which a project can meet requirements to provide workforce housing: no incentives where all units are sold in the WHP price ranges; limited incentive where all incentives are available but the bonuses cannot exceed half of their maximum potential; and the existing program using full benefits. He further summarized that the tier applicability is modified to remove exurban and rural tier designations for the workforce housing program. The amendment also includes new standards for WHP on site and offsite and rental unit payment and timing provisions for in-lieu payment. The proposed amendment stipulates a seven year nonrecurring restriction of the sale of units. Discussion ensued regarding the need to have the program since approximately 58 percent of the homes in Palm Beach County appear to fall into the price range category of workforce housing. Patrick Rutter explained that the workforce housing program is written not only to address current economic conditions, but the future as the economy adjusts and home pricing stabilizes.

Motion to adopt, by Martin Klein, seconded by Joni Brinkman. The motion passed (8 - 4).

David Carpenter asked for comments from industry representatives.

Chris Roog of Gold Coast Builders Association stated that the WHP proposed amendment is the best product that could be achieved based on direction from the BCC and staff. He also stated that the industry could abide by the regulations.

Kevin Ratterree of GL Homes stated that industry worked very hard with the Planning Staff over a nine-month period and the existing WHP program does not and can not work when the market is in a downward turn. He stated that the proposed amendment is the most comprehensive workforce housing amendment in the State of Florida and it is an achievable program.

Skeet Jernigan of Community and Economic Development Council related that the proposed workforce housing amendment would allow the WHP to work in a fluctuating market. He further stated that the amendment would require adjustment in two to three years to reflect the realism of the changing market.

#### 4. Exhibit G: Article 1 – General Provisions

The proposed amendment adds the word “conveyed” to line 11 for the purposes of obtaining right of ways.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

#### 5. Exhibit H: Article 2 – Development Review Process

William Cross stated that the amendment clarifies that plats follow land development codes. He also pointed out a glitch that is being corrected on line 56 which states that phasing will be in accordance with monitoring instead of DRO.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

#### 6. Exhibit I: Article 3 – Overlays and Zoning Districts

## EXHIBIT A

William Cross stated that the amendment allows a Mixed Use Planned Development with residential to be located in HR-12 and HR-18 Future Land Use designations. Mr. Cross noted that in part 2, the amendment deletes uses currently allowed in a CLO/MUPD but is prohibited by the Future Land Use Element of the Plan.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

### 7. Exhibit J: Article 4 – Use Regulations

William Cross stated that the amendment deletes uses not allowed in CLO zoning districts in the Standard Use Matrix. The amendment also clarifies that fitness centers are permitted by right if less than 15,000 square feet. The prohibition on sod sales for retail nurseries is also deleted.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

### 8. Exhibit K: Article 6 – Parking

Barbara P. Nau stated that the amendment allows 20 percent of the required queuing spaces to count toward the minimum parking requirements. The amendment applies to uses with a minimum of 25 parking spaces.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

### 9. Exhibit L: Renewable Energy (Wind)

Barbara P. Nau stated that the amendment was seen by the LDRAB at the July 22, 2009 meeting. Staff was directed to reconvene the subcommittee and revise the amendment to address concerns expressed at that meeting. A definition for wind turbine was added and the use was changed to a requested use approval process in the PDD and a Class A approval process in standard zoning districts. Ms. Nau also stated that requirements are added for the applicant to submit documentation to Zoning from Florida Fish and Wildlife Conservation Commission or US Fish and Wildlife Service that siting requirements for bat and bird migration patterns have been met. ERM will also review the documentation. The amendment also prohibits the use in commercial, recreation and civic pods of a PUD.

Motion to adopt, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

### 2. Exhibit C: Lifestyle Commercial Center

This item was reordered from above that would have been for review by LDRAB. William Cross stated that Staff reviewed the Big Box definition. Language is being amended to delete text in it's entirety on page 48, Exhibit C, Part 10, Lines 4-6. On page 41, Exhibit C, Part 7, Lines 34 and 35, existing language in Art. 3.E.8.C.4.e.3) is being deleted and replaced with new language which states: "Any large scale single tenant retail use (as defined by the definition of big box in the Plan), with or without accessory tenants, in a single building, shall not exceed 65,000 square feet." The retail sales, general amendment is being withdrawn. There will be no LCC language associated with general retail sales.

Motion to adopt Exhibit B-2, as amended and read into the record, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

Motion to adjourn as LDRAB and convene as LDRC, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

## E. Convene as LDRC

### 1. Proof of Publication

Motion to approve, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

### 2. Consistency Determination

Mr. Cross stated that item 2 is being amended to include Exhibit B-1, items D3 through D9 and the LCC language indicated in Exhibit C. John Rupertus confirmed that Exhibit B-1, Exhibit D3 through Exhibit D9 and Exhibit C, as amended, were consistent with the Comp Plan.

Motion to approve, by Martin Klein, seconded by Maury Jacobson. The motion passed unanimously (12- 0).

## F. Reconvene as LDRAB

## G. Public Comments

There were no public comments.

## H. Staff Comments

Mr. Cross stated that Staff made a request at the September 23, 2009 LDRAB meeting to begin the

**EXHIBIT A**

November 18, 2009 meeting at 1:00. Topics of discussion will be Nonconformities, Infill Redevelopment Overlay and Article 5.C, which involve changes that apply to multi-family buildings.

**I. Adjourn**

The Land Development Regulation Advisory Board meeting adjourned at 2:50 p.m.

Recorded tapes of all LDRAB meeting are kept on file in the Palm Beach County Zoning/Code Revision office and can be requested by contacting the Code Revision Secretary at (561) 233-5088.

Minutes drafted  
by:

Ann DeVeaux, Site Planner



Name (signature)

11-12-09

Date

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EXHIBIT B

ARTICLE 5 – ARCHITECTURAL GUIDELINES  
SUMMARY OF AMENDMENTS  
(Updated 11/04/09)

1  
2 Part 1. ULDC, Art. 5.C.1.B.1.c, [Related to general thresholds for Architectural Guidelines]  
3 (page 28 of 75, Supplement 6 [as amended by Ordinance 2009-040, page 176 of 210]),  
4 is hereby amended as follows:  
5

6 Reason for amendment: [Zoning] Amend Architectural Guidelines threshold that were modified in 2009-  
7 01 Round to be applicable to a minimum number of units and stories, rather than all multi-family buildings.

8  
9 CHAPTER C DESIGN STANDARDS

10 Section 1 Architectural Guidelines

11 B. Threshold

12 1. General

13 c. Multi-family buildings with more than 16 units or three or more stories; for Workforce  
14 Housing (WFH); Transfer Development Rights (TDR'S); and, Congregate Living Facilities  
15 (CLF's). [Ord. 2006-036] [Ord. 2009-040]  
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**Notes:**  
Underlined language indicates proposed new language.  
Language ~~crossed-out~~ indicates language proposed to be deleted.  
... (ellipses) or **[Renumber accordingly]** indicates language not amended which has been omitted to save space.  
Relocated language is shown as *italicized* with reference in parenthesis.

**EXHIBIT C**  
**FLEX SPACE**  
**SUMMARY OF AMENDMENTS**  
**(Updated 11/05/09)**

1  
2 **Part 1. ULDC, Art. 1.1.2, Definitions (page 54 of 109), is hereby amended as follows:**  
3

4 **Reason for amendment:** [BCC] The BCC directed staff to add provisions that allow flex space on  
5 commercial and industrial parcels. The provisions will provide flexibility for businesses or enterprises that  
6 require a combination of industrial, office and retail uses in the same space, while preserving industrial  
7 land uses. The definition has been developed in accordance with the Comp Plan to be adopted Jan.  
8 2010, and with input from the Flex Space Subcommittee.

9  
10 **CHAPTER I DEFINITIONS AND ACRONYMS**

11 **Section 2 Definitions**

12 **F. Terms defined herein or referenced Article shall have the following meanings:**

13 ...

14  
15  
16 30. Flex Space – A type of use that allows a flexible amount of retail, office and industrial space in  
17 one structure located on parcels with an Industrial (IND), Economic Development Center (EDC),  
18 or Commercial High (CH) Future Land Use Designation (FLU), that are directly related to the  
19 principal use.

20 ...

21  
22 [ReNUMBER accordingly]

23  
24  
25 **Part 2. ULDC, Art. 4.B.1, Uses (pages 35 - 98 of 155), is hereby amended as follows:**  
26

27 **Reason for amendment:** [BCC] The BCC directed staff to add provisions that allow flex space on  
28 commercial and industrial parcels. The identified uses will provide flexibility for businesses or enterprises  
29 that require a combination of industrial, office and retail uses in the same space, while preserving  
30 industrial land uses. The uses have been selected in accordance with the Comp Plan to be adopted Jan.  
31 2010, and with input from the Flex Space Subcommittee.

32  
33 **CHAPTER B SUPPLEMENTARY USE STANDARDS**

34 **Section 1 Uses**

35 **A. Definitions and Supplementary Standards for Specific Uses**

36 ...

37  
38  
39 **23. Butcher Shop, Wholesale**

40 An establishment engaged in the cutting, packaging and shipping of meat, such as beef,  
41 pork, poultry and fish, for general wholesale.

42 ...

43  
44  
45 **e. Flex Space**

46 This use shall be allowed as a flex space component pursuant to the applicable approval  
47 process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and  
48 pursuant to Article 5.B.1.C, Flex Space.

49  
50  
51 **26. Catering Service**

52 An establishment where food and beverages are prepared and delivered for consumption off  
53 the premises. A catering service may also provide personnel, serving equipment, and  
54 decorations.

55 ...

56  
57  
58 **e. Flex Space**

59 This use shall be allowed as a flex space component pursuant to the applicable approval  
60 process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and  
61 pursuant to Article 5.B.1.C, Flex Space.

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63 **Notes:**

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EXHIBIT C

FLEX SPACE  
SUMMARY OF AMENDMENTS  
(Updated 11/05/09)

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**35. Contractor Storage Yard**  
A lot used for the storage of construction material, equipment, or three or more commercial vehicles used by building trades and services, other than construction sites. [Ord. 2005-002]

...

**e. Flex Space**  
This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

**38. Data and Information Processing**  
The use of an establishment for business offices of an industrial nature, including corporate centers, mail processing and telemarketing centers. Such uses are not frequented by the general public.

**a. Flex Space**  
This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

**76. Laboratory, Research**  
An establishment engaged in industrial, scientific or medical research, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

...

**e. Flex Space**  
This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

**81. Manufacturing and Processing**  
An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding heavy industrial processing. Typical uses include factories, large-scale production, wholesale distribution, publishing and food processing.

...

**c. Flex Space**  
This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

**84. Medical or Dental Laboratory**  
A facility for the construction or repair of prosthetic devices or medical testing exclusively on the written work order of a licensed member of the dental or medical profession and not for the public.

...

**a. Flex Space**  
This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

**100. Printing and Copying Services**  
An establishment engaged in retail photocopy, reproduction, or blueprinting services.

...

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EXHIBIT C

FLEX SPACE
SUMMARY OF AMENDMENTS
(Updated 11/05/09)

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a. Flex Space

This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

138. Warehouse

A building used for the storage of raw materials, equipment, or products. Typical uses include moving companies, cold storage, and dead storage facilities, but excludes self-service storage facilities.

...

f. Flex Space

This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

140. Wholesaling, General

An establishment engaged in the display, maintaining inventories of goods, storage, distribution and sale of goods to other firms for resale, or the supplying of goods to various trades such as landscapers, construction contractors, institutions, industries, or professional businesses. In addition to selling, wholesale establishments sort and grade goods in large lots, break bulk and redistribute in smaller lots, delivery and refrigeration storage, but excluding vehicle sales, wholesale greenhouses or nurseries, wholesale of gas and fuel, and wholesale building supplies.

...

a. Flex Space

This use shall be allowed as a flex space component pursuant to the applicable approval process indicated in Table 3.E.1.B-PDD Use Matrix, Table 4.A.3.A-1-Use Matrix, and pursuant to Article 5.B.1.C, Flex Space.

Part 3. ULDC, Art. 5.B.1, Supplementary Standards (pages 29 of 75), is hereby amended as follows:

Reason for amendment: [BCC] The BCC directed staff to add provisions that allow flex space on commercial and industrial parcels. The supplementary regulations will provide flexibility for businesses or enterprises that require a combination of industrial, office and retail uses in the same space, while preserving industrial land uses. The regulations have been drafted in accordance with the Comp Plan to be adopted Jan. 2010, and with input from the Flex Space Subcommittee.

CHAPTER B ACCESSORY AND TEMPORARY USES

Section 1 Supplementary Regulations

C. Flex Space

Flex Space

A type of use that allows a flexible amount of retail, office and industrial space in one structure located on parcels with an Industrial (IND), Economic Development Center (EDC), or Commercial High (CH) Future Land Use Designation (FLU), that are directly related to the principal use.

1. Review Process

Applications for flex space shall be reviewed pursuant to Article 2, Development Review Process, in addition to one of the following options:

a. Option I – Uses requiring BCC approval shall be subject to the applicable review process pursuant to Art.2.B.2. Conditional Uses, Requested Uses and Development Order Amendments. The applicant shall identify the portion of the building designated for flex space on the site plan. All other uses subject to an administrative review process shall be permitted in the BCC approved building.

Notes:

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**EXHIBIT C**  
**FLEX SPACE**  
**SUMMARY OF AMENDMENTS**  
**(Updated 11/05/09)**

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2 **b. Option II** – Uses requiring DRO approval shall be subject to the review process pursuant  
3 to Art.2.D.1. Development Review Officer. The applicant shall identify the portion of the  
4 building designated for flex space on the site plan. All other uses subject to the Building  
5 Permit review process shall be permitted in the DRO approved building.

6  
7 **c. Option III** – Uses subject to the Building Permit review process may occupy a bay or the  
8 entire building as long as they comply with the applicable Supplementary Use Standards  
9 and additional ULDC requirements (parking, signage, etc.). The applicant shall identify  
10 the portion of the building designated for flex space on the site plan. The applicant has  
11 the option of applying flex space provisions to a specific bay in the building or having the  
12 entire building (single use tenant) dedicated to flex space. The applicant shall submit the  
13 Building approved site plan to the Zoning Division for informational purposes indicating  
14 the area designated as flex space and demonstrating that the overall site is in compliance  
15 with the applicable ULDC regulations.

16  
17 **2. Development Standards**

18  
19 **a. CH – FLU**

20 Flex Space located on parcels with a CH FLU shall be permitted to have the following mix  
21 of uses: a minimum of 50% industrial, not to exceed 75%; with the balance consisting of  
22 office or retail.

23  
24 **b. IND – FLU**

25 Flex Space located on parcels with an IND FLU shall be permitted to have the following  
26 mix of uses: a maximum of 30% office or retail, with the balance consisting of industrial.

27  
28 **c. Parking and Loading Requirements**

29  
30 **1) CH-FLU**

31 Parking shall be calculated at the rate of 3 spaces per 1000 square feet of floor area.

32 **2) IND-FLU**

33 Parking shall be calculated at the rate of 2.5 spaces per 1000 square feet of floor  
34 area.

35 **3) Reserve Parking or Parking Covenant**

36 **a)** Additional parking shall be reserved on site in the event that the flex space is  
37 converted back to regular commercial or industrial use, the minimum  
38 requirements based upon the proposed use as indicated in Table 6.A.1.B –  
39 Minimum Off-Street Parking and Loading Requirements, or;

40 **b)** A restrictive parking covenant informing current and future owners of the required  
41 parking requirements for the uses. If the flex space is converted at a future date  
42 the site must comply with the minimum parking requirements based upon the use  
43 as indicated in Table 6.A.1.B – Minimum Off-Street Parking and Loading  
44 Requirements prior to final DRO or Building Permit approval, whichever is  
45 applicable. In the event the onsite parking is not sufficient for the proposed use  
46 or parking spaces cannot be accommodated on the site, the owner shall be  
47 limited to uses that generate parking consistent with existing parking. The  
48 covenant shall be submitted to the Zoning Division for County Attorney review  
49 and approval at the time of final DRO or building permit application. The  
50 approved covenant shall be recorded in the Clerk of Circuit Courts of PBC, and a  
51 copy of the approved and recorded covenant shall be submitted to the Zoning  
52 Division prior to issuance of a building permit.

53  
54  
55 **d. Thresholds**

56 Proposed flex space uses shall comply with the established review thresholds pursuant  
57 to Table 4.A.3.A – Thresholds for Projects Requiring DRO Approval, and Table 4.A.3.A-3  
58 – Thresholds for Projects Requiring Board of County Commissioner Approval.

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**Notes:**

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## EXHIBIT D

### PBC ZONING DIVISION INFILL/REDEVELOPMENT OVERLAY (IRO) PROJECT SUMMARY WHITE PAPER

#### INTRODUCTION

The Infill and Redevelopment Overlay (IRO) Project seeks to establish Unified Land Development Code (ULDC) Regulations and related processes to encourage and facilitate predictable and sustainable redevelopment in the commercial corridors of the Urban/Suburban Tier. The primary focus is to develop solutions to impediments to redevelopment of non-conformities, and establish a long-term strategic vision that will serve as a blueprint for creating pedestrian-oriented, mixed use and sustainable development to better serve the needs of residents. The preferred method for attaining this is to utilize form based coding principles that assign preference to the built environment rather than by more traditional Euclidean separation of uses. Underlying objectives are to consolidate existing regulations, and to simplify and streamline Zoning processes to increase the redevelopment potential of these areas.



#### WHY IS THE IRO LIMITED TO COMMERCIAL ONLY?

A Residential Analysis and Summary determined that prior infill/redevelopment initiatives, a need to respect existing residential development patterns, and limited changes in residential industry building trends, among other factors, did not justify a substantial change to existing residential infill/redevelopment provisions. If additional industry trends, new Plan policies, or other similar factors change at a later date, it is anticipated that the issue will be revisited. Note that the IR-O does greatly expand other residential development opportunities by broadening the use of horizontal or vertical mixed use development alternatives on smaller infill parcels, along with an expansion of work/live units.

#### WHY IS THE IRO LIMITED TO THE URBAN/SUBURBAN TIER ONLY

The Rural, Exurban and Agricultural Reserve Tiers have distinct commercial guidelines that serve to regulate new development, most of which are rural by nature. The IR-O serves to link, but does not apply to the Urban Redevelopment Area or the Westgate/Belvedere Homes CRA Overlay.

#### THREE KEY GOALS

1. Mitigating impediments to redevelopment of Non-conformities (Phase 1);
2. Development of alternative redevelopment regulations (Phase 1); and,
3. Streamline and Consolidate ULDC Regulations (Phase 2).

**GOAL 1 – MITIGATING IMPEDIMENTS TO REDEVELOPMENT OF NON-CONFORMITIES:** Zoning staff have been analyzing known issues that preclude some existing projects from partially redeveloping. Such impediments oftentimes render redevelopment impossible, or require additional costs and time to obtain variances. Many of these limitations revolve around existing sites that are rendered “non-conforming” due to newer standards for building setbacks, parking limitations and landscaping requirements. Goal 1 will seek to identify the minimum allowances that may be made to allow such projects to redevelop, while seeking to upgrade overall site appearance to the maximum extent feasible.

**GOAL 2 – DEVELOPMENT OF ALTERNATIVE REDEVELOPMENT REGULATIONS:** Targets existing developments that may have room to expand, vacant/infill redevelopment, or existing development intended to be demolished to make way for completely new projects. Zoning Staff is proposing to develop an alternative “Optional” Form Based Code by seeking to establish a more pedestrian, mixed use and sustainable urban form of

development. The primary element of this concept is to establish predictability that benefits the community and investment in much needed redevelopment. Many of the intended benefits of this option are highlighted under the section titled “Local and National Precedents.”

**GOAL 3 – STREAMLINE AND CONSOLIDATE ULDC REGULATIONS:** In many instances, different consultants or staff developed various plans and regulations currently in the ULDC. As a result, while most of the regulations have many similar goals and objectives, the regulations and text are often dramatically different. Improvements in consolidating such requirements coupled with improving legibility will result in a far more user-friendly code for staff, the public and land development professionals.

## PURPOSE AND INTENT

1. Establish optional development regulations to facilitate revitalization of commercially designated lands in the Urban/Suburban Tier, by incrementally retrofitting commercial corridors and isolated land uses with sustainable development that creates a sense of place, improves streetscapes and successfully integrates into the surrounding community;
2. Offer property development incentives that will encourage developers, property or business owners to utilize the IRO (e.g. reduced setbacks and parking ratios, increased FAR, and flexible landscaping regulations to maximize the efficient use of property);
3. Implement the Goals, Objectives and Policies of the Comprehensive Plan that mandate sustainable, walkable urban/suburban redevelopment;
4. Utilize Smart Growth and Form Based Coding principles to establish standards that create a predictable built form that improves the streetscape and establishes an enhanced pedestrian realm;
5. Advocate walking, cycling and mass transit as viable alternatives to automobile use;
6. Promote interconnectivity between uses;
7. Promote sustainability by integrating the social, economic and ecological needs of the community with overall regional, state and national policy advocating management of resources for future generations;
8. Mitigate adverse impacts of commercial development to surrounding residential uses and the community as a whole;
9. Promote non-residential and residential mixed use;
10. Respect market realities, industry trends, and property rights;
11. Address multi-disciplinary regulatory and development review processes; and,
12. Establish expedited review process.

## STRATEGIES FOR REDEVELOPMENT

The foundation of the IRO shall be based on Form Based Coding principles that establish zoning regulations that result in predictable development patterns that benefit property owners and developers while mitigating the potential for adverse impacts to surrounding residents and neighborhoods. The results of which are intended to create an equally predictable urban form and public realm that is visually pleasing, sustainable, desirable, and establishes a sense of place for surrounding neighborhoods and the public in general.

1. **PRELIMINARY MASTER PLAN:** Applies the concept of the Transect to establish a pattern of development to allow for function and intensity appropriate to specific locations. In the case of the IRO, the Transect can be summarized as a transition between more intense developments placed along commercial corridors, and where feasible – newly created internal streets, gradually tapering down to smaller, less intense commercial, mixed use or even residential uses, thus establishing a natural buffer that creates a more appropriate interaction with existing neighborhoods.
2. **BUILDING PLACEMENT:** Utilize build to lines to place buildings closer to streets, creating spatial definition for streets that improve the overall visual appearance of existing commercial corridors.
3. **ARCHITECTURE:** Establish minimal architectural development standards that regulate building height, massing, scale, fenestration, placement of windows and doors to maximize visual interest and pedestrian accessibility. While a consistent or unified architectural style is generally desirable, regulations shall be flexible so as to allow for the establishment of development patterns that create unique and desirable sense of place.
4. **IMPROVE INTERCONNECTIVITY AND CREATE BLOCKS:** Establish minimum block and street standards that promote walkable communities while reducing vehicle cuts and other impediments to County transportation corridors. This entails establishing minimum block dimensions, promoting all forms of inter-connectivity, and for fragmented corridors, adopting a parallel alley system that mitigates existing redundant use of land area to accommodate deliveries, sanitation, and all other forms of vehicular traffic.
5. **IMPROVE STREETSCAPES AND THE PEDESTRIAN REALM (SIDEWALKS, PLAZAS, SQUARES, GREENS, AND OTHER PUBLIC AREAS):** Improve the “space” between buildings and street rights-of-way by redefining areas to accommodate expanded sidewalk, street tree planting, parking and underground utilities. The elimination of traditional oversized landscape buffers, and establishing building frontage with parking on the side or at the rear in an IR-O project

will help to diminish the spatial separation between buildings and sidewalks, and provide more opportunity for usable open space.

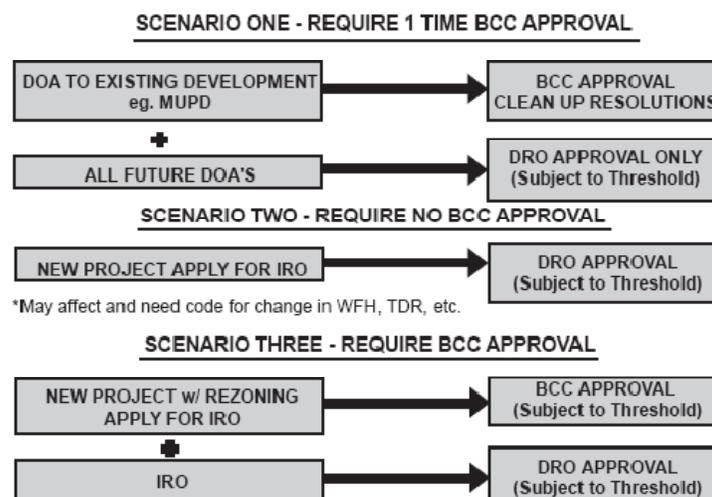
6. **ENCOURAGE GREEN BUILDING:** Provide development incentives to encourage the use of green building and site planning principles that promote energy efficient and reduce environmental impacts.
7. **PARKING:** Adjust parking aisle/stall dimensions to provide for different sizes and types of vehicles. Emphasize and enhance existing shared parking options. Allow for substantial reductions in parking ratios to better accommodate mixed use or more sustainable forms of development. Locate parking to the rear of buildings to minimize adverse impacts to pedestrian and bicycle areas, while improving the overall framing of the street.
8. **LANDSCAPING:** Increase innovative soft/hard landscaping alternatives such as: a) placement of trees in parking areas, building foundations and sidewalks by allowing tree planting in "grates" (i.e. tree cells with treated/prepared subsoil for healthy root growth) b) paving materials that are porous and/or with a low solar reflectance index to reduce heat island effect (i.e. thermal gradient differences between developed and undeveloped areas). Allow for the elimination or minimization of shrubs as part of the landscape requirements due to the building placement design concept (refer to #1.) this allows the implementation of good CPTED practices.
9. **USES AND EXPEDITE THE DEVELOPMENT APPROVAL PROCESS:** By establishing predictable development patterns, less oversight and regulation is required in the review process. Amend the existing review/approval processes and provide predictable administrative process options for projects that meet and incorporate the IR-O vision and development regulations.
10. **MITIGATING ADVERSE IMPACTS:** As noted above, the Floating Regulating Plan will apply the IR-O transect, allowing for more intense development where sufficient parcel depth is available to integrate more intense uses with the existing community. This concept serves to naturally attenuate potential adverse impacts while simultaneously fostering improved interaction with abutting neighborhoods. Additionally, in nearly all instances, a requirement for a 10-foot wide buffer and an 8-foot high concrete panel wall will further mitigate any potential for adverse impacts to abutting residential uses.
11. **NON-CONFORMITIES:** Introduce new standards to accommodate existing site non-conformities such as uses, structures and lots. These standards will address site improvements to encourage increased opportunities for maintenance and renovations so long the proposed redevelopment does not create an adverse impact to the public, safety and welfare. The standards will include adjustment of the current percentage for minor non-conformities and expansion of the definition of affected areas for a previously approved project.

## HOW IS THE IR-O PROJECT INTENDED TO WORK?

As proposed, there are generally three potential implementation options that may result with the adoption of Phase I amendments.

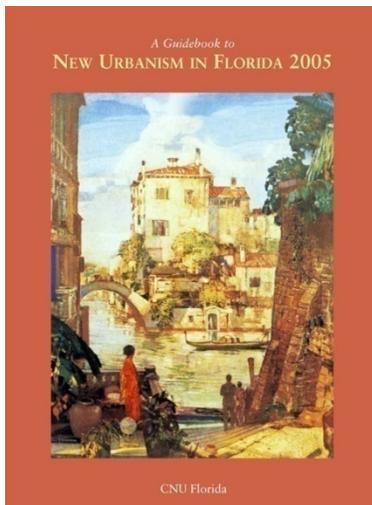
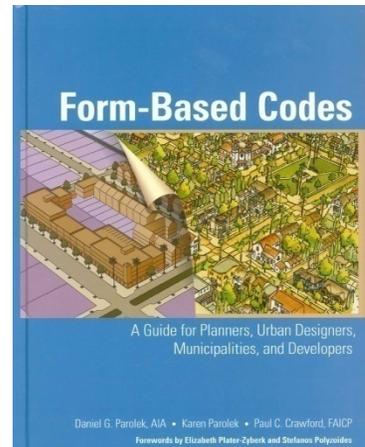
- Option 1     Infill or redevelopment using existing ULDC development standards and use regulations.
- Option 2:    Redevelopment using amended provisions for non-conformities.
- Option 3:    IR-O Form Based Sustainable Development.

To further encourage infill and redevelopment, any of the three options listed above could be used interchangeably. This would further the intent to incrementally revitalize the commercial corridors by encouraging the use of Option 3 to the maximum extent feasible.



## LOCAL AND NATIONAL PRECEDENTS

Form Based Codes regulate development to achieve a specific physical form, and where associated with redevelopment - oftentimes emphasize needed improvements to the public realm, building and parking placement, increasing sustainability by reducing sprawl and other negative growth trends, while streamlining development approval processes, among many other positive factors. These codes are becoming more and more prevalent, with public, industry and governmental support as evidenced by market trends in new development, industry support from entities such as the Urban Land Institute, and by either new social experiments such as green building tax credit incentives to local governments taking the initiative to demand sustainable development.



As evidenced in the Florida Congress for the New Urbanism publication of “A Guidebook to New Urbanism in Florida 2005”, there have been many such projects completed, with hundreds in the pipeline, all enabled by the establishment of Form Based Codes or similar infill/redevelopment plans. It is also important to note that South Florida is the home of several high profile and successful planning firms whose primary focus includes the practice of developing Form Based Codes or sustainable developments, such as the firms of Duany Plater-Zyberk and Company, the Renaissance Group, and Dover, Kohl and Partners, among many others. Worth noting, for years the Treasure Coast Regional Planning Council (TCRPC) has promoted and marketed sustainable development, as outlined in the TCRPC Strategic Regional Policy Plan. Lastly, as evidenced by prior Form Based

Code efforts and existing Plan policies, Palm Beach County government has sought to accommodate these new trends.

The establishment of an infill/redevelopment Form Based Code is not a radical new concept, with numerous examples having been adopted and implemented nationally, including dozens within the State of Florida. As an ever increasing number of local governments are turning to Form Based Codes to better manage new growth or encourage redevelopment, Zoning staff was able to identify or review hundreds of local or national examples, as well as multiple resources.

## INFILL/REDEVELOPMENT TASK FORCE (IRTF) AND IR SUBCOMMITTEE

A kick-off meeting for the IR-O project was organized in February 2008, and an Infill Redevelopment Task Force (IRTF) was created as a subcommittee of the LDRAB, consisting of LDRAB members, various land development related industries and interested parties, as follows:

Wendy Tuma – Chair (Landscape Architect)  
Joni Brinkman – Vice Chair (LDRAB/League of Cities)  
Joanne Davis – LDRAB/BCC Dist. 1  
David Carpenter – LDRAB/BCC Dist. 2  
Barbara Katz – LDRAB/BCC Dist. 3  
Jim Knight – LDRAB/BCC Dist. 4  
Ray Puzzitiello – LDRAB/GCBA  
Ron Last – LDRAB/FES  
Jose' Jaramillo – LDRAB/AIA  
Steven Dewhurst – LDRAB/AGCA  
Wes Blackman – LDRAB/PBC Plan Cong.  
Edward Wronsky – AIA  
Jeff Brophy – ASLA  
Rick Gonzalez – Architect  
Bradley Miller – Planner  
Katharine Murray – LUAB  
Ken Tuma – Engineer  
Chris Roog – Gold Coast Builders Assoc.  
Nancy Lodise – Interested Citizen

The Task Force was later renamed to the IR Subcommittee, and assists by providing staff local examples of infill and redevelopment projects; identifying the impediments associated with their experience in these projects, and recommended solutions and policies for incorporation into the IR-O code. Several meetings were held to discuss different topics ranging from visioning of the IRO, predictable review/approval process; street cross sections; drainage; traffic; blocks; building types and building placements, among others. Meetings concluded on October 14, 2009, with a recommendation of approval to move the proposed amendments forward to the full LDRAB.

## **TREASURE COAST REGIONAL PLANNING COUNCIL (TCRPC)**

Through an Interlocal Agreement that was signed on July 22, 2007 between the TCRPC and PBC. The Zoning Division requested TCRPC to provide technical assistance in drafting amendments to address the need for infill and redevelopment in the commercial corridors. TCRPC's tasks includes the following: assist staff in presenting research/data on key issues to facilitate meeting discussions and respond to questions, provide a Benefit/Burden Analysis, which is a qualitative assessment exploring the 'value' added to the development community by utilizing the IRO option. TCRPC staff was tasked with reviewing ten Form Based Codes, with goals of identifying core elements that would best contribute to addressing known impediments identified by the IR-O Project. In selecting these codes, emphasis was placed on reviewing prior PBC examples, others in close proximity with similar impediments, as well as other well known national examples that have similar impediments, scope or scale.

1. Downtown Master Plan West Palm Beach (DPZ) – West Palm Beach, Florida
2. Model Form Based Code for Pre-platted Corridors (Becker Road) – Port St. Lucie, Florida
3. Towns, Villages and Countryside – St. Lucie County, Florida
4. Miami 21 – Miami, Florida
5. Sarasota Planned Mixed Use Infill District – Sarasota, Florida
6. Traditional Development Districts (TDD) – Palm Beach County, Florida
7. Traditional Marketplace Development (TMD) – Palm Beach County, Florida
8. Westgate Belvedere Homes CRA Overlay (WCRA-O) – Florida
9. Santa Ana Renaissance Specific Code – Santa Ana, California
10. Columbia Pike Special Revitalization District Form Based Code Analysis – Arlington County, Virginia

The TCRPC will further assist facilitate LDRAB meeting discussions; discuss and respond to questions on draft/final code language in LDRAB meetings; assist staff in presenting new Code to ZC/BCC and provide expert witness testimony to substantiate any information or documentation of the IR-O code.

## **IMPEDIMENTS**

The following is a summary list of several commonly known impediments to redeveloping Palm Beach County's commercial corridors:

1. Concurrency: Adequate potable water, sanitary sewer, solid waste, drainage, public schools, parks, road and mass transit facilities, and fire rescue are all required to be in place to support new development. Drainage and traffic are frequently difficult to obtain or resolve:
2. Existing built environment: Most existing developments are automobile oriented, with parking lots separating streets and sidewalks from buildings, parcels are isolated with little or no pedestrian or vehicular inter-connectivity, streetscapes and building forms are inconsistent, and there is rarely a functional pedestrian realm with exception to required sidewalk connections.
3. Lack of pedestrian and vehicular interconnectivity: While most developments provide both a connection to the street and its related pedestrian network, this increases the distance pedestrians or cyclists have to travel to get to each adjacent business, and further contributes to poor traffic performance by putting more and more trips onto roadways.
4. Lack of local uses: Being automobile oriented, many commercial projects fail to provide for local neighborhood or community shopping needs. While this is advantageous in an easily mobile society, as more options can be provided where business owners can minimize development expenses, the overall cost to society is adverse in situations where energy costs are excessive.
5. Predictable development approval processes: While the ULDC establishes minimum standards for development, oftentimes additional review and approval processes are required to ensure that new development does not adversely impact the health, safety and welfare of the community. This leads to uncertainty as to whether or not a project can be approved, or if there will be additional unforeseen costs tied to an approval.

6. No mixed use: Historical Euclidean Planning standards result in a distinct separation between uses, and have been institutionalized in the County's Zoning Codes for over 50 years.
7. Landscaping: While highly desirable for aesthetic purposes, and where used to separate incompatible land uses – the development of automobile oriented developments has required excessive R-O-W landscaping to buffer unsightly parking lots, and the use of perimeter buffers has been used to buffer compatible uses. In many instances, these misplaced requirements oftentimes not only increase the cost of development, but in some instances – unnecessarily restrict the amount or location of land available to support development.
8. Parking: As outlined in the book "The High Cost of Parking" – the subsidization of automobile oriented use is extremely expensive, all the more so where land prices are high or where parking facilities are required, the cost of concrete and other materials are also costly. Current ULDC parking standards are oftentimes justifiable as a result of current isolated development patterns, as evidenced by many businesses choosing to incorporate the maximum number of spaces permitted.
9. Architectural requirements: As noted above, the current standard of placing buildings away from the street and behind a sea of parking increases the need to improve the aesthetic appearance of buildings due to their lack of functional integration.
10. Mass transit functionality: Where buildings and uses are placed away from the street network, mass transit stops create an isolated pedestrian environment that requires a duplication of shelters and benches that may already be provided along building frontages.
11. Open Space: Existing commercial projects provide little if any relevant functional open space.
12. Signage: Buildings placed away from the street require multiple or duplicate signs to help guide customers to a business, including freestanding signs, wall signs and directional signs.
13. Non-conformities: Note that non-conformities are generally categorized by use, building standards, or parcel standards. While oftentimes non-conforming uses are deemed such due to undesirable or incompatible characteristics, non-conforming buildings and parcels often have little or no adverse impact on the health, safety and welfare of the community. As such, existing non-conforming building and lot limitations oftentimes stymie desirable maintenance, expansion or redevelopment activities.

It is important to note that many of the above are the result of historical industry trends, market forces, State or Federal laws, as well as historical Euclidean Planning and Zoning policies, and was not necessarily considered impediments in the not too recent past. However, new trends in land development, such as public desire for more sustainable development patterns that creates more traditional placemaking coupled with newly developing Federal, State and Regional development goals, such as green building, and other energy saving and community development objectives, current patterns are quickly being identified as unsustainable and undesirable.

## **LIMITATIONS AND DISCLAIMERS**

As currently proposed, the IR-O Project is substantially ambitious, and as such it is important to note that new infill/redevelopment options will seek to implement the main values of sustainable revitalization in the Urban/Suburban Tier, but that not all components of Smart Growth, Form Based Coding, or other needed development regulatory solutions may be attainable at this stage. This project simply seeks to establish a revised framework in anticipation of any future regulatory changes that might enable more intense infill and redevelopment. Changes that are needed to encourage a more intense infill/redevelopment program include, updates to the States Growth Management Act, updates to the Comprehensive Plan, mitigating traffic concurrency issues, large scale drainage solutions, resolution of future local government funding availability for bricks and mortar infrastructure improvements, and changes in the consumer desires for different more urbanized development and use of alternative modes of transportation, among many others.

**END**

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

1
2 Part 1. ULDC, Art. 1.I, Definitions and Acronyms (page 44 of 155), is hereby amended as
3 follows:
4

Reason for amendment: (Zoning) Add definitions and acronyms related to the Infill Redevelopment Overlay.

5 CHAPTER I DEFINITIONS & ACRONYMS

6 SECTION 2 DEFINITIONS

- 7 ....
8 B. Terms defined herein or referenced in this Article shall have the following meanings:
9 ....
10
11 52. Build-to-Line - for the purposes of Art. 3.F, an alignment established a certain distance
12 away from the curb line along which the front elevation of a building must be built for a TMD,
13 TND Neighborhood Center, LCC, WCRAO or IRO project.
14 ....
15 C. Terms defined herein or referenced in this Article shall have the following meanings:
16 ....
17 47. Commercial Corridor - For the purposes of the IRO, linear arterial or collector streets
18 located in the Urban/Suburban Tier that are predominantly lined with properties having a
19 commercial FLU designation or Zoning district.
20 [Renumber Accordingly.]
21 F. Terms defined herein or referenced in this Article shall have the following meanings:
22 ....
23 55. Form Based Code - A method of regulating the physical form of the built environment to
24 achieve a predictable urban form, public realm, and sense of place.
25 [Renumber Accordingly.]
26 L. Terms defined herein or referenced in this Article shall have the following meanings:
27 ....
28 60. Lot Frontage -
29 a. That side of the property line abutting a legally accessible street. On a corner lot, the
30 frontage may be designated by the owner, subject to the approval by the Zoning Division
31 who will determine whether it is consistent with the orientation of the other lots and
32 improvements on the same side of the accessible street. [Ord. 2006-004]
33 b. For the purposes of buildings in a TDD, or in the WCRAO or IRO projects where a build-
34 to-line is required, and vehicular access may be from the side or rear of the property, the
35 property line used to meet the build-to-line requirements shall be the lot frontage. [Ord.
36 2006-004]
37 ....
38 N. Terms defined herein or referenced in this Article shall have the following meanings:
39 ....
40 42. Non-Retail - Where a retail sales use is not the principal use, but may be permitted as an
41 accessory use.
42 [Renumber Accordingly.]
43 P. Terms defined herein or referenced in this Article shall have the following meanings:
44 ....
45 36. Perimeter Street - For the purposes of the IRO, a private or public street R-O-W abutting the
46 perimeter boundary of an eligible IRO parcel.
47 [Renumber Accordingly.]
48 S. Terms defined herein or referenced in this Article shall have the following meanings:
49 ....
50 117. Streetscape - For the purposes of the IRO, WCRAO, LCC and TDDs, the visual
51 elements of a street, adjoining buildings, street furniture, trees, pedestrian areas and open
52 spaces, that combine to form the street's character.
53 118. Street Wall - A characteristic of a streetscape resulting from the placement of
54 continuous and harmonious building facades. May also include walls of proportional or
55 sufficient height used to separate the streetscape from parking lots or other similar use areas,
56 so as to maintain visual continuity with emphasis on establishing livable pedestrian use
57 areas.
58 ....
59 133. Sustainability - The integration of social, economic and ecological needs of the
60 community with policies advocating management of resources for future generations.
61 [Renumber Accordingly.]
62 T. Terms defined herein or referenced in this Article shall have the following meanings:

Notes:
Underlined language indicates proposed new language.
Language crossed-out indicates language proposed to be deleted.
.... (ellipses) or [Renumber Accordingly.] indicates language not amended which has been omitted to save space.
Relocated language is shown as italicized with reference in [brackets].

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

....  
50. Transect Zones – For the purposes of the IRO, a distinct category of physical form ranging from the most urban to the least urban. The IRO requires the application of one or more of four transect zones: Core, General, Edge and Open Space.  
a. Transect Zone, Core – The most intense zone, typically comprised of larger interconnected buildings that create a continuous façade along one or more streetscapes. May front arterials, collectors, local commercial streets, and internal streets, but are discouraged from abutting local residential streets or other similar access-ways, and abutting residential uses unless density, intensity and built form are consistent.  
b. Transect Zone, General – A moderately intense zone, typically comprised of smaller interconnected buildings, and used as a transition between the Core Transect Zone and less intense zones or abutting uses, or for smaller parcels with size constraints. May front arterials, collectors, local commercial streets, and internal streets, and local residential streets or other similar access-ways, but are discouraged from abutting local residential streets or other similar access-ways, and abutting residential uses unless density, intensity and built form are consistent  
c. Transect Zone, Edge – A low intensity zone comprised of residential or work live uses that are compatible with or similar in scale with adjoining neighborhoods.  
d. Transect Zone, Open Space – A passive zone typically located within other transect zones, or used as a transition or buffer between abutting uses. Typical uses include passive civic, recreation or other public open spaces such as plazas and squares, or drainage areas, environmental preservation, or landscape buffers.

[Renumber Accordingly.]

SECTION 3 ABBREVIATIONS AND ACRONYMS

- ....  
ABN Development Order Abandonment
- ....  
FBC Florida Building Code or Florida Building Commission
- FBSDC Form Based Code
- ....  
SSRP Site Specific Regulating Plan (SSRP)
- ....  
TZ Transect Zones (IRO)
- ....

Part 2. ULDC, Art. 2.D.1.B, Application Types [Related to Administrative Processes and Development Review Officer] (page 25 of 53), and is hereby amended as follows:

Reason for amendment: (Zoning) Add requirement that all IRO projects obtain DRO approval.

CHAPTER D ADMINISTRATIVE PROCESS

SECTION 1 DEVELOPMENT REVIEW OFFICER

A. PURPOSE

The purpose of this Section is to establish a review process for all developments requiring approval by the DRO based upon comments and recommendations from appropriate PBC departments, PBC divisions and other local government agencies to establish standards for review, standards for approval, to set limits on the administrative authority of the DRO to modify BCC or ZC approvals, and an appeal process.

B. APPLICATION TYPES

1. The following types of development shall require approval of a master plan, site plan or subdivision plan by the DRO prior to the issuance of a building permit, commencement of any related land development activity, utilization of any use or approval granted by the BCC or ZC, or utilization of any use requiring approval by the DRO:
  - a. Conditional Use/Requested Use;
  - b. All development in a PDD or TDD;
  - c. All development within the IR Zoning district, or projects electing to utilize the provisions of the IRO;

[Renumber Accordingly.]

Notes:

Underlined language indicates proposed new language.  
Language ~~crossed-out~~ indicates language proposed to be deleted.  
.... (ellipses) or [Renumber Accordingly.] indicates language not amended which has been omitted to save space.  
Relocated language is shown as *italicized* with reference in [brackets].

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

1  
2 Part 3. ULDC, Art. 2.D.1.G, Administrative Review [Related to Administrative Processes and  
3 Development Review Officer] (page 25 of 53), and is hereby amended as follows:  
4

**Reason for amendment:** (Zoning) Expand DRO authority to amend prior BCC/ZC approvals to include IRO projects, only where there are no conflicts with conditions of approval. IRO projects that cannot comply with the provisions of the IRO, any ZC/BCC conditions of approval, or testimony given at Public Hearings, shall be required to submit an application for a DOA to remedy any conflicts.

5 CHAPTER D ADMINISTRATIVE PROCESS

6 SECTION 1 DEVELOPMENT REVIEW OFFICER

7 G. ADMINISTRATIVE REVIEW

8 The DRO may approve ~~minor~~ amendments to master plans, site plans and subdivision plans, and  
9 approve new site final plans, in accordance with the following procedures. [Ord. 2007-001] [Ord.  
10 2008-003]

11 1. AMENDMENTS TO BCC/ZC APPROVALS

12 The DRO shall have the authority to approve ~~minor~~ modifications to a development order  
13 approved by the BCC or ZC. An application for an amendment shall be submitted in  
14 accordance with Article 2.A.1, Applicability, and reviewed in accordance with the standards in  
15 Article 2.D.1.C, Review Procedures. Applications must be submitted on deadlines  
16 established on an Annual Zoning Calendar. The authority of the DRO to modify a BCC or ZC  
17 approved plan shall be limited to the following: [Ord. 2008-003]

- 18 ....
- 19 h. The modification shall not result in any substantial increase in traffic or access, as  
20 determined by PBC; ~~and~~ [Ord. 2008-003]
  - 21 i. Requested uses shall remain in the location approved by the BCC, unless a condition of  
22 approval allows relocation; ~~and, -~~ [Ord. 2008-003]
  - 23 j. Modification to an IRO Master Plan, provided that there are no conflicts with prior  
24 conditions of approval, any improvement or amenity used to garner support for a project,  
25 or testimony from Public Hearing(s).

26 ....  
27  
28

29 Part 4. ULDC, Art. 3.B, Overlays (page of ), is hereby amended to add a new Section titled,  
30 Art. 3.B.16, Infill Redevelopment Overlay (IRO), as follows:  
31

**Reason for amendment:** [Zoning] See attached White Paper.

33 CHAPTER B OVERLAYS

34 SECTION 16 INFILL REDEVELOPMENT OVERLAY (IRO)

35 A PURPOSE AND INTENT

36 The purpose and intent of the Infill Redevelopment Overlay (IRO), is as follows:  
37 1. Establish optional development regulations to facilitate revitalization of commercially  
38 designated lands in the Urban/Suburban Tier, by incrementally retrofitting commercial  
39 corridors and isolated land uses with sustainable development that creates a sense of place,  
40 improves streetscapes and successfully integrates into the surrounding community;  
41 2. Offer property development incentives that will encourage developers, property or business  
42 owners to utilize the IRO (e.g. reduced setbacks and parking ratios, increased FAR, and  
43 flexible landscaping regulations to maximize the efficient use of property);  
44 3. Implement the Goals, Objectives and Policies of the Comprehensive Plan that mandate  
45 sustainable, walkable urban/suburban redevelopment;  
46 4. Utilize Smart Growth and Form Based Coding principles to establish standards that create a  
47 predictable built form that improves the streetscape and establishes an enhanced pedestrian  
48 realm;  
49 5. Advocate walking, cycling and mass transit as viable alternatives to automobile use;  
50 6. Promote interconnectivity between uses;  
51 7. Promote sustainability by integrating the social, economic and ecological needs of the  
52 community with overall regional, state and national policy advocating management of  
53 resources for future generations;  
54 8. Mitigate adverse impacts of commercial development to surrounding residential uses and the  
55 community as a whole;  
56 9. Promote non-residential and residential mixed use;  
57 10. Respect market realities, industry trends, and property rights;

**Notes:**  
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**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS**

(Updated 11/12/09)

- 11. Address multi-disciplinary regulatory and development review processes; and,
- 12. Establish expedited review process.

**B. APPLICABILITY**

The provisions of the IRO are optional, with the stipulation that when selected all new development will be in compliance with this Section, excepting any permitted waivers. An applicant may elect to use the IRO regulations for parcels 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 [Map LU 2.1 Service Areas](#), of the Plan.

**2. OTHER OVERLAYS**

Where applicable, the IRO may be used in conjunction with the following overlays: GAO, LOSTO, NEO, PBIAO, TAPO, WCRAO-UH subarea, and URA where a parcel does not have a URA Urban Center (UC) or Urban Infill (UI) FLU designation. Where there is a conflict between the provisions of the IRO and any of the above overlays, the specific provisions of the other overlay shall prevail.

**3. FLU DESIGNATION**

Eligible parcels shall have one or any combination of the following: CL-O, CL, CH-O or CH FLU designation.

**4. ZONING DISTRICT REQUIREMENTS**

Use of the IRO shall require rezoning to the IR district, unless allowed otherwise herein. Any IRO project that requires Public Hearing approval, excluding a Development Order Abandonment (ABN), shall submit a concurrent application to rezone the subject property to the IR district.

**a. IR Rezoning Alternative**

To assist in expediting IRO projects that do not require any Public Hearing approvals, a rezoning shall not be required subject to the following:

**1) Eligible Districts**

Parcels shall have a CN, CL-O, CC, CH-O, CH or MUPD Zoning district, or combination thereof. MUPD may also include applicable prior approvals identified in Art. 3.E.3.A.2, Applicability.

**2) Intensity Limits**

Application of IRO standards shall be made based upon the lesser of either the actual FLU designation for the site, or the Zoning district equivalent as identified in the table below:

<b>TABLE 3.B.16.B – ZONING/FLU EQUIVALENT</b>				
ZONING DISTRICT(S) OF SUBJECT SITE	MAXIMUM FLU DESIGNATION			
	CL-O	CH-O	CL	CH
CL-O	✓			
CH-O		✓		
CN			✓	
CC			✓	
CG				✓
MUPD	(1)	(1)	(1)	(1)
[Ord. 2010-...]				
<b>NOTES:</b>				
1. Not applicable, apply FLU designation(s) for subject site.				
<b>EXAMPLES:</b>				
Existing Zoning	(Zoning/FLU Equivalent)	Existing FLU	Apply	Least Intense
CN	(CL)	CH	=	CL
CLO	(CLO)	CHO	=	CLO
CG	(CH)	CL	=	CL
MUPD	(N/A)	CL	=	CL

**5. CONFLICTS**

If a conflict exists, the provisions of this Section shall apply to the extent of the conflict, unless stated otherwise herein.

**C. FUTURE LAND USES AND DENSITY/INTENSITY**

Density and intensity shall be in accordance with the FLU designation and related Zoning PDRs for the subject site as described herein.

**1. SPLIT BY FLU DESIGNATIONS**

Uses permitted, PDRs, density and intensity shall be determined by the land use designation on the affected area. Density may be transferred from one portion of the site to another.

**2. DENSITY**

There are no minimum density requirements. The maximum allowable density shall be in accordance with Table 2.1-1 of the Plan and related Policies, and Art. 5.G, Density Bonus Programs.

**Notes:**

Underlined language indicates proposed new language.

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

.... (ellipses) or **[Renumber Accordingly.]** indicates language not amended which has been omitted to save space.

Relocated language is shown as *italicized* with reference in **[brackets]**.

**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS**

**(Updated 11/12/09)**

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**3. INTENSITY BONUS INCENTIVE (FAR INCREASES)**

The maximum allowable FAR for an IRO project with a CL or CH FLU designation may be increased up to 1.0 in accordance with Table 3.B.16.C, IRO FAR Increase. The maximum permissible increase is limited to those subject sites having sufficient land area to allow for establishment of the core transect zone, so as to encourage the assembly of smaller parcels.

**TABLE 3.B.16.C – IRO FAR INCREASE**

TRANSECT ZONE	MAXIMUM FAR			
	CL	CL GREEN (2)	CH	CH GREEN (2)
GENERAL	.25 (1)	.35 (1)	.50	.75
CORE	.35 (1)	.50	.75	1.0
[Ord. 2010-...]				
<b>NOTES</b>				
1. May be increased up to .50 for non-retail projects, in accordance with the Plan.				
2. Applicable when a project achieves sufficient points to be classified as Green Architecture pursuant to Art.5.C, Design Standards.				

**4. MIXED USE PROJECTS**

A mixed use project that vertically integrates at least 20 percent of allowed residential units with non-residential uses shall be allowed to utilize up to 100 percent of both a site's residential density and commercial intensity.

**D. APPLICATION REQUIREMENTS**

**1. PRE -APPLICATION CONFERENCE (PAC)**

All applications for an IR rezoning or an IRO project shall require a PAC pursuant to procedures in Art. 2.A.1.E, Pre-Application Conference.

**2. PLAN REQUIREMENTS**

Required plans shall comply with Art. 2.A.1.G.3, Plan Requirements, and the Zoning Technical Manual.

**a. Preliminary Master Plan**

The BCC shall approve a preliminary master plan for a rezoning to the IR district.

**1) Effect of BCC Approval**

BCC approval of a preliminary master plan, or any other plans submitted voluntarily by the applicant, shall be binding upon the property owners subject to the development order, their successors or assignees, and shall constitute the development regulations for the land.

**2) Additional Requirements**

The preliminary master plan shall also include the following, as applicable:

- a) Intensity or density, including any mix of uses and vertical integration for any project proposing to use Art. 3.B.16.C.4, Mixed Use Projects;
- b) Transect zones assigned to all land;
- c) Vehicular and pedestrian circulation, including location of access points and interconnectivity to adjacent parcels; perimeter streets; and the internal street network, including alleys;
- d) General building location, including any tenants 65,000 square feet or larger and pedestrian streetscape realm for all perimeter street frontages;
- e) Location of any requested uses;
- f) General location of parking, loading, and service areas; and,
- i) General location of required usable open space.

This space intentionally left blank.

**Notes:**

Underlined language indicates proposed new language.

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

.... (ellipses) or **[Renumber Accordingly.]** indicates language not amended which has been omitted to save space.

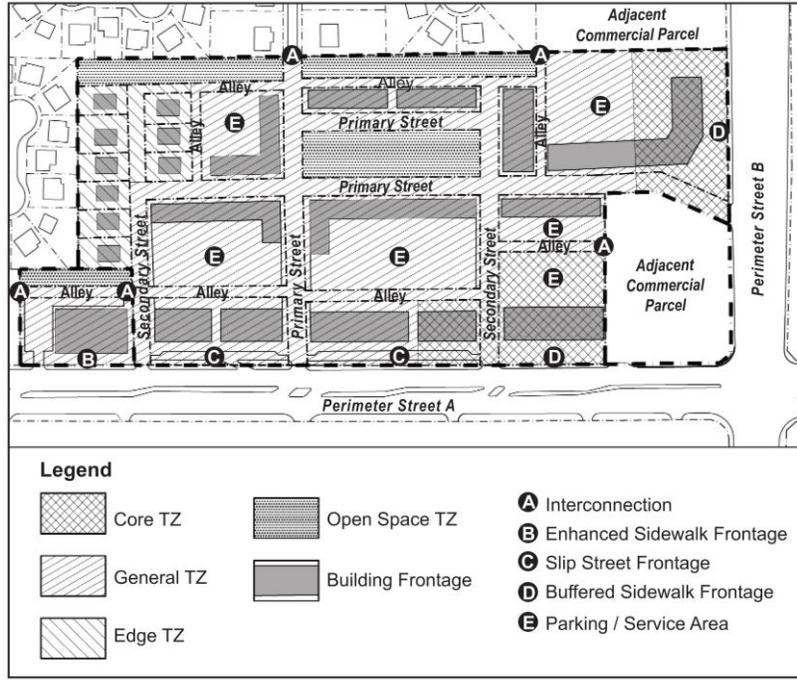
Relocated language is shown as *italicized* with reference in **[brackets]**.

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

1

FIGURE 3.F.16.D – TYPICAL EXAMPLE OF IRO PRELIMINARY MASTER PLAN



[ORD. 2010-...]

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b. Other Plans

1) Regulating Plan

The DRO shall approve a regulating plan or alternative design standards.

2) Master Sign Plan

Shall not be required for BCC approval if no freestanding signs are proposed, excluding directional signage.

3) Architectural Elevations

Shall be in accordance with Art. 5.C, Design Standards.

c. Final Plans

Shall include the additional requirements listed above under the preliminary master plan, as applicable.

1) Final Site Plan or Subdivision Plan

The DRO shall approve a final site plan or final subdivision plan(s) for all land areas located within an IRO project.

5. ZONING DIRECTOR WAIVERS

An applicant may apply for a waiver from as specified in Table 3.B.16.F, IRO Waivers.

a. Standards

An application for a waiver shall be submitted in a form specified by the Zoning Director. When considering whether to approve, approve with conditions, or deny a waiver request, the Zoning Director shall consider the following standards:

- 1) The waiver does not create additional conflicts with this Section of the ULDC, and is consistent with the stated purpose and intent and standards for the IRO;
- 2) The waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and,
- 3) The alternative design option recommended as part of the waiver approval, if granted, will not adversely impact users of the IRO project or adjacent properties.

b. Appeal

An appeal on any Zoning Director's decision shall be made to the Zoning Commission pursuant to Art. 2.A.1.S.1, Non-Judicial Relief, in an application form specified by the Zoning Director.

E. GENERAL DESIGN STANDARDS

An IRO project shall be designed in a manner that establishes an enhanced pedestrian environment by providing a functional interface with perimeter streets and abutting uses. This is accomplished by regulating the following: site layout; interconnectivity; location of intensity and density; building and parking placement; building form; and provision of an enhanced streetscape and usable pedestrian amenities.

1. STREETS, ACCESS AND INTERCONNECTIVITY

The IRO is primarily intended to accommodate smaller parcels fronting commercial corridors, and establishes perimeter frontage standards for building setbacks and streetscape

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

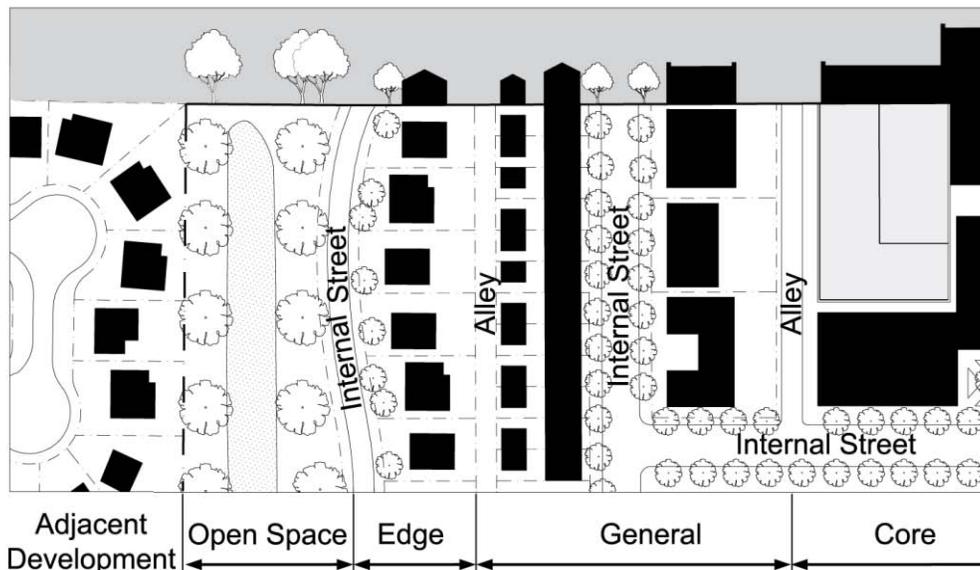
(Updated 11/12/09)

improvements based upon the size or intensity of such streets. Larger IRO projects shall be designed to create block configurations composed of primary and secondary streets, and alleys. Access from perimeter streets shall be limited to primary streets where feasible, and rear alley access, with exception to smaller parcels which may use access ways to comply with rear alley requirements. IRO projects shall provide for the establishment of an alley system that connects to abutting commercial parcels, providing for an alternative slow speed vehicular access system running parallel to commercial corridors. Additional connectivity shall be required where larger parcels establish new intersections from internal streets and alleys.

2. TRANSECT ZONES (TZ)

Transect Zones are distinct categories that define and organize density and intensity ranging from the most urban to the least urban. The IRO requires the application of one or more of the following four transect zones to all land within an IRO project: Core, General, Edge and Open Space. The primary intent is to facilitate the development of urban forms while providing for gradual transitions in building scale and use intensity, rather than rigid distinctions. The following describes the four TZ types:

TABLE 3.F.16.E – GENERALIZATION OF IRO TRANSECT ZONES



[ORD. 2010-...]

a. Core

The most intense TZ typically comprised of larger interconnected commercial or mixed use buildings that create a continuous street wall along one or more streetscapes. Using the Core TZ may also require the use of the General or Edge TZ if the parcel is adjacent to residential uses or parcels with a residential FLU designation, so as to provide a compatible transition.

b. General

A moderately intense TZ comprised of a wide range of building types including smaller interconnected commercial, mixed use, and multi-family buildings. The General TZ may be used as a transition between the Core TZ and less intense zones or abutting uses, or for smaller parcels with size constraints.

c. Edge

A low intensity TZ comprised of residential or work live uses that are compatible with or similar in scale to adjoining residential neighborhoods. The Edge TZ may be used to provide an appropriate transition between the Core or General TZs and abutting residential uses.

d. Open Space

A passive TZ comprised primarily of unbuilt, landscaped areas. Open space may be surrounded by another TZ or used as a buffer between the General TZ and development on abutting parcels. Typical uses include passive civic, recreation or other public open spaces such as plazas and squares, or drainage retention areas, environmental preservation, or perimeter landscape buffers.

3. BUILDINGS

All buildings shall be located along perimeter streets first, and then may be located internally, provided they front a primary street and are clustered with perimeter buildings.

a. Building Types

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## EXHIBIT D

### INFILL REDEVELOPMENT OVERLAY SUMMARY OF AMENDMENTS

(Updated 11/12/09)

1 There are five general building types permitted in the IRO: block, liner, courtyard, and  
2 townhouse, with additional standards for civic uses, accessory structures and related  
3 outdoor uses.

4 **1) Block**

5 A type of building with little or no substantial deviations in any facades typically used  
6 to accommodate single floor uses of up to 65,000 square foot per floor.

7 **2) Liner**

8 A specialized type of building, used to conceal parking garages, large footprint  
9 building (large scale development or multi-tenant) in excess of 65,000 square feet in  
10 size, and may also include green spaces, plazas or squares. Liner buildings may be  
11 attached to, or have rear alley access separating the use to be concealed, and shall  
12 be the same height as the use to be concealed.

13 **3) Courtyard**

14 A type of building arranged around a courtyard, such as a garden, patio, plaza or  
15 square that is open to the sky, and dedicated for common use.

16 **4) Civic**

17 A type of building used to accommodate public or private civic uses. Deviations from  
18 IRO property development regulations may be permitted, where stated, when a  
19 public plaza, square or other passive open space area is incorporated into the site.

20 **5) Townhouse**

21 A type of building primarily intended for residential use that may also be used as a  
22 work/live space or unit. While a townhouse building is intended to be developed  
23 using individual lots and party walls, it may also be developed as a multi-family  
24 condominium if developed consistent with all townhouse requirements. A townhouse  
25 building shall comply with Art. 3.D.2.A, Townhouse and all other related ULDC  
26 provisions, unless expressly stated otherwise herein.

27 **b. Accessory Structures and Outdoor Uses**

28 Shall be located so as to be screened from view from streets and to minimize any  
29 adverse impacts to adjacent residential properties.

30 **4. PARKING AND LOADING**

31 Required parking and loading for each tenant shall be located to the rear of buildings.  
32 Parking shall only be permitted in front of buildings in the form of on-street parking. Parking  
33 may be allowed on the side of buildings only if minimum frontage requirements have been  
34 addressed.

35 **5. STREETScape AND USABLE OPEN SPACE**

- 36 a. A pedestrian oriented streetscape shall be provided along all perimeter, primary and  
37 secondary street frontages;  
38 b. Plazas, squares and other forms of usable open space shall be located in front of or  
39 adjacent to buildings; and,  
40 c. Additional sidewalks or pathways shall be provided to establish a complete pedestrian  
41 network that links all uses and parking lots to perimeter street frontages.

42 **6. LANDSCAPING AND OPEN SPACE TRANSITIONAL ELEMENTS**

43 Landscaping in an IRO project shall be designed to enhance pedestrian areas, allow for  
44 improved visual surveillance from building windows, and minimize impacts to adjacent  
45 residential developments. Drainage retention areas, preserves and other similar low intensity  
46 open space areas shall be located so as to provide a transition between commercial uses  
47 and existing adjacent residential uses, or parcels with a residential FLU designation, when  
48 possible.

49 **F. DESIGN AND DEVELOPMENT STANDARDS**

50 An IRO project shall comply with the following:

51 **1. ACCESS AND FRONTAGE**

52 Access shall be limited to minimize curb cuts to streets so as to improve traffic flow and  
53 reduce adverse impacts to pedestrian walkways. Where feasible, access from rear alleys is  
54 encouraged.

55 **a. External**

56 No more than one access point shall be permitted for each 160 linear feet of street  
57 frontage, and shall be in the form of a street or alley, unless exempted otherwise herein.  
58 Parcels with side street frontages shall be required to provide rear alley access or a  
59 larger street, unless bounded by a street along the rear property line.

60 **b. Internal**

61 No more than one access point or alley shall be permitted for each 160 linear feet of  
62 street frontage to allow for access to parking and loading, drive through facilities, or other  
63 similar uses.

64 **c. Small Parcel Exception**

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

(Updated 11/12/09)

1 Parcels with less than 160 feet of frontage shall be permitted to establish one access  
2 point along a perimeter street; however, alley access shall be encouraged as the primary  
3 means of vehicular access where feasible.

4 **2. BLOCK STANDARDS**

5 Blocks shall be created by utilizing streets and alleys to provide continuous pedestrian and  
6 vehicular circulation, interconnectivity and accessibility in IRO projects. Any new blocks  
7 created, whether required or voluntary, shall be in accordance with the following:

8 **a. Applicability**

9 Blocks are required for projects five or more acres in size, or where the subdivision of  
10 land is proposed, excluding lot recombination.

11 **b. Minimum Dimensions**

12 **TABLE 3.B.16.F. - BLOCK DIMENSION REQUIREMENTS**

BLOCK PERIMETER (TOTAL)	MINIMUM	MAXIMUM
No Pedestrian Pass Through, or With Pedestrian Pass Through	640	1,600 ft. 2,200 ft.
BLOCK LENGTH (SINGLE SIDE)	MINIMUM	MAXIMUM
No Pedestrian Pass Through, or With Pedestrian Pass Through	160	600 ft. 750 ft.

13 **c. Block Frontage**

14 All blocks shall have frontage on a perimeter or internal street frontage. Streets shall be  
15 used to interconnect blocks. When using alleys to meet block requirements, they shall  
16 only be permitted along the side or rear of a block where streets are not required.

17 **d. Subdivision**

18 Any subdivision of land shall comply with all lot dimensions applicable to the IR district,  
19 with exception to townhouse lots.

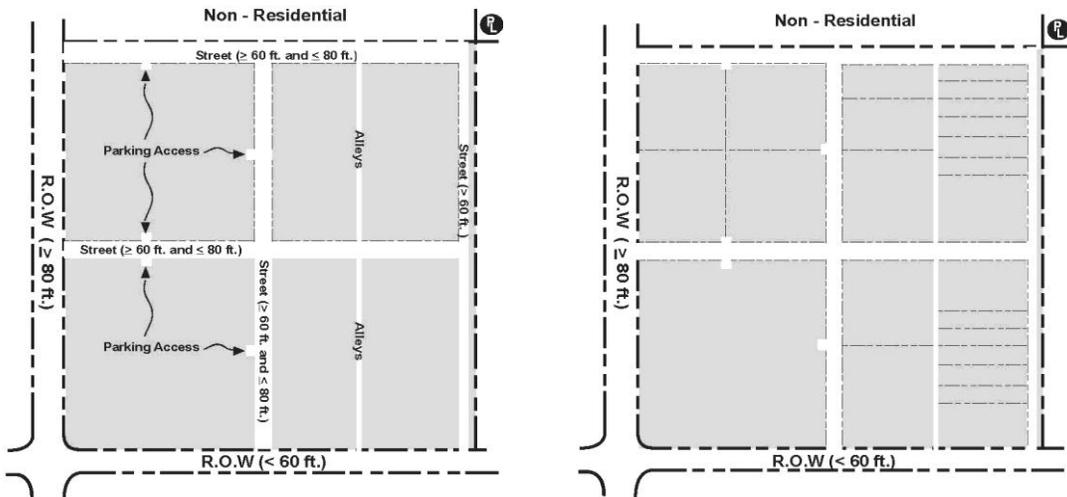
20 **d. PDD Subdivision Alternative**

21 An IRO project may apply for an exemption from subdivision recordation requirements  
22 and subdivide by fee title conveyance of individual lots in accordance with the approval  
23 process and requirements of Art. 11.A.6.B, Subdivision of Commercial and Industrial  
24 Building Sites.

25 **f. Exceptions**

26 Where new blocks are required, exceptions shall be permitted only where PBC DEPW  
27 requirements preclude required vehicular access points necessary to complete the block  
28 structure.  
29  
30

**Figure 3.B.16.F – Typical Example of IRO Blocks, Streets and Subdivision**



[ORD. 2010-...]

31 **3. STREET STANDARDS**

32 This code addresses the design of external and internal streets and establishes related  
33 standards to ensure that pedestrian amenities and walkways, buildings and other  
34 improvements are properly and safely situated. Vehicular circulation and interconnectivity  
35 shall be established using a system of streets and alleys, unless exempted herein. Streets  
36 are used to create connections between parcels, establish blocks, and provide frontage for  
37 buildings that are not located with frontage on a perimeter street. Alleys provide links  
38 between adjacent parcels along the rear of lots, behind buildings, and to link parking areas.

39 **a. Perimeter Street Types**

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

(Updated 11/12/09)

Building perimeter frontages and setbacks shall be determined by the width of the ultimate street R-O-W. All perimeter streets shall be classified as indicated in Table 3.B.16.G, Perimeter Street Types.

Table 3.B.16.F. – Perimeter Street Types

STREET TYPE	ULTIMATE R-O-W WIDTH		
	< 60 Ft.	≥ 60 AND < 80 Ft.	≥ 80 Ft.
Type I R-O-W	✓		
Type II R-O-W		✓	
Type III R-O-W			✓
[Ord. 2010-...]			
Notes:			
✓ Means applicable.			

1) Exceptions

A Type I or Type II street type may be used to apply the standards of this code if the street meets one of the following situations:

- a) Street has a limited number of travel lanes and large medians, or on-street parking; or
- b) Where streets are designed with narrower lanes and official posted speed limits are 35 mph or less, a Type II R-O-W may be applied, or where 30 mph or less, a Type I R-O-W may be applied.

b. Internal Street Types

Internal streets shall include primary streets, secondary streets, slips streets and alleys. For the purposes of the IRO, internal streets may include access ways or driveways, provided they comply with the design standards herein; however, new internal streets or alleys designated as private or public R-O-W shall also comply with any Engineering requirements.

1) Primary Street

The design for the street, on-street parking and streetscape shall comply with Figure 3.F.2.A, TDD Commercial Street, or the TMD design exception summarized in Art. 3.F.4.D.2.a.1), Design Exception as illustrated in Figure 3.F.4.D, Typical Example of TMD Commercial Street with Angled Parking. If required, primary streets shall serve to establish the main pedestrian routes of a project.

2) Secondary Street

Secondary streets may be permitted where necessary to comply with block structure requirements. Secondary streets shall be designed to be consistent with primary streets, except that on-street parking shall not be required, and minimum sidewalk width may be reduced to five feet in width.

3) Slip Street Option

The slip street option allows for the establishment of a parallel street immediately abutting a commercial corridor. The slip street establishes a pedestrian oriented streetscape along perimeter frontages that also accommodates on-street parking. Eligible parcels shall have a minimum frontage of 400 feet along a perimeter street, and shall be generally consistent with the standards for a primary street, with exception to the following:

- a) Vehicular traffic shall be one way, in the direction of the closest lanes on the abutting R-O-W;
- b) The street shall be a minimum of 12 feet wide, or as required by the County Engineer;
- c) Vehicle stacking and interaction with any access points shall be as required by the County Engineer; and,
- d) On-street parking shall only be required on one side of the street.

4) Alleys

Alley access shall not be permitted from primary streets. Alleys shall conform to the requirements of Art. 3.F.2.A.a.e, Alleys.

c. Streetscape

Street trees, street lights, sidewalk dimensions and other pedestrian amenities shall be in accordance with the streetscape standards defined in Art. 3.B.16.E.8, Streetscape Standards.

4. INTERCONNECTIVITY STANDARDS

Interconnectivity to adjacent residential parcels is encouraged, but not required. Interconnectivity shall be required to any non-residential development or vacant parcel with a non-residential use, FLU designation or Zoning district abutting an IRO project. In addition, the following shall apply.

a. Street Connections

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**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS**

**(Updated 11/12/09)**

1           Parcels required to or proposing to establish a block structure, shall provide  
2           interconnectivity where any new internal intersections abut adjacent parcels.

3           **b. Parallel Alley**

4           All parcels with frontage on a commercial corridor shall install an alley running parallel to  
5           the corridor. The alley shall be generally located along the rear property line, or at a point  
6           that allows interconnectivity to shallower abutting lots. Where new blocks are not  
7           required or proposed, alleys may be incorporated as drive aisles within parking lots. In  
8           the event the adjacent parcel is undeveloped, a stub out shall be provided to  
9           accommodate future connections.

10          **c. Gates**

11          The use of gates or other similar barriers is prohibited. Exceptions are permitted for the  
12          following: dumpsters, loading areas, and private garages or parking lots.

13          **d. Cross Access Agreement**

14          Where interconnectivity is required, an irrevocable cross access easement shall be  
15          provided prior to final DRO plan approval.

16          **5. TRANSECT ZONE STANDARDS**

17          Transect zone boundaries shall follow proposed lot lines or be clearly dimensioned for  
18          parcels developed under one entity. No land may be assigned two or more transect zones.  
19          Overall parcel size, dimensions, R-O-W frontages, and other abutting parcel uses or FLU  
20          designations dictate the type and location of allowable TZs, with the most intense being  
21          located along commercial corridors or where adjacent to similar IRO projects, commercial or  
22          industrial uses, transitioning to the least intense where needed to address the context of  
23          adjacent uses.

24          **a. General Standards**

25          The following general standards shall be followed when assigning TZs:

- 26          a. The Core TZ should be located adjacent to busy highways, arterials, or collectors;
- 27          b. Changes in TZs should generally occur at the rear of buildings or lots, rather than  
28          along streets, with exception to the Open Space TZ;
- 29          c. The Open Space TZ may face other TZs across streets. When the Open Space TZ  
30          is used to designate a public open space within the proposed development, it should  
31          be surrounded by streets on one or more sides;
- 32          d. When a parcel adjoins existing or approved development, either a similar transect  
33          zone or a zone that establishes a compatible transition shall be assigned.

34          **b. Minimum Standards**

35          The following table establishes minimum standards for assigning each of the four TZs:  
36

**TABLE 3.B.16.E – IRO TZ STANDARDS**

PARCEL STANDARDS	TRANSECT ZONE			
	CORE	GENERAL	EDGE	OPEN SPACE
MINIMUM OVERALL PARCEL SIZE	1 acre	N/A	N/A	N/A
MAXIMUM PERCENTAGE OF OVERALL PARCEL	50% (1)	N/A	N/A	N/A
MINIMUM PERCENTAGE OF OVERALL PARCEL	N/A	25%	N/A	N/A (2)
MINIMUM SETBACK FROM ABUTTING RESIDENTIAL REQUIRED FRONTAGE	200 ft.	10 ft.	N/A	N/A
ARTERIAL OR COLLECTOR	✓	✓ (3)	N/A	N/A
LOCAL COMMERCIAL STREET (5)	✓	✓ (3)	N/A	N/A
LOCAL RESIDENTIAL STREET (5)	N/A	N/A	✓	N/A
PERMITTED SIDE STREET OR OTHER FRONTAGES				
EXPRESSWAY	✓	✓	✓	✓
LOCAL COMMERCIAL STREET (5)	✓	✓	✓	✓
LOCAL RESIDENTIAL STREET (5)	N/A	✓	✓	✓
RESIDENTIAL ACCESS (5)	N/A	✓ (4)	✓	✓
ALLEYS (INTERNAL) (5)	✓	✓	✓	✓
[ORD. 2010-...]				
<b>NOTES:</b>				
✓ Means applicable or permitted.				
1. Maximum Core TZ may be increased up to 95%, and minimum General TZ may be reduced commensurately, where parcel is abutting on all sides by arterials, collectors, and commercial or industrial parcels up to a depth of a minimum of 200 ft. from the property line.				
2. See Article 3.B.16. L, for minimum "Usable Open Space" requirements.				
3. General TZ shall be exempt from Arterial or Collector requirement when a Core TZ is used, or where an eligible parcel only fronts on a Local Commercial Street.				
4. General TZ frontage only permitted for parcels less than 1 acre in size.				
5. Includes any access way meeting IRO street standards.				

37  
38          **6. BUILDING STANDARDS**

39          The provisions of this section shall be applied in conjunction with any other applicable ULDC  
40          standards or limitations for buildings, unless stated expressly herein.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

(Updated 11/12/09)

1 a. **Building Placement**

2 Table 3.B.16.F, Building Placement provides the dimensional requirements for building  
3 placement for IRO projects. All building types excluding outdoor uses and related  
4 structures, shall comply with the following:

5 1) **Corners**

6 Where a parcel is located at the intersection of two streets, at least one building shall  
7 be placed so as to meet the build-to-lines for both streets.

8 2) **Building Hierarchy**

9 Building placement shall follow an established order, with initial buildings required to  
10 meet minimum placement and frontage requirements along the most intense  
11 perimeter streets. Additional buildings may be located on interior main streets, but  
12 shall be ordered so as to create a consistent streetscape.

13 b. **Building Property Development Regulations**

14 The primary façade of all buildings shall front a street and shall be designed in  
15 compliance with the following.

16 1) **Perimeter Street Building Frontage**

17 Building frontage is the percentage of the total width of a lot which is required to be  
18 occupied by the primary façade of a building.

19 a) The primary façade shall be parallel to a street, and located in accordance with  
20 the build-to-line requirements of the street type;

21 b) Frontage requirements must be addressed for the most intense perimeter streets  
22 first.

23 2) **Perimeter Frontage Exceptions**

24 Once the frontage requirement has been addressed for the most intense perimeter  
25 street, exceptions for other perimeter streets shall be permitted where insufficient  
26 building intensity is proposed or for less intense side streets. Frontage requirements  
27 may be reduced for lots with no rear or side access to required parking as necessary  
28 to accommodate a drive isle for ingress/egress.

29 3. **Internal Building Frontage**

30 Internal buildings shall only be permitted when located fronting a primary street,  
31 unless exempted herein.

32 4) **Setback Measurement**

33 Setbacks shall be in accordance with Table 3.B.15.E, Building Configuration PDRs,  
34 and the following:

35 a) **Perimeter Frontage**

36 Setbacks shall be measured from the edge of ultimate R-O-W, or from the  
37 property line, whichever is applicable.

38 b) **Internal Frontage**

39 Setbacks shall be measured from the proposed building frontage façade to the  
40 outside edge of curb.

41 c) **Townhouses**

42 For the purposes of townhouse units, building placement setbacks shall be used  
43 to establish the location of townhouse lots. Additional townhouse building  
44 setbacks may be permitted. This may also be applied to multi-family buildings  
45 that are constructed to townhouse standards.

46 d) **Side Setback Reduction**

47 Where permitted, buildings permitted to use a zero side setback reduction shall  
48 comply with the following:

49 (1) No windows, doors or other openings are permitted. No portion of a building,  
50 including roof eaves, gutters and soffits may encroach onto adjacent parcels;

51 (2) No form of opening, attachment, or any item or method of construction  
52 requiring maintenance other than cleaning and painting, when visible, shall  
53 be permitted;

54 (3) A maintenance easement is granted allowing for a minimum of two feet for  
55 access to any portion of the building left exposed; and,

56 (4) Height shall be limited to two stories and maximum of 30 feet. Additional  
57 height may be permitted subject to the standard setback and any other  
58 setback requirements.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

1

TABLE 3.B.16.E. – BLOCK BUILDING CONFIGURATION PDRs

BUILDING PLACEMENT		MIN.	MAX. (1)
A.	Type I ROW Frontage	10 ft.	15 ft.
	Buffered Sidewalk	15 ft.	25 ft.
	Slip Street	42 ft.	50 ft.
	Type II ROW Frontage	10 ft.	20 ft.
	Buffered Sidewalk	18 ft.	35 ft.
	Slip Street	42 ft.	55 ft.
	Type III ROW Frontage	15 ft.	25 ft.
	Buffered Sidewalk	20 ft.	40 ft.
	Slip Street	47 ft.	75 ft.
	Internal Street Frontage	15 ft.	25 ft.
B.	Non-Residential	10 ft. (2)	N/A
C.	Residential (IRO Project)	10 ft.	N/A
	Residential	30 ft.	N/A
D.	Between rear parking and alley	5 ft. (3)	N/A
BUILDING FRONTAGE % (4)		MIN.	MAX.
G.		50%	100%
INDIVIDUAL BUILDING LENGTH		MIN.	MAX.
G.		N/A	275 ft.
COURTYARD % OF FOOTPRINT		MIN.	MAX.
H.		N/A	10%
COURTYARD DIMENSIONS		MIN.	MAX.
H.		15 ft.	30 ft.
PEDESTRIAN PASS THRU (4)(5)		MIN.	MAX.
I.	Separation (4)	100 ft.	300 ft.
	Width	10 ft.	20 ft.

[Ord. 2010-...]

**NOTES**

1. Required maximum build to line may be increased, where necessary, to accommodate utility easements, landscape buffer, slip street, safe sight lines, corner clips, or other similar need as may be required by the County Engineer.
2. May be reduced to 0 ft. where in compliance with provisions for side setback reduction.
3. Shall be exempt for parcels eligible to use parking drive isles to comply with alley requirements.
4. Percentage shall be based upon length of applicable property line. Where multiple buildings are proposed, the applicable length shall be result of the overall length divided by the number buildings.
5. Maximum pedestrian pass thru requirement does not apply for buildings with a length of 300 ft. or less.

The diagram illustrates a block building configuration within a Right-of-Way (R.O.W.) of less than 60 feet. It shows a central orange building footprint with a curved frontage. To the left is a sidewalk (A) and a slip street (B). To the right is a parking/loading area (C) and an alley/shared access (D). The building is situated between a Non-Residential street (E) and a Residential street (F). Dimensions A through I are marked on the diagram to indicate setbacks and building dimensions.

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INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

1

TABLE 3.B.16.E. – LINER BUILDING CONFIGURATION PDRS

BUILDING PLACEMENT		MIN.	MAX. (1)
A	Type I ROW Frontage	10 ft.	15 ft.
	Buffered Sidewalk	15 ft.	25 ft.
	Slip Street	42 ft.	50 ft.
	Type II ROW Frontage	10 ft.	20 ft.
	Buffered Sidewalk	18 ft.	35 ft.
	Slip Street	42 ft.	55 ft.
	Type III ROW Frontage	15 ft.	25 ft.
	Buffered Sidewalk	20 ft.	40 ft.
	Slip Street	47 ft.	75 ft.
Internal Street Frontage		15 ft.	25 ft.
B	Non-Residential	10 ft. (2)	N/A
C	Residential (IRO Project)	10 ft.	N/A
	Residential	30 ft.	N/A
D	Between rear parking and alley	5 ft. (3)	N/A
BUILDING FRONTAGE % (4)		MIN.	MAX.
G.		60%	100%
INDIVIDUAL BUILDING LENGTH		MIN.	MAX.
G.		200 ft.	400 ft.
COURTYARD % OF FOOTPRINT		MIN.	MAX.
H.		N/A	10%
COURTYARD DIMENSIONS		MIN.	MAX.
H.		15 ft.	30 ft.
PEDESTRIAN PASS THRU (4)(5)		MIN.	MAX.
I.	Separation <sup>4</sup>	100 ft.	300 ft.
	Width	10 ft.	20 ft.
LINER AND INTERIOR STANDARDS		MIN.	MAX.
J. (6)	Depth	30 ft.	100 ft.
	Length	75 %	100 %
K.	Separation	N/A	N/A
L.	Parking Access	N/A	10%
X.	Internal Use	N/A	N/A

ROW (≥ 80 ft.)

( R.O.W (≥ 60 ft. and ≤ 80 ft. )

[Ord. 2010-...]

**NOTES**

- Required maximum build to line may be increased, where necessary, to accommodate utility easements, landscape buffer, slip street, safe sight lines, corner clips, or other similar need as may be required by the County Engineer.
- May be reduced to 0 ft. where in compliance with provisions for side setback reduction.
- Shall be exempt for parcels eligible to use parking drive isles to comply with alley requirements.
- Percentage shall be based upon length of applicable property line. Where multiple buildings are proposed, the applicable length shall be result of the overall length divided by the number buildings.
- Maximum pedestrian pass thru requirement does not apply for buildings with a length of 300 ft. or less.
- Liner dimensions shall apply to all façades used to conceal a large footprint tenant that front a perimeter-street, slip-street, primary-street, and usable open space. Additional standards may apply to parking garage structures.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

1

TABLE 3.B.16.E. – COURTYARD BUILDING CONFIGURATION PDRS

BUILDING PLACEMENT		MIN.	MAX. (1)
A.	Type I ROW Frontage	10 ft.	15 ft.
	Buffered Sidewalk	15 ft.	25 ft.
	Slip Street	42 ft.	50 ft.
	Type II ROW Frontage	10 ft.	20 ft.
	Buffered Sidewalk	18 ft.	35 ft.
	Slip Street	42 ft.	55 ft.
	Type III ROW Frontage	15 ft.	25 ft.
	Buffered Sidewalk	20 ft.	40 ft.
	Slip Street	47 ft.	75 ft.
	Internal Street Frontage	15 ft.	25 ft.
B.	Non-Residential	10 ft. (2)	N/A
C.	Residential (IRO Project)	10 ft.	N/A
	Residential	30 ft.	N/A
D.	Between rear parking and alley	5 ft. (3)	N/A
<b>BUILDING FRONTAGE % (4)</b>		<b>MIN.</b>	<b>MAX.</b>
G.		60%	100%
<b>INDIVIDUAL BUILDING LENGTH</b>		<b>MIN.</b>	<b>MAX.</b>
G.		N/A	300 ft.
<b>COURTYARD % OF FOOTPRINT</b>		<b>MIN.</b>	<b>MAX.</b>
H.		10%	25%
<b>COURTYARD DIMENSIONS</b>		<b>MIN.</b>	<b>MAX.</b>
H.		30 ft.	N/A
<b>PEDESTRIAN PASS THRU (4)(5)</b>		<b>MIN.</b>	<b>MAX.</b>
I.	Separation	100 ft.	300 ft.
	Width	10 ft.	20 ft.

[Ord. 2010-...]

**NOTES**

1. Required maximum build to line may be increased, where necessary, to accommodate utility easements, landscape buffer, slip street, safe sight lines, corner clips, or other similar need as may be required by the County Engineer.
2. May be reduced to 0 ft. where in compliance with provisions for side setback reduction.
3. Shall be exempt for parcels eligible to use parking drive isles to comply with alley requirements.
4. Percentage shall be based upon length of applicable property line. Where multiple buildings are proposed, the applicable length shall be result of the overall length divided by the number buildings.
5. Maximum pedestrian pass thru requirement does not apply for buildings with a length of 300 ft. or less.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

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TABLE 3.B.16.E. – TOWNHOUSE LOT AND BUILDING CONFIGURATION PDRS

LOT PLACEMENT		MIN. <sup>2</sup>	MAX. <sup>1</sup>
A	Type I ROW Frontage	10 ft.	15 ft.
	Buffered Sidewalk	15 ft.	25 ft.
	Slip Street	42 ft.	50 ft.
	Type II ROW Frontage	10 ft.	20 ft.
	Buffered Sidewalk	18 ft.	35 ft.
	Slip Street	42 ft.	55 ft.
Type III ROW Frontage		Prohibited	
Internal Street Frontage		15 ft.	25 ft.
B	Non-Residential	10 ft.	N/A
C	Residential (IRO Project)	10 ft.	N/A
	Residential	30 ft.	N/A
D	Between rear parking and alley	5 ft. <sup>2</sup>	N/A
BUILDING FRONTAGE % <sup>3</sup>		MIN.	MAX.
G.		50%	96%
INDIVIDUAL BUILDING LENGTH		MIN.	MAX.
G.		32 ft.	250 ft.
WING STANDARD <sup>4</sup>		MIN.	MAX.
M.	Wing Width	N/A	50%
BUILDING SETBACKS <sup>4</sup>		MIN.	MAX.
N.	Rear Setback to Alley	5 ft.	N/A
O.	Front/End Setbacks	5 ft.	10 ft.

[Ord. 2010-...]

**NOTES**

- Required maximum build to line may be increased, where necessary, to accommodate utility easements, landscape buffer, slip street, safe sight lines, corner clips, or other similar need as may be required by the County Engineer.
- Shall be exempt for parcels eligible to use parking drive isles to comply with alley requirements.
- Percentage shall be based upon length of applicable property line. Where multiple buildings are proposed, the applicable length shall be result of the overall length divided by the number buildings.
- Townhouse, including wings, garages or accessory dwellings shall comply with minimum common wall requirements unless set back from the side PL a minimum of five feet; and, shall comply with Art. 3.D.2.C.7, Prohibited Openings and Attachments except for any first floor that is set back a minimum of ten feet from the PL.

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c. Building Type by Transect Zone

The implementation of the transect zones includes identifying the placement of buildings by type so as to allow for the proper location of higher intensity uses while ensuring consistency with the context of less intensive neighboring uses, where applicable.

TABLE 3.B.16.I. – BUILDING TYPE BY TRANSECT ZONE

BUILDING TYPE	TRANSECT ZONES			
	CORE	GENERAL	EDGE	OPEN SPACE
BLOCK	✓	✓		
LINER	✓	(1)		
COURTYARD		✓	✓	
CIVIC	✓	✓	✓	
TOWNHOUSE		✓	✓	

[Ord. 2010-...]

**NOTES:**

- ✓ Means applicable or permitted.
- 1 Building type may be permitted where located a minimum of 200 feet from adjacent parcels with residential FLU designation or uses.

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d. Special Building Standards

1) Pedestal Building

The following standards shall apply where any building exceeds either 4 stories or 48 feet in height.

- A recess line of at least 15 feet is required along at least 50 percent of building facades facing streets; and,
- Massing is regulated using a percentage of maximum size of the floor footprint of the building footprint per each story above the height limit threshold. All additional construction above this threshold shall be limited to 65 percent of the 1<sup>st</sup> floor footprint, as follows:
  - The main volume of the building shall be oriented toward perimeter or primary streets, away from side or rear lot lines to reduce impact on adjacent properties;
  - Tower elements shall be located to appropriately respond to the condition of the site. Desirable tower locations emphasize street corners, main building entrances, gateways, or the visual axis of another street or usable open space; and,

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

(Updated 11/12/09)

(3) Massing articulation shall not wholly occur within the center of the block and must be evident on the street façade(s) using architectural variations such as changes in the number of stories, articulations in the eave or roofline, or adjusting the location of the front façade to accommodate civic open space.

2) Civic Building

A civic building may apply any one or combination of block, liner or courtyard building type, or apply for waivers in accordance Table 3.B.16.E, Waivers.

e. Additional Building Standards

Additional building standards are established to provide design standards to facilitate pedestrian access and circulation.

1) Primary Entrances

The primary entrance for all 1st floor tenants must directly face a street, or a courtyard, plaza, square or other form of usable open space fronting a street. Access for tenants located on upper floors shall provide similar entrances, but may be permitted to deviate from this requirement on sites less than one acre in size. In either situation, street access may be in the form of common lobbies, elevators, stairwells, or other form of consolidated access. There are no limits on the allowable number of primary entrances.

2) Secondary Entrances

Each tenant may be permitted to have additional entrances located at side or rear facades facing a parking lot or other area, subject to the following limitations:

- a) Shall not exceed the number of primary entrances.
- b) Limitations shall not apply to service access or emergency exits.

3) Windows on Facades Facing Streets

Non-residential and multi-family building facades facing perimeter and primary streets or usable open space must have transparent windows covering between 35 to 75 percent of the wall area of each story as measured between finished floors, to allow transmission of visible daylight.

4) Outdoor Uses

Additional standards are established for non-residential outdoor uses, excluding passive recreation areas or other similar uses, to ensure compatibility with the streetscape, usable open space areas, and any abutting residential uses or parcels with a residential FLU designations.

a) Residential Setbacks

Outdoor uses shall be setback a minimum of 200 feet from any abutting residential use or parcel with a residential future land use designation, unless approved by the BCC as a Class A Conditional Use. This shall include vehicular access and parking for vehicular related uses such as gasoline sales, car washes, or drive through facilities.

b) Screening

Outdoor uses shall be framed by either of the following, or a combination of both:

- (1) Buildings or similar structures on all four sides; or,
- (2) A five foot wide landscape strip that includes a 30 inch high hedge or concrete street wall, with multi-trunk or flowering trees planted 30 feet on center. Breaks to allow for pedestrian access shall be permitted.

b) Drive-through and Gasoline Service Location

A minimum of 50 percent of all drive-through lanes and gasoline service areas, inclusive of pump islands, canopies, and queuing areas shall be located behind buildings that comply with minimum frontage standards, and shall be consistent with Figure 3.F.16.F, Gasoline Service Station and Figure 3.F.16.F, Typical Drive-through Configurations.

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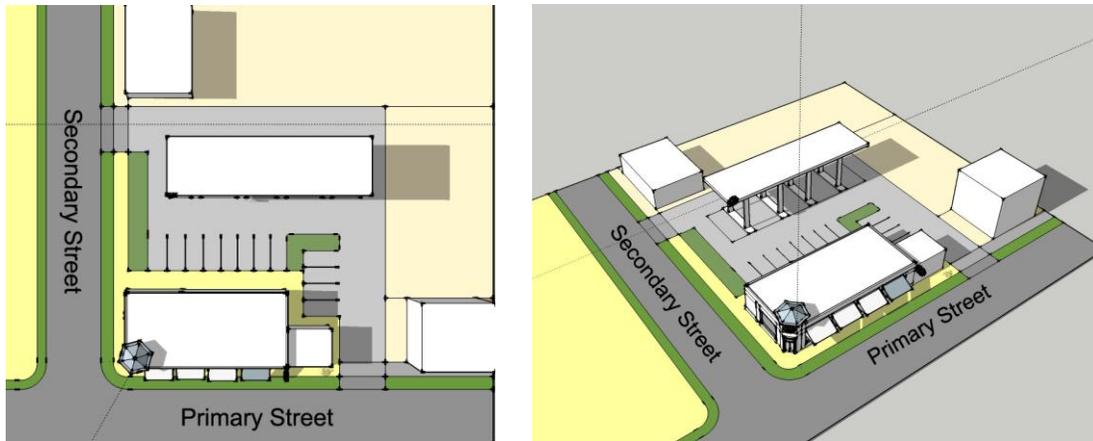
Relocated language is shown as *italicized* with reference in **[brackets]**.

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

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FIGURE 3.F.16.F – TYPICAL GASOLINE SERVICE FACILITIES



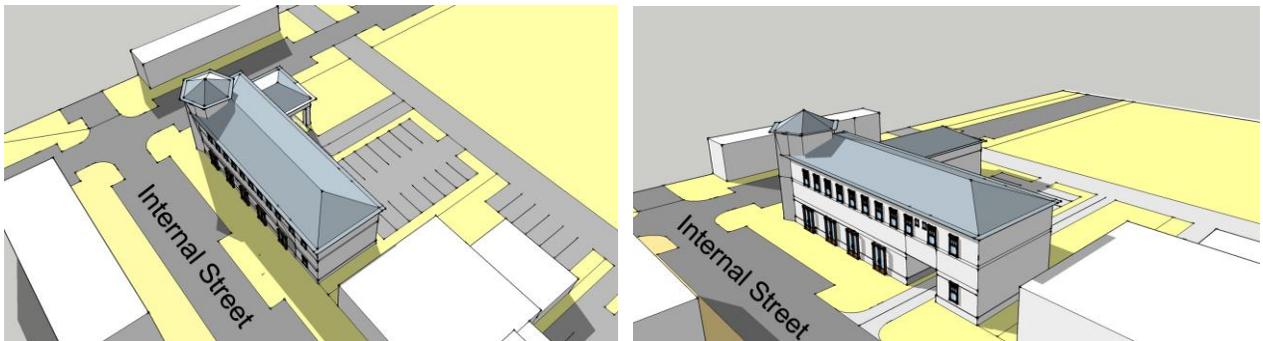
[ORD. 2010-...]

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c) Drive-through Facility Exception

Exceptions shall be permitted for drive through facilities that are located inside a building or side façade where vehicular traffic exits onto a Type I R-O-W, subject to approval by the County Engineer, where designed similar to Figure 3.F.16.F, Typical Drive Through Configurations.

FIGURE 3.F.16.F – TYPICAL DRIVE THROUGH CONFIGURATIONS



[ORD. 2010-...]

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

- 1 5. BUILDING ELEVATIONS, HEIGHT AND USE BY FLOOR  
2 The following tables establish regulations for building height and building encroachment in  
3 each TZ to address compatibility and visual impact issues.  
4

TABLE 3.B.16.F – PEDESTAL, LINER, BLOCK, COURTYARD AND CIVIC BUILDING HEIGHT AND USE

BUILDING HEIGHT		MAX.						
P.	Edge TZ or Townhouse Building	35 ft. (3 stories)						
	General TZ	60 ft. (4 stories) (1)(2)						
	Core TZ	75 ft. (5 stories) (1)(2)						
INTERIOR HEIGHT		MIN.	MAX.					
Q.	Finished Floor - Residential	1.5 ft.	N/A					
	Finished Floor - Other	0.5 ft.	N/A					
R.	Residential	9 ft.	N/A					
	Other	12 ft.	N/A					
ENCROACHMENT		MIN.	MAX.					
S.	Stoop (4)	-	6 ft.					
	Gallery (3)(4)	10 ft.	12 ft.					
	Gallery Height	10 ft.	15 ft.					
T.	Balcony	-	6 ft.					
USES BY TRANSECT/FLOOR								
TRANSECT	USES							
	R	C	O	W	CV	RC	U	I
U.	Edge	✓			✓			
	General	✓	✓	✓	✓	✓	✓	
	Core	✓	✓	✓	✓	✓	✓	✓
V.	Edge	✓			✓			
	General	✓		✓	✓	✓	✓	
	Core	✓	✓	✓	✓	✓	✓	✓
W.	Edge	✓			✓			
	General	✓		✓	✓	✓	✓	
	Core	✓		✓	✓	✓	✓	✓
X	Liner building interior, same uses as allowed in TZ.							

[Ord. 2010-...]

**USE CLASSIFICATION KEY (REFER TO ART. 5.X.3, USE STANDARDS)**

R = Residential	C = Commercial, Other	O = Commercial, Office	W = Work/Live
CV = Public and Civic	RC = Recreation	U = Utilities and Excavation	I = Industrial

**NOTES**

✓ Means applicable or permitted.

- Shall be exempt from Art. 3.D.1.E.2, Height where adjacent to a R-O-W greater than 50 feet in width, or an IRO compliant street (excluding alleys).
- One additional story and 15 feet in height permitted for Green Building.
- The required sidewalk zone may be accommodated within a gallery.
- Encroachment for stoop or gallery (including uses therein such as outdoor dining, benches, or displays) shall not impede required streetscape sidewalk area or be located within five feet of the streetscape street tree planting area.

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TABLE 3.B.16.F – TOWNHOUSE BUILDING HEIGHT AND USE

BUILDING HEIGHT		MAX.	
P.	Edge	35 ft. (3 stories)	
	General		
INTERIOR HEIGHT		MIN.	MAX.
Q.	Finished Floor - Residential	1.5 ft.	N/A
	Finished Floor - Live/Work Unit	1.5 ft.	N/A
R.	Ceiling - Residential	9 ft.	N/A
	Ceiling - Live/Work Unit	12 ft.	N/A
ENCROACHMENT (1)		MIN.	MAX.
S.	Stoop	N/A	6 ft.
	Front Porch	N/A	8 ft.
	Front Porch Height	N/A	15 ft.
T.	Balcony	-	6 ft.
USES BY TRANSECT/FLOOR			
TRANSECT	USES		
	RESIDENTIAL	LIVE/WORK UNIT	
U.	Edge	✓	✓
	General	✓	✓
V.	Edge	✓	(2)
	General	✓	✓

[Ord. 2010-...]

**NOTES**

✓ Means applicable or permitted.

- Encroachment for stoop or front porch shall not impede required streetscape sidewalk area or be located within five feet of the streetscape street tree planting area.
- Shall only be permitted where uses on the 2<sup>nd</sup> floor or higher is limited to residential.

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**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS**

**(Updated 11/12/09)**

**7. USE STANDARDS**

The standards of the IRO allow for additional uses to be permitted by right; however, only those uses that have been indicated on a DRO approved FSP or FSBP shall be eligible to apply for building permits or a business tax receipt (BTR). Where permitted, uses may also be further restricted by TZ, building type and number or floor location.

**a. Permitted Uses**

Table 3.B.16.F, IRO Permitted Use Schedule, identifies the permitted and requested uses allowed for an IRO project.

**b. Accessory Uses**

Accessory uses shall be permitted in accordance with Art. 5.B, Accessory and Temporary Uses. Any proposed use that exceeds the limitations of an accessory use shall only be permitted if allowed above and where in compliance with the requirements of this code.

**TABLE 3.B.16.H.3 – IRO PERMITTED USE SCHEDULE**

USE TYPE	LAND USE				NOTE	USE TYPE	LAND USE				NOTE
	C L	C H	C L O	C H O			C L	C H	C L O	C H O	
<b>RESIDENTIAL USES</b>						<b>COMMERCIAL USES (CONTINUED)</b>					
Townhouse	D	D	D	D	132	Green Market	D	D	L	L	64
Multi-family	D	D	D	D	87	Hotel, Motel, SRO, Rooming And Boarding	A	D			72
Accessory Dwelling	D	D	D	D	1	Kennel, Type III (Enclosed)	D	D			74-2
CLF, Type I	D	D	D	D	34	Kiosk	D	D	D	D	75
CLF, Type II	D	D	D	D	34	Laundry Services	D	D			78
CLF, Type III	A	D	A	D	34	Lounge, Cocktail	A	A			79
Garage Sale	D	D	D	D	60	Office, Medical or Dental	D	D			83
Guest Cottage	D	D	D	D	66	Office, Business or Professional	D	D	D	D	91
Home Occupation	D	D	D	D	70	Parking Garage, Commercial	D	D			95
Nursing Facility	D	D	D	D	90	Parking Lot, Commercial	D	D			96
Security or Caretakers Quarters	D	D	D	D	119	Pawnshop	A	D			97
<b>COMMERCIAL USES</b>						Personal Services	D	D			98
Auction, Enclosed		D			16	Printing and Copying	D	D	D	D	100
Auto Paint or Body Shop		A			17	Repair and Maintenance, General	A	A			107
Auto Service Station	A	A			18	Repair Services, Limited	D	D			108
Broadcast Studio	D	D	D	D	21	Restaurant, Type I	A	A			109
Building Supplies	D	D			22	Restaurant, Type II	D	D			111
Car Wash	A	A			25	Retail Sales, Auto Parts	D	D			113
Catering Service	D	D			26	Retail Sales, General	D	D			114
Convenience Store	D	D			36	Retail Sales, Mobile or Temporary	D	D			115
Convenience Store with Gas Sales	A	A			37	Self Service Storage	D	D			120
Day Labor and Employment Service		A			41	Theater, Indoor	D	D			128
Dispatching Office		D			42	Vehicle Sales and Rental	A	A			135
Dog Daycare	D	D	L	L	43	Veterinary Clinic	D	D			136
Financial Institution	A	A	A	D	55	Vocational School	D	D	D	D	137
Flea Market, Enclosed		D			57	Work/Live Space	D	D	D	D	141-1
Funeral Home or Crematory		A			59	Live/Work Unit	D	D			141-2
[Ord. 2010- ]											
<b>KEY</b>											
P Permitted by right.											
D Permitted subject to DRO approval.											
L Permitted only where accessory to a permitted use.											
S Permitted subject to Special Permit approval.											
A Permitted subject to Board of County Commission Approval.											
◆ May be permitted under limited circumstances – see specific Use Regulations.											

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

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TABLE 5.X.3 – IRO PERMITTED USE SCHEDULE (CONTINUED)

USE TYPE	LAND USE				NOTE	USE TYPE	LAND USE				NOTE
	C L	C H	C L O	C H O			C L	C H	C L O	C H O	
<b>PUBLIC AND CIVIC USES</b>						<b>UTILITIES AND EXCAVATION</b>					
College or University	D	D			30	Air Stripper, Remedial	D	D	D	D	11
Day Camp	D	D			39	Communication Cell Sites on Wheels (COW) Tower, Mobile	S	S	S	S	31
Dare Care, General	A	A			40	Communication Panels or Antennas, Commercial	D	D	D	D	31
School, Elementary or Secondary	D	D	D	D	118	Communication Tower, Commercial	A	A	A	A	31
Day Care, Limited	A	D			40	Electric Transmission Facility	A	A	A	A	44-2
Government Services	D	D	D	D	63	Excavation, Type II	D	D	D	D	49
Helipad	A	A	A	A	10	Recycling Collection Station	D	D			104
Hospital or Medical Center	D	D		D	71	Recycling Drop Off	D	D			105
<b>RECREATION USES</b>						<b>INDUSTRIAL USES</b>					
Entertainment, Indoor	D	D			45	Data Information Processing	D	D	D	D	13
Fitness Center	D	D			56	Film Production Studio		D		D	38
Gun Club, Enclosed		D			67	Laboratory, Industrial Research	A	D	A	D	76
Marine Facility	D	D			82	Medical or Dental Laboratory		D		D	84
Park, Passive	D	D	D	D	93						
Park, Public	D	D	D	D	94						
Park, Neighborhood	D	D	D	D	92						
Special Event	S	S	S	S	124						
<b>AGRICULTURAL USES</b>											
Agriculture, Sales/Service	D	D			6						
Farmers Market	D	D			52						
[Ord. 2010- ]											
<b>KEY</b>											
P Permitted by right.											
D Permitted subject to DRO approval.											
L Permitted by right, subject to accessory use limitations.											
S Permitted subject to Special Permit approval.											
A Permitted subject to Board of County Commission Approval.											
◆ May be permitted under limited circumstances – see specific Use Regulations.											

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8. STREETScape STANDARDS

Streetscape standards are established to improve both the physical and visual appearance of the streetscape while creating a pedestrian friendly environment along commercial corridors, other perimeter street frontages, and for any new internal streets.

a. General Standards

The following standards shall apply to all streetscapes.

- 1) Required buffer areas or street trees shall be located between streets and pedestrian sidewalks and other hardscaped areas;
- 2) Required pedestrian sidewalks shall be free and clear of all encumbrances;
- 3) All paving materials for the pedestrian sidewalks shall be compliant with ADA accessibility standards, and shall be constructed of concrete acceptable to the Engineering Department;
- 4) Consistency in paving pattern and materials for streetscapes are required for all individual projects, and are encouraged for abutting IRO projects. The first application for an IRO of a commercial corridor or a block shall establish the paving pattern.
- 5) Where a sidewalk or a path crosses curb cuts at ingress/egress points and internal drives, the pedestrian crossing shall be paved with a material that provides a different texture or a color contrast with the vehicular surface, but preferably consistent with the paving material of the path;
- 6) Where a street tree planting area is required, area may be landscaped with appropriate ground cover; however, applicants are encouraged to install required trees in tree grates with appropriate root barrier or other similar structures to promote tree growth, and areas in-between may be hardscaped;
- 7) Consistency in street tree species shall be encouraged within a block, if applicable, and shall be reflective of the character of the surrounding area. The first application for an IRO of a commercial corridor or a block shall establish preferred species.
- 8) Streetscape shall be provided along both sides of primary and secondary streets;
- 9) Where applicable, sidewalks located within a perimeter R-O-W may be incorporated into the streetscape requirements of this section, subject to a sidewalk easement agreement with the DEPW; and,
- 10) Where an existing or proposed utility easement is located adjacent to subject roadways, streetscape requirements shall be applied from the inner edge of the utility

Notes:

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## EXHIBIT D

### INFILL REDEVELOPMENT OVERLAY SUMMARY OF AMENDMENTS

(Updated 11/12/09)

1 easement, and shall be landscaped with appropriate groundcover, with exception to  
2 the following:

- 3 a) Applicants are encouraged to improve utility easement areas with improved  
4 surfacing or landscaping to be consistent with required streetscape areas;  
5 b) Utility easements may encroach into required streetscape areas up to a  
6 maximum of five feet, subject to Engineering approval and consent from  
7 easement holder; and,  
8 c) Street trees may be located in utility easements subject to use of tree root barrier  
9 approved by County Landscape and easement holder.

#### 10 b. Design Standards

11 The IRO establishes three general forms of streetscape configurations, as follows:  
12 enhanced sidewalk, buffered sidewalk, and slip-street. While the enhanced sidewalk  
13 may be applicable to both perimeter and internal streets, the remaining two are generally  
14 limited to commercial corridors or other perimeter streets. The applicant may choose one  
15 of the streetscape configurations to use; however, the streetscape design should be  
16 consistent with the surrounding character.

##### 17 1) Enhanced Sidewalk

18 The enhanced sidewalk streetscape option establishes a continuous sidewalk with  
19 regularly spaced shade trees along the street.

- 20 a) The street tree planting area shall be a minimum of five feet in width;  
21 b) The pedestrian sidewalk area shall be a minimum of six feet in width, and shall  
22 be free and clear of any obstructions or uses. Width may be reduced to five feet  
23 where abutting a Type III R-O-W or secondary street.  
24 c) Street trees shall be installed in accordance with 3.F.2.A.4.d, Street Trees,  
25 except that exceptions to tree spacing may be permitted where necessary to  
26 accommodate bisecting utility easements, or other similar improvements;  
27 d) Street lights shall be required for all perimeter and internal streets in accordance  
28 with Art. 3.F.2.A.1.f.2), TDD Street Lighting;  
29 e) Any areas remaining between required street tree and pedestrian sidewalk area  
30 and building frontages shall be improved with additional pedestrian sidewalk  
31 area, or other decorative pavement treatment to be used as outdoor dining  
32 areas, usable open space or to encourage a pedestrian interface display  
33 windows, where applicable;  
34 f) Decorative planter boxes or potted trees may be located within two feet of  
35 building frontages, provided they do not screen views to building windows or  
36 doors, or adversely impact pedestrian use areas;  
37 g) No temporary or permanent physical structures may be affixed to building  
38 frontages in the streetscape so as to preclude views of windows or doorways;  
39 and,  
40 h) A minimum of 75 percent of buildings fronting on a Type I or II R-O-W, primary or  
41 slip street shall have arcaded sidewalks or other architectural element that  
42 provides shade to pedestrians, such as permanent canopies and awnings.  
43

FIGURE 3.B.16.F – TYPICAL ENHANCED STREETScape



[ORD. 2010-...]

##### 44 2) Buffered Sidewalk

45 The buffered sidewalk streetscape option is similar to the enhanced sidewalk option,  
46 except that the street tree planting area is replaced with a wider planting area to  
47

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#### Notes:

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**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS**

**(Updated 11/12/09)**

1 provide additional buffering between streets and pedestrian areas. The following  
2 table shows dimensional standards for planting areas based perimeter street type.  
3

**TABLE 3.B.16.F – BUFFERED SIDEWALK DIMENSIONAL STANDARDS**

WIDTH OF R.O.W.	PLANTING AREA WIDTH	
	MINIMUM	MAXIMUM
Type I R-O-W	5 ft.	10 ft.
Type II R-O-W	8 ft.	20 ft.
Type III R-O-W	10 ft.	25 ft.
[Ord. 2010-...]		
<b>Notes:</b>		

- 4
- 5 a) The planting area shall not be paved, except that paved access shall be provided  
6 to cross-walks and transit stops;
- 7 b) One canopy tree for each 25 feet of the property’s frontage shall be provided.  
8 Trees may be installed in a formal, uniform spacing or may be arranged within  
9 the planting area in informal clusters so long as the required quantity is satisfied;
- 10 c) In addition to the required canopy trees, flowering trees, palms, shrub layers,  
11 grass, groundcovers shall be required to provide design variations and colors.  
12 Quantity of plant materials shall be established depending on the width of the  
13 Planting Area, and shall be calculated in compliance with Art.7, Landscaping;
- 14 d) Grass shall be permitted; however, groundcover shall be encouraged as a  
15 substitute for grass for water conservation and maintenance purposes;
- 16 e) Berms shall only be permitted in order to create a streetscape with an informal,  
17 naturalistic design;
- 18 f) Meandering pedestrian walkways are encouraged to be incorporated into larger  
19 sidewalk buffer planting areas; and,
- 20 g) All other requirements shall be in compliance with the enhanced sidewalk defined  
21 above, with exception to street tree planting requirements.  
22

**FIGURE 3.B.16.F – TYPICAL BUFFERED SIDEWALK STREETScape**



[ORD. 2010-...]

- 23
- 24 **3) Slip Street**
- 25 Slip street streetscape shall be required for any proposed slip streets, and shall be  
26 designed as follows:
- 27 a) A landscape planting area shall be required between a perimeter R-O-W and the  
28 slip street ranging from ten to 15 feet in width. Additional width may be permitted  
29 to accommodate utility easements or Engineering requirements, but shall not be  
30 increased otherwise. Area shall be hardscaped or covered with appropriate  
31 ground cover.
- 32 b) Street trees shall be planted in the landscape area in accordance with Art.  
33 3.F.4.A.4.d, Street Trees, but shall be generally consistent with the tree species  
34 and spacing provided in the enhanced sidewalk area; and,
- 35 c) All other requirements shall be in compliance with enhanced sidewalk, where  
36 applicable.  
37

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

FIGURE 3.B.16.F – TYPICAL SLIP STREET STREETScape



[ORD. 2010-...]

9. USABLE OPEN SPACE

A minimum of five percent of the gross acreage of the project shall be dedicated or provided as usable open space. Plaza's or squares that provide a concentrated focal point for pedestrians shall be the preferred method for providing usable open space, but credit may be given for required pedestrian streetscapes or other similar usable open space amenities. All usable open space areas shall meet the minimum dimensions provided under Table 3.B.16.E, Dimensions for Usable Open Space, unless exempted otherwise herein.

a. Required Plazas and Squares

Projects ten acres or more shall provide at least one central plaza, square or other similarly dimensioned usable open space area.

TABLE 3.B.16.E, DIMENSIONS FOR USABLE OPEN SPACE

	Size Min.	Length Min.	Width Min.
Central Plaza or Square	10,000 s.f.	120 ft.	80 ft.
Other Plazas or Square	5,000 s.f.	60 ft.	40 ft.

b. Streetscape Credit

Projects that have net land areas of less than two and one-half acres in size may count all streetscape areas towards the usable open space requirement. All others may count up to fifty percent of streetscape areas towards usable open space requirements.

c. Street Frontage

Minimum required usable open space shall front on a perimeter or primary street on at least one side.

d. Shade

A minimum of 15 percent of each plaza, square or other usable open space area shall be shaded by landscape material or shade structures at time of construction. Where applied to streetscape galleries, awnings or other building amenities may be counted towards shade requirement. A minimum of 30 percent of the total square footage shall be pervious.

e. Pervious Areas and Landscaping

A minimum of 30 percent of all usable open space areas, excluding streetscape where applicable, shall be pervious, and covered with appropriate ground cover in accordance with Art. 7, Landscaping.

f. Pedestrian Amenities

Required usable open space areas shall have a minimum of one linear foot of seating for each 200 square feet of overall area.

10. PARKING AND LOADING STANDARDS

Parking and loading shall comply with Art. 6, Parking, unless otherwise stated below:

a. Location and Access

Parking and service areas shall be located at the side or rear of building(s) in accordance with Table 3.B.16.F, Parking Location, except for slip streets. The most intense street shall be considered the frontage for corner lots. These standards provide flexibility in dimensional and layout requirements to address site restrictions, and provide for reductions in the number of required off-street parking spaces for sites that are located in close proximity to public transit, or have a potential for inter-connectivity and shared parking areas between contiguous developments.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

1

TABLE 3.B.16.F – PARKING LOCATION

PARKING LOCATION	MAXIMUM % OF PARKING PROVIDED
Rear	100%
Side	50% (1)(2)
Front	(3)
[Ord. 2010-...]	
<b>NOTE:</b>	
1. On-street parking only, with additional located in parking lots.	
2. Exceptions may be permitted for parking courts located internal to a development where all building placement standards have been addressed.	
3. On-street parking only, including slip streets where applicable.	

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1) **On-street Parking**

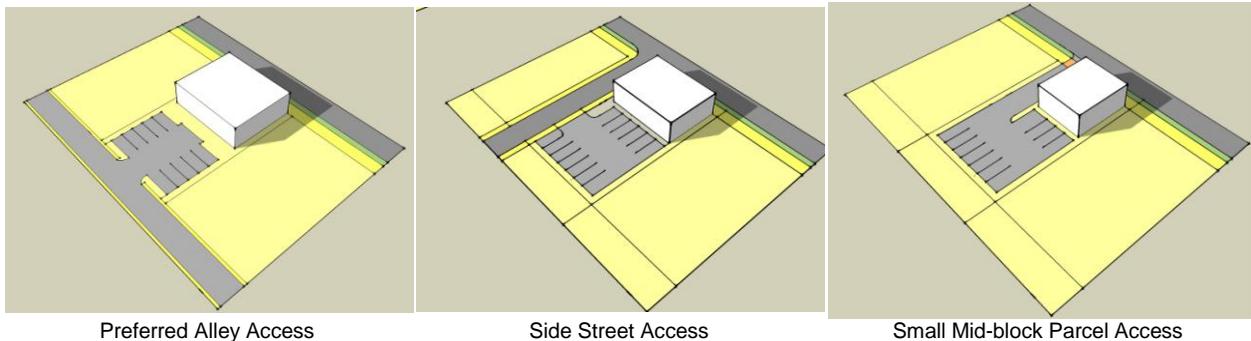
Parking in front of buildings shall only be permitted where on-street parking is allowed.

2) **Parking Lots**

It is the intent that parking lots shall be screened from all streets. The perimeter of parking lots shall be framed by either of the following, or a combination of both:

- a) Buildings; or,
- b) A five foot wide landscape strip that includes a minimum 30 inch high hedge or concrete streetwall, with canopy trees planted 30 feet on center. Breaks to allow for pedestrian access shall be permitted.
- c) Alternatively, there shall be no required separation between parking and parallel alleys for any project that does not have streets or blocks, and alleys may be incorporated into parking lots as standard drive isles.

FIGURE 3.B.16.F – TYPICAL PARKING LOCATION AND ACCESS



[ORD. 2010-...]

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3) **Parking Structures**

Parking for any use in excess of six spaces per 1,000 square feet of non-residential floor area shall be located in a parking structure configured as a liner building, subject to the following:

- a) When fronting perimeter and primary streets, usable open space, or other similar areas, shall comply with liner building PDRs; or,
- b) When fronting secondary streets, alleys, parking lots or other similar areas, shall be screened by a façade that incorporates landscaping or architectural features consistent with the primary frontage, or any combination.

4) **Townhouse Parking**

The requirements for townhouse parking may also be applied to multi-family buildings that are designed to appear and function as townhouses. Individual parking spaces or garages shall be permitted to the rear of townhouses, with access from an alley or street. Garage setbacks shall be in accordance with PDRs for townhouse buildings.

5) **Service and Loading Areas**

All service and loading areas shall be located along the rear or side of buildings, and shall not be visible from perimeter or primary streets, or any usable open space. The service areas shall be located within the footprint of the building or immediately adjacent to the building.

b. **Parking Ratios**

The required number of parking spaces shall correspond to broad uses and not to a specific use, and shall be responsive to the long term transition of tenants within a non-residential or mixed use development. The applicant may choose from the following parking requirements:

1) **Non-residential**

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

(Updated 11/12/09)

- 1 a) Minimum: one space per 333 square feet of GFA (3/1000);
- 2 b) Maximum: one space per 200 square feet of GFA (5/1000), unless parking is
- 3 accommodated in a parking structure;
- 4 c) Where uses are not intended to allow for easy of transition to other uses, the
- 5 general parking standards outlined in Art. 6, Parking may be applied, provided
- 6 that use limitations are identified on the DRO approved site plan;
- 7 d) Reduction in required parking through use of a shared parking study, as defined
- 8 in Art. 6, Parking; or,
- 9 e) Where eligible, applicant may receive credit for any perimeter on-street parking
- 10 spaces located along Type I streets, subject to approval by the County Engineer.
- 11 Use of this option may be limited to where the developer pays for required
- 12 improvements to existing Type I streets.

2) Residential

Multi-family residential parking ratios may be reduced in accordance with Table 3.B.15.I, WCRAO Mixed Use Parking Deviations.

11. LANDSCAPE STANDARDS

All IRO projects shall comply with Art. 7, Landscaping, unless stated otherwise herein:

a. Perimeter Buffers

1) Streetscape Exemptions

Required landscape perimeter buffers pursuant to Art. 7, Landscaping shall not be required where an IRO streetscape is required.

2) Compatibility Buffers

A side interior compatibility buffer shall not be required when a zero side setback is proposed or exists.

3) Alternative Incompatibility Buffer Option

The following incompatibility buffer option may be utilized where projects are in compliance with minimum setbacks for non-residential outdoor use areas:

- a) Landscape buffer planting area shall be a minimum of ten feet in width;
- b) No easement encroachment shall be permitted;
- c) An eight foot tall solid concrete block or panel wall shall be installed along the affected property line, with a setback a minimum of two feet to allow for maintenance of the exterior side of the wall. Setback may be increased as needed to accommodate required footers;
- d) The required wall shall be constructed of materials and with a design consistent with the principal building of the IRO, and shall have the same architectural finish treatment and color on both sides of the wall.
- e) Exterior landscape areas shall have groundcover that is low maintenance and does not impede necessary access for maintenance;
- f) Canopy trees shall be planted along the internal side of the wall to be spaced a minimum of 20 feet on center;
- g) A hedge shall be installed in accordance with the standards for medium shrubs, as specified in Table 7.F.7, Shrub Planting Requirements.

b. Foundation Planting

Foundation planting requirements may be subject to the exemptions, exceptions, and deviations as permitted for WCRAO projects, as indicated in Art. 7.D.11.B, WCRAO Exemptions.

c. Alternative Parking Lot Design Options

This section provides landscape or alternatives, or reductions for interconnectivity that allow for the use of innovative design or green building materials necessary for smaller sites or desired for larger projects. The following may be used individually or in combination:

1) Option 1

Projects that are one-half acres or less in size, with 20 or fewer parking spaces may relocate all interior landscape parking materials into one open space preserve;

2) Option 2

Projects that are two acre or less in size may reduce required terminal island landscape width to a minimum of five feet in width of landscape area;

3) Option 3

Landscape area and shrub requirements for terminal, interior and divider median islands may be replaced with bio-swales and appropriate landscaping, provided that required canopy trees can be accommodated. Alterations to required curbing may be permitted subject to demonstration that vegetated areas are protected from vehicles and that there will be no adverse impacts to pedestrians; or,

4) Option 4

Up to a maximum of 25 percent of required terminal, interior and divider median landscape areas shall not be required provided those parking areas provide shade

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**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS**

**(Updated 11/12/09)**

- 1 by installing covered parking that utilizes materials with appropriate solar reflectance  
 2 index (SRI) depending on the pitch of the roof of the structure.  
 3 **5) Option 5**  
 4 Required terminal, interior and divider median landscape areas and required shrubs  
 5 shall not be required, subject to the following:  
 6 a) The number of required terminal, interior and divider median trees are doubled;  
 7 b) Trees are protected by curbing, wheel stops or other similar methods of  
 8 protection;  
 9 c) Green building standards for tree wells and related root growth areas are utilized;  
 10 d) All abutting parking spaces utilize pervious pavement that has an SRI of at least  
 11 29 to improve solar reflectance; and,  
 12 e) Land Development approval.  
 13 **6) Option 6**  
 14 No interior island required if parking spaces are abutting landscape buffers, street  
 15 walls or tree planting areas.  
 16 **d. Rear or Side Entrances**  
 17 Buildings with additional entrances located on the side or rear facades shall either  
 18 provide an enhanced streetscape between any abutting parking lots that meets the  
 19 standards for a primary street; or shall provide foundation planting along a minimum of 50  
 20 percent of the applicable façade, with a minimum depth of five feet, to be planted in  
 21 accordance with Art. 7, Landscaping, with a sidewalk a minimum of five feet in width as  
 22 needed to separate pedestrians from abutting vehicle use areas along the building  
 23 façade.  
 24 **G. IRO WAIVERS**  
 25 The applicant may apply for waivers for development standards and shall complete the Waiver  
 26 forms provided by the Zoning Division. Waiver requests shall be reviewed by the Zoning Director  
 27 for denial, approval or approval with conditions, prior to either DRO certification or approval. The  
 28 following table summaries the development standards that could be requested through a waiver  
 29 process:  
 30

**Table 3.B.16.G – IRO Waivers**

<b>Requirements</b>	<b>Maximum Waiver</b>	<b>Minimum Justification Criteria of Review</b>
<b>Internal Street Standards</b>		
Art. 3.B.16.F.3.b, Internal Street Types	Allow additional lanes, or minor increases in lane width.	- Where required to accommodate traffic, or where required by the DEPW or Palm Tran. - Minimum deviation required and remains generally consistent with TDD street standards. - Consistent with livable street standards that prioritize pedestrian safety.
<b>Interconnectivity Standards</b>		
Art. 3.B.16.F.4, Interconnectivity Standards	No interconnectivity requirement.	- Document prohibition by Federal, State, local or other laws that serve to establish limited access standards necessary to protect facilities such as water treatment plants, jails, or other similar facilities.
Art. 3.B.16.F.4.c, Gates	Allow use of gates within the development.	- Special circumstances between adjacent uses. - Specific user requirements within the IRO project requires the use of gates, provided such does not impact the continuity of required blocks, streets or alleys.
<b>Building Standards</b>		
Civic building standards.	No frontage requirement.  No build to line requirement.	- Public and private civic buildings shall be designed to reflect their public purpose and are intended to be landmarks within the community. - Frontages shall be located abutting usable open space areas, and additional pedestrian amenities shall be provided to emphasize the civic nature of the use.
<b>Usable Open Space</b>		
Art. 3.B.16.F.9, Usable Open Space	Allow for reduction.	- Lot less than 2.5 acres in size having insufficient frontage to accommodate usable open space in pedestrian streetscape areas.
[Ord. 2010-...]		

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**EXHIBIT D**

**INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)**

Part 5. ULDC, Table 3.C.1.A, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts (page 52 of 155), and is hereby amended as follows:

**Reason for amendment:** (Zoning) Update chart to address new IR Zoning district.

**TABLE 3.C.1.A FUTURE LAND USE (FLU) DESIGNATION AND CORRESPONDING STANDARD ZONING DISTRICTS<sup>1</sup>**

FLU Designation	Zoning District <sup>2</sup>					
<b>Agriculture/Conservation</b>						
AP	AP					
AGR	AGR					
CON	PC					
SA	AR <sup>2</sup>	AGR <sup>3</sup>				
<b>Residential</b>						
RR-20	AR					
RR-10	AR	CRE <sup>4</sup>				
RR-5	AR					
RR-2.5	AR	RE				
LR-1	AR <sup>3</sup>	RE	RT	AP		
LR-2	AR <sup>3</sup>	RE <sup>3</sup>	RT			
LR-3	AR <sup>3</sup>	RE <sup>3</sup>	RT			
MR-5	AR <sup>3</sup>	RE <sup>3</sup>	RT <sup>3</sup>	RS	RM	
HR-8	AR <sup>3</sup>	RE <sup>3</sup>	RT <sup>3</sup>	RS	RM	
HR-12	AR <sup>3</sup>	RE <sup>3</sup>	RT <sup>3</sup>	RS <sup>3</sup>	RM	
HR-18	AR <sup>3</sup>	RE <sup>3</sup>	RT <sup>3</sup>	RS <sup>3</sup>	RM	
<b>Commercial</b>						
<b>CL-O</b>	CLO	<b>IR</b>				
<b>CL</b>	CN	CC	CLO	<b>IR</b>		
<b>CH-O</b>	CLO	CHO	<b>IR</b>			
<b>CH</b>	CN	CC	CLO	CHO	CG	<b>IR</b>
<b>CR</b>	CRE					
<b>Industrial</b>						
IND	IL	IG	CRE			
EDC	IL	IG				
<b>Institutional/Civic</b>						
INST	IPF					
PARK	IPF					
U/T	PO					
[Ord. 2006-004] [Ord. 2008-003] [Ord. 2008-037] [Ord. 2010-...]						
<b>Notes:</b>						
1. Unless exempted otherwise by Art. 3.C.1.B, Standard District Exceptions and Limitations, or where a parcel is rezoned to a PDD or TDD, all new development such as any application for a rezoning, conditional use or subdivision of property shall require the subject site be rezoned to a shaded district.						
2. Typical Example of a "shaded district." <span style="border: 1px dashed red; padding: 2px;"> </span>						
3. Existing zoning districts by FLU designation that may qualify for SFD exemption in accordance with Art. 3.C.1.B.1.						

Part 6. ULDC, Art. 3.C.1.C, Previous Zoning Districts (page 53 of 155), and is hereby amended as follows:

**Reason for amendment:** (Zoning) Clarification of validity of previous districts and corresponding districts where consistent with FLU designation, to include requirement for concurrent rezoning application where any other BCC application is proposed.

**CHAPTER C STANDARD DISTRICTS**

**SECTION 1 FUTURE LAND USE (FLU) DESIGNATION AND CORRESPONDING DISTRICTS**

**C. PREVIOUS ZONING DISTRICTS**

1. The following previously established zoning districts correspond to the current districts:
  - a. The Specialized Agriculture (SA) District shall correspond to the AP District in the Glades Tier, the AGR District in the AGR Tier, and the AR District in the Rural Tier.
  - b. Rural Services (RSER) District shall correspond to the AR District.
  - c. Residential Transitional Suburban (RTS) District shall correspond to the RT District.
  - d. Residential Transitional Urban (RTU) District shall correspond to the RS District.
  - e. Multifamily Residential High Density (RH) District shall correspond to the RM District.
  - f. Specialized Commercial High (CSH) and Specialized Commercial (CS) District shall correspond to the Commercial High Office District (CHO) District.

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EXHIBIT D

INFILL REDEVELOPMENT OVERLAY
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

Part 9. ULDC, Table 4.A.3.A, Commercial Districts (page 19 of 155), and is hereby amended as follows:

Reason for amendment: [Zoning] Re-affirms DRO approval requirements outlined in Art. 3.B.16, IRO.

TABLE 4.A.3.A - THRESHOLDS FOR PROJECTS REQUIRING DRO APPROVAL

Table with 2 columns: Zoning District, Thresholds: Number of Units, or Square Feet or Other. Includes a row for 'IR' and a 'Notes' section.

Part 10. ULDC, Art. 4.A.4.A, General (page 19 of 155), and is hereby amended as follows:

Reason for amendment: [Zoning] Re-affirms DRO approval requirements outlined in Art. 3.B.16, IRO.

CHAPTER A USE CLASSIFICATION

SECTION 4 DEVELOPMENT THRESHOLDS

A. GENERAL

Any amendment to an existing development, or new construction of residential, commercial or industrial projects that meets or exceeds either the maximum square footage or units, or maximum acreage of Table 4.A.3.A-3, Thresholds for Projects Requiring Board of County Commission Approval, shall be reviewed and approved as a PDD or TDD in accordance with Art. 2.B.1, Official Zoning Map Amendment (Rezoning). Projects located in the PO Zoning District or that propose to rezone to the PO district, that support existing or proposed government facilities, shall be exempt from this requirement. Projects that meet or exceed the thresholds of this table that do not meet the access and dimension requirements of a PDD or TDD; are not allowed to be a PDD or TDD by the Plan; or for non-residential projects, consist of only one use, shall be approved as a Class A Conditional Use. [Ord. 2006-004] [Ord. 2007-013]

1. EXEMPTIONS

The following projects shall be exempt from this requirement:

- a. Projects located in the PO Zoning District or that propose to rezone to the PO district, that support existing or proposed government facilities; and,
b. Infill Redevelopment Overlay projects approved by the DRO.

Part 11. ULDC, Art. 4.B.1.A, General (page 20 of 155), and is hereby amended as follows:

Reason for amendment: [Zoning] IRO specific use standards, and outdoor uses located in a Core Transect Zone shall be subject to DRO approval.

CHAPTER B SUPPLEMENTARY USE STANDARDS

SECTION 1 USES

A. DEFINITIONS AND SUPPLEMENTARY STANDARDS FOR SPECIFIC USES

18. AUTO SERVICE STATION

f. Infill Redevelopment Overlay (IRO)

An automotive service station located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

25. CAR WASH

e. Infill Redevelopment Overlay (IRO)

A car wash located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

37. CONVENIENCE STORE WITH GAS SALES

g. TMD and LCC Districts, and IRO Projects

Notes:

Underlined language indicates proposed new language. Language crossed out indicates language proposed to be deleted. .... (ellipses) or [Renumber Accordingly.] indicates language not amended which has been omitted to save space. Relocated language is shown as italicized with reference in [brackets].

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

Islands for gasoline pumps shall be located in the rear of a building with access from an alley, interior parking area, or a street not designated as a main street. [Ord. 2006-004]

....  
**i. Infill Redevelopment Overlay (IRO)**

A convenience store with gas sales located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

....  
**55. FINANCIAL INSTITUTION**

....  
**c. Infill Redevelopment Overlay (IRO)**

A financial institution with no drive thru lanes; or, a financial institution with drive through lanes located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

....  
**64. GREEN MARKET**

....  
**g. LCC District and IRO Projects**

A permanent Green Market shall be allowed to operate each weekend provided the area designated for the Green Market is not located in required parking and indicated on the final DRO site plan. A Green Market that is located within required parking spaces or access aisles for a temporary period of time, which shall be defined by anything exceeding one hour or several days, shall comply with the Special Permit requirements in Article 2.D.2.

....  
**107. REPAIR AND MAINTENANCE, GENERAL**

....  
**f. Bay Door Orientation**

Service bay doors shall not face any residential district, FLU designation, or use unless separated by an arterial or collector street. [Ord. 2005 – 002]

**1) Buffer Requirements**

Bay doors adjacent to an arterial or collector street shall require a Type 2 incompatibility buffer.

**2) Bay Doors Facing a Residential District or Use**

Bay doors facing a residential district or use separated by an arterial or collector street shall require a Type 3 incompatibility buffer.

**3) Infill Redevelopment Overlay (IRO)**

Bay doors shall not be oriented towards perimeter streets.

....  
**j. Infill Redevelopment Overlay (IRO)**

A repair and maintenance general use located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

....  
**104. RECYCLING DROP-OFF BIN**

....  
**b. Location**

The drop-off bin shall be located in or adjacent to an off-street parking area, and shall not be located within required parking space. In TMD and LCC districts, and for IRO projects, the recycling drop-off bins shall be designed to be consistent with the buildings design.

....  
**109. RESTAURANT, TYPE I**

....  
**f. Infill Redevelopment Overlay (IRO)**

A Type I restaurant located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

....  
**135. VEHICLE SALES AND RENTAL**

....  
**e. Infill Redevelopment Overlay (IRO)**

A vehicle sales and rental use located on a parcel with a CH FLU designation within the Core Transect Zone may be approved by the DRO.

....  
**136. VETERINARY CLINIC**

....  
**c. Infill Redevelopment Overlay**

A veterinary clinic shall not include outdoor runs. Boarding facilities shall comply with the standards for a type III commercial kennel.

**Notes:**

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

.... (ellipses) or **[Renumber Accordingly.]** indicates language not amended which has been omitted to save space.

Relocated language is shown as *italicized* with reference in **[brackets]**.

EXHIBIT D

INFILL REDEVELOPMENT OVERLAY  
SUMMARY OF AMENDMENTS

(Updated 11/12/09)

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Part 12. ULDC, Art. 7.C, MGTS Compliance [Related to Landscaping], and is hereby amended as follows:

**Reason for amendment:** (Zoning) Update U/S Tier compliance summary to address infill and redevelopment conditions and applicability.

C

**CHAPTER B TYPES OF PLANS**

**SECTION 4 STREET PLANTING PLAN**

Plans for landscaping within streets shall be provided for new subdivisions in accordance with Article 11.B.3.B.3, Construction Plans and Supplemental Engineering Reports.

**CHAPTER C MGTS TIER COMPLIANCE**

Landscape design shall comply with the relevant MGTS characteristics in both plant material selection and overall landscape composition.

**SECTION 1 U/S TIER**

Landscaping in the U/S Tier should have a higher level of detail and more structure, such as pedestrian accents, formal arrangements in perimeter landscape and buffers, street tree plantings, and inter-connections between pedestrian and vehicular areas. The Revitalization and Redevelopment Overlay is located with the U/S Tier and recognizes the unique opportunities and restrictions often encountered in development of infill parcels. Greater flexibility and alternative landscape solutions are available to promote development within the boundaries of these areas. However, it also recognizes the unique opportunities and restrictions that may be encountered for parcels developing consistent with Art. 3.B.16, Infill Redevelopment Overlay, and recommends allowing greater flexibility and alternative landscape solutions to be made available to these types of projects.

....

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**Notes:**

Underlined language indicates proposed new language.

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

.... (ellipses) or **[Renumber Accordingly.]** indicates language not amended which has been omitted to save space.

Relocated language is shown as *italicized* with reference in **[brackets]**.

## EXHIBIT E

### **PBC ZONING DIVISION PRIOR APPROVALS AND NONCONFORMITIES SUMMARY WHITE PAPER**

#### **INTRODUCTION**

The purpose of this proposed amendment is to review existing Palm Beach County (PBC) Unified Land Development Code (ULDC) provisions related to prior approvals and non-conformities: lot, uses structures and site elements, and to determine if they should be updated. Zoning Division has determined that Art.1.E, Prior Approvals and Art.1.F, Nonconformities must be amended for the following reasons:

1. Address inconsistency between Policy 2.2-d of the Comprehensive Plan (Plan) and Art.1.F, Nonconformities of the ULDC;
2. Further refine existing differences between major and minor nonconforming uses in Art.1.F;
3. Update references and terminologies in Art.1.F;
4. Relocate nonrelated nonconforming requirements (nonconforming site elements) from Art.1.E, Prior Approvals to Art.1.F, Nonconformities;
5. Clarify vested status of approved development order or permit, and define affected area in Art.1.E;
6. Clarify similarities and differences between Improvement Classifications: Expansion, Maintenance, Renovation and address Natural Disaster Damage Repair in Art.1.F. Also reassign appropriate value of improvements to further Policy 2.2-d of the Plan and the intent of the ULDC on nonconformities. Establish regulations to aide in post disaster redevelopment;
7. Establish regulations in Art.1.F that address nonconformities in the Infill and Redevelopment Overlay (IRO); and,
8. Clarify discontinuance and cessation of uses based on case laws in Art.1.F.

The code amendment resulted in staff reviewing and researching existing regulations in the ULDC. The Land Development Regulation Advisory Board (LDRAB) Subcommittee has been convened for the Infill Redevelopment Overlay (IRO), and also served as the Subcommittee for Nonconformities to review staff code amendments.

#### **LDRAB SUBCOMMITTEE**

##### **LDRAB Subcommittee Members:**

- |                              |  |
|------------------------------|--|
| 1. Wendy Tuma                | Planner/Landscape Architect- <b>CHAIR</b>              |
| 2. Joni Brinkman             | <b>LDRAB/League of Cities-VICE CHAIR</b>               |
| 3. Joanne Davis              | <b>LDRAB/BCC District 1</b>                            |
| 4. David Carpenter           | <b>LDRAB/BCC District 2</b>                            |
| 5. Barbara Katz              | <b>LDRAB/BCC District 3</b>                            |
| 6. Jim Knight                | <b>LDRAB/BCC District 4</b>                            |
| 7. Edward Wronsky            | <b>LDRAB/American Institute Architects</b>             |
| 8. Steven Dewhurst           | <b>LDRAB/Associated General Contractors of America</b> |
| 9. Ron Last, P.E.            | <b>LDRAB/Florida Engineering Society</b>               |
| 10. Raymond Puzziello        | <b>LDRAB/Gold Coast Builders Association</b>           |
| 11. C. Wesley Blackman, AICP | <b>LDRAB/PBC Planning Congress</b>                     |
| 12. Jeff Brophy              | Planner/Landscape Architect                            |
| 13. Rick Gonzalez            | Architect  |
| 14. Bradley Miller           | Planner  |
| 15. Katharine Murray         | Land Use Advisory Board                                |
| 16. Chris Roog               | Gold Coast Builders Assoc.                             |
| 17. Ken Tuma                 | Engineer   |
| 18. Nancy Lodise             | Interested Citizen                                     |
| 19. Jose' Jaramillo, AIA     | Architect  |

##### **Key Dates of Meeting on Art.1:**

April 2, 2008

April 16, 2008 (Summary of living with Nonconformities – New Solutions)

October 1, 2008

May 13, 2009

June 3, 2009

October, 7 2009

October 14, 2009

November 4, 2009

## Subcommittee Recommendation:

On November 4, 2009, the Subcommittee members voted to recommend approval of the proposed amendments to LDRAB, and subject to the following additional recommendations:

1. Increase percentage of improvement value from 125% to 150% for non-government facilities based on the decline in value of property value. At this meeting, staff stated that they may need further research before making any changes to the current percentage. Staff has researched nonconformity requirements of other local jurisdictions in South Florida and has determined the following:
  - a. County allows a higher improvement value for nonconformities in the Redevelopment Overlay areas such as Lake Worth Road Corridor, Westgate Community Redevelopment Area than the adjacent local municipalities (Boca Raton, Boynton Beach, Fort Lauderdale, Delray, and West Palm Beach);
  - b. County allows a lower improvement value for nonconformities in all other areas outside the Redevelopment Overlay areas adjacent local municipalities.Therefore, staff has concluded that in spite of the recent decline in property value, the percentage required under the current ULDC is comparable to the other local government authorities, and recommend the percentage to remain as is.
2. Simplify the review process for improvement classifications by eliminating variance process and capping the maximum amount of percentage for improvements. (See Table 1.F.1.G);
3. For the Redevelopment Areas/Overlays, allow 2 types of administrative approval processes for improvements: improvements up to 20% of the improvement value will be permitted by right and up to 30% through the DRO approval process.

## BACKGROUND AND SUMMARY

Notwithstanding the adoption of Ord. 2008-37 effective September 4, 2008, (Ord. 2008-037 amended the percentage of improvement value for government facilities as appraisals by the Property Appraiser's Office are conducted less for government structures due to exemptions for property tax) Zoning and Building Divisions staff has identified a need to revisit regulations affecting the ordinances on nonconformities, the reasons for which are summarized as follows:

### 1. Inconsistency between Plan and ULDC

Pursuant to Policy 2.2-d (formerly 2.2-e) which currently states:

*The County shall encourage 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 this Plan. This shall be accomplished by prohibiting enlargement, expansion, or extension of non-conforming future land use activity unless the action decreases the nonconformity. A non-conforming use shall be permitted to enlarge, expand, or be rebuilt on one occasion through an administrative variance process provided that the value of the improvement would not exceed ten percent of the original value of the structure and the expansion does not create a non-conforming structure.*

However, Art.1.F requires improvement value to be based on the most current assessed value and not the original value. Zoning staff also indicated that there are other discrepancies between the percentage of allowable improvements between the Plan and the ULDC. As a result of these findings, the Planning Division is proposing to amend Policy 2.2-d allowing the ULDC to regulate these nonconformities, as follow:

*The County shall encourage 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 this Plan. This shall be accomplished by ~~prohibiting~~ limiting the enlargement, expansion, or extension of non-conforming future land use activity unless the action decreases the nonconformity. ~~A non-conforming use shall be permitted to enlarge, expand, or be rebuilt on one occasion through an administrative variance process provided that the value of the improvement would not exceed ten percent of the original value of the structure and the expansion does not create a non-conforming structure.~~ Non-conforming uses shall only be permitted to expand under limited circumstances, specified in the Palm Beach County Unified Development Code, which are designated to curtail any substantial investment in non-conforming uses to preserve the integrity of the Comprehensive Plan.*

### 2. Differences between Major and Minor Nonconforming Uses

The Plan does not differentiate nonconforming uses as major or minor. The ULDC classifies nonconforming use as major and minor, which are currently indicated in Art.1.F.2.A.1 and A.2 as follows:

**Major**

- a. Legally established.
- b. Located in a district in which it is now prohibited.
- c. Creates incompatibilities detrimental to public welfare.

**Minor**

- a. Legally established.
- b. Located in a district in which it is now prohibited, or is inconsistent with physical or permit requirements.
- c. Does not create incompatibilities injurious to public welfare.

A major or minor nonconforming use is a use that was legally established in a zoning district where the use is now prohibited under the current Code; however, the Zoning Division has been allowing the applicant the opportunity to correct the nonconforming status of a minor nonconforming use by providing a higher level of review and approval process pursuant to the Use Matrices of Table 3.E.1.B and Table 4.A.3.A-1.

To resolve this inconsistency, staff proposed to redefine minor nonconforming uses to be consistent with the current practice and identify areas of differences between major and minor conforming uses as follows:

**Major Nonconforming uses** are prohibited in the current zoning district because the continuation of the use will cause detrimental effects to the surrounding uses. While allowing the major nonconforming use to continue to exist, restrictions in improvements are clearly defined to enforce the main objective of eliminating the nonconformities by curtailing the property owner from investing substantially in the use or structure accommodating the use per the Plan's Policy 2.2-d.

**Minor nonconforming uses** are not prohibited in the current zoning district but the approval process or requirements has been changed to require a higher level of review and approval process under the terms of this Code, and where any Development Order Amendments 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. However, limitations are established so as to encourage the property owner to apply through a higher level of 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. References and Terminologies**

For the purposes of maintaining the ULDC, the following references and terminologies are being updated:

**Assessed Value:**

The improvement value of a nonconforming structure is based on the most recent assessed value of the structure established by the Palm Beach County Appraiser (PBCPA), and multiply the value by 125 percent to establish the total improvement value. Assessed Value pursuant to the Glossary of the Property Appraiser is:

*Value placed on a homesteaded property before any exemptions are deducted but after the property tax cap is factored. For non-Homestead properties, the Assessed Value is the same as Market Value. Assessed Value minus exemptions equals Taxable Value.*

The Zoning and Building Divisions staff indicated that the correct methodology to calculate allowable amount for improvements is to utilize the improvement value and not the assessed value. Improvement value is the value for the building minus all exemptions and land value to establish the sole value of the building. The proposed code amendment will make the code requirements consistent with the general practice.

**Aggregate Costs:**

In addition, the current Code requires the aggregate costs approach, which has now been replaced by the Building Valuation Data Table. This table can be found in the Building Safety Journal provided by the International Code Council and a link to the website is available. It provides the "average" construction costs per square foot, and will be used as the sole basis in determining the value of an improvement necessary to perform expansion, maintenance, renovation, or natural disaster damage repair for any types of nonconformity.

**4. Links between Art.1.E, Prior Approvals to Art.1.F.**

The current Art.1.F specifies requirements for nonconforming structures, uses, and lots only, whereas nonconforming site elements (outdoor lighting, parking, landscaping and signage) are located in Art.1.E. Staff is proposing to reorganize Art.1.F to include all types of nonconformities and in the order of: lot, structure, use, and site element.

**5. Vested Status of Approved Plan or Permit, Affected Area and Greatest Extent Possible**

Proposed amendment for **Art.1.E, Prior Approvals** includes definitions and graphic illustration of affected area, which oftentimes is a subject of dispute between staff and applicant and may become an issue during the DRO review and may hold up the certification of a project for public hearing.

Affected Area directly tied to applications for DRO review and approval process for amendments to prior approvals, the review includes examination of existing site situations and identification of property development regulations and associated site elements that are shown on the approved plan but are not in compliance with the current code. Oftentimes, the property owner could not bring the existing nonconformities up to current code requirements because of site restrictions. As a result, the Type II variance process is being utilized to bring the nonconformities to a "conforming" status. The variance process; however, may not necessarily benefit the County, but eliminates the nonconformity of a lot, structure or a site element, and assist in redevelopment of the site.

The code requirement for vesting nonconformities should be further clarified to help with the review and approval process for DOA and improvement applications, as follows:

	With Nonconformities	Modifications	Vested Status	Comply with Code
Approved Plan	Vested	Not Vested	Vested as shown	NA
Approved Plan	Vested	Vested	Lost vested status	Affected area to greatest extent possible
No Approved Plan	Vested	Vested	NA	Vested

In addition, the affected area should be clearly and graphically defined on the proposed plan with an improved system of logging historical records such as: prior ordinance, resolution numbers, and nonconformity in the site data of the plan.

**6. Similarities and Differences between Improvement Classifications: Expansion, Maintenance, Renovation and Natural Disaster Damage Repair**

Currently, there are 3 classifications of improvements to nonconforming uses and structures. The ULDC does not address damage repair resulted from a natural disaster. If a nonconforming use or structure is damaged as a result of a hurricane or a wild fire, the property owner would be subject to limitations in maintenance or renovation. Therefore, staff has added natural disaster damage repair under the improvement classification so as to provide sound and feasible guidelines for post disaster recovery.

Art.1.1.2 currently defines these terms as:

**Expansion** – the increase in the floor area of a structure, including covered attached decks and porches, outdoor seating, coolers, and interior mezzanines or the increase in the height of a structure.

**Maintenance** – repair or fix existing nonbearing walls, fixtures, wiring, air conditioning and plumbing necessary to permit structures to remain in a state of good repair without creating additional improvements.

**Renovation** – improvements to modify the interior or exterior physical characteristics of an existing structure. Renovation may include: conversion, rehabilitation, remodeling, or modernization of floor area, air conditioning, wiring or plumbing.

Under this amendment, a new definition for Natural Disaster Damage Repair will be added to Art.1.1.2, as follows:

*A loss in structural integrity due to an act of nature such as hurricane, tornado, wild fire, flood. This does not include fire, termites and other damages not related to those listed herein.*

In addition, under this proposed amendment of Art.1.F, the classification of improvements have also been adjusted to further the policy of 2.2-d of the Comprehensive Plan (which is mainly on elimination or reducing major nonconformities by limiting the enlargement, expansion or extension of nonconforming future land use

activities unless the action decreases the nonconformity), and further clarify the intent of the ULDC on different types of nonconformity:

Nonconformities	Policies of Plan and Intent of ULDC
<b>Major nonconforming uses</b>	Very limited improvements, reasons: per Policy 2.2-d of the Plan. Intent is to eliminate use, no higher level of approval process.
<b>Minor nonconforming uses</b>	Limited improvements, reasons: to curtail owner in investing in nonconformity, and encourage owner to eliminate nonconformity by applying for a higher level of approval process or to decrease nonconformity.
<b>Nonconforming structures</b>	Limited improvements, reasons: to curtail owner in investing in nonconformity, and encourage owner to eliminate nonconformity by demolition or replacement of nonconforming portion of structure. For Infill and Redevelopment Areas and Overlays, some nonconforming structures may meet the PDRs of the Form based design code; therefore, allows a higher percentage for improvements to provide incentives for those redevelopment projects, or to decrease nonconformity.
<b>Nonconforming Site Elements</b>	Comply with Code to the greatest extent possible with restrictions tied to the allowable improvement

**7. Redevelopment Overlays**

Currently, the ULDC already allows a higher percentage for Overlays such as the Westgate Community Redevelopment Area Overlay and the Lake Worth Road Commercial Corridor Overlay to encourage redevelopment. The primary focus for the Infill Redevelopment Overlay (IRO) is to develop solutions to impediments to redevelopment of non-conformities, and establish a long-term strategic vision that will serve as a blueprint for creating pedestrian-oriented, mixed use and sustainable development to better serve the needs of the community. The IRO and the Urban Redevelopment Area (URA - prepared by Planning Division) is a form-based code and requires built forms (structures and building orientation) to regulate uses. Therefore, under this amendment, staff has added similar benefits and incentives for the IRO and URA.

**8. Discontinuance and Cessation of uses**

Many local governments, including Palm Beach County, establish time periods to limit how long a use may be discontinued before it loses its nonconforming status. Upon review and consultation with the County Attorney Office, the following amendments for Art.1.F.2.C are proposed to address discontinued or abandoned nonconforming uses.

**DISCONTINUANCE OR CESSATION**

*# A nonconforming use that is intentionally discontinued, abandoned, or changed to becomes an accessory use shall lose its nonconforming status and shall not be reestablished or resumed. Any subsequent use in the same location shall be consistent with this Code. A use that has been discontinued, abandoned, or changed to 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 1095 consecutive day (three year) period shall constitute a presumption of the intent to discontinue, abandon, or change to an accessory use. then such use shall not be re-established or resumed and any subsequent use in the same location shall be 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 shall not be calculated for the purpose, of this Section. In the event either time period has been exceeded, an applicant shall have the burden rebutting the presumption by presenting competent, substantial evidence of the intent to maintain the nonconforming use.*

**END**

EXHIBIT E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

Part .1 ULDC, Article 1.E.1, General (pages 14-16 of Article 1 [Supplement No.6]) is hereby deleted in entirety, and replaced with new text as follows:

Reason for amendment: [Zoning] 1) Add purpose and intent to be consistent with format of Art.1.F; 2) Clarify the submittal and review process for projects with prior approvals. Clarify that once an approved plan is modified or a change in use, the plan can no longer be vested, and must comply with current Code to the greatest extent possible or obtain a variance relief, if applicable. 2) Add submittal requirements to establish a record of project amendment history on the approved plan; 3) Relocate nonconforming site elements in Art.1.E.1.C.1, to Art.1.F, which is a more appropriate and logical location following nonconforming lot, structure and use.

CHAPTER E PRIOR APPROVALS

Section 1 General

A. Purpose and Intent

This Section establishes the review and approval procedures for: Development Orders or Permits approved prior to the effective date of this Code and their vested status; nonconforming site elements of a prior approval, and establish extent of vested status of the limits of affected area of modifications.

B. Prior Approvals

All Development Orders and Development Permits shall remain in full force and effect until superseded by amendment, expiration, revocation, or abandonment. The uses, structures, lot size, site elements and the associated site design, access, intensity, density, and tabular data shown on a valid development order such as a development permit or plan that was approved in accordance with a prior ordinance shall not be subject to the requirements of this Code for any information clearly shown. This information may be carried forward onto subsequent plans if necessary to implement the previously approved plan.

1. Prior Variances, Exemptions or Waivers

Previously approved variances, exemptions, or waivers from property development regulations and standards no longer required by this Code shall remain in effect until superceded, modified, abandoned, voided, or revoked by the authority which granted the original approval. Such prior approvals may only be used in their entirety, as originally approved, and may not be amended or modified.

C. Modification to Prior Approvals

A development order or permit, which was approved under the prior Code provisions, shall comply with the current review process for any modifications and the following:

1. Determination of Extent of Vested Status in the Area of Modification

The proposed modification shall comply with the current Code to the greatest extent possible in the affected area, which also includes the determination of whether the prior approval has nonconformities.

2. Modification to a Prior Approval with Nonconformities

Proposed modifications may not increase a nonconformity. The applicant shall identify the extent of the proposed modification on the applicable plan and in the application pursuant to Art.2, Plan Requirements. The application and plan shall:

- a. list all prior Zoning resolutions and prior ULDC Amendment Ordinances to establish a record of any prior vesting claim;
b. delineate on the plan the boundary of the affected area and indicate all proposed modifications; If necessary, the Zoning Director shall render decision on the affected area.
c. identify all nonconformities with prior approved development orders, which includes: lot, structure, use, and site elements of the subject property or affected area of the subject property to establish a record of nonconformities in the tabular data of the plan, and notate on the plan these nonconformities, where applicable.
d. all nonconformities outside of the affected area that are clearly shown on a prior development order shall be vested.

D. Invalid Approvals

Invalid development orders include those which have been revoked, voided, abandoned, or have expired. If a development order for a parcel of land is invalid, any future development order for that parcel shall be subject to all applicable provisions of this Code.

E. Applications In Process

Development Order application that is found sufficient for review purposes shall be required to meet the Code provisions in effect on the date the application is submitted. The application shall not be required to meet any subsequent Code amendments that may be adopted prior to final approval of the application by the appropriate Board or County Official.

Notes:

- Underlined language indicates proposed new language.
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 E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

Part 2. ULDC, Art. 1.1.2.A.30, (page 29 of 109), is hereby amended as follows:

Reason for amendment: [Zoning]: Add definition for Affected Area. Affected Area is currently used in modifications for prior approvals but not defined in Article 1.

Section 2 Definitions

30. Affected Area - For the purposes of Art.1.E, the area on a plan or a development that is subject to the proposed modification, including but not limited to: lot, structures, uses, or site elements.

[Renumbered accordingly.]

Part 3. ULDC, Art. 1.1.2.D.31 and 33, (pages 48- 49 of 109), is hereby amended as follows:

Reason for amendment: [Zoning]: 1) Amend definition 31, Development Order - Clarify Development Order, which includes relocating existing text from Art.1.E to definitions. (The clarification of Development Order, PBC is currently embedded in Art.1.E). 2) Amend definitions 32. Development Order, Final, 34. Development Order, Preliminary and 35. Development Permit to eliminate redundancies and inconsistencies between a development order and a development permit.

Section 2 Definitions

....

31. Development Order-

- a. Any order granting or granting with conditions an application for a development permit. The decision or order of an application for a Development Permit, enforcement order, ongoing enforcement action or other action of the BCC, ZC, DRO, Enforcement Board, all other PBC decision making and advisory boards, Special Masters, Hearing Officers and other PBC Officials which grant or grant with conditions or denying an application for a development permit.
b. For the purposes of Art 2.F, any Concurrency Reservation that applies to lands that are owned by a unit of local, state, or federal government and utilized for buildings or facilities that are owned by a government entity and support government services or delivery of public services [Ord 2007-013]
c. for the purposes of Art. 9 and Art. 12, as defined in F.S 163.3164 [Ord. 2007-013]

32. Development Order Permit, Final -

A development order for site plan/final subdivision plan, or a building permit. An application for the approval of a master plan, site plan, subdivision plan, or a building permit by the Staff Officials pursuant to Art.17.

33. Development Order, Local Government -

a development order properly issued by PBC through procedures established by Code which establishes the specific use or uses of land, sets the density, and involves an active and specific consideration by PBC of particular detailed development concept. It shall include affidavits of exemption and subdivision approval. It typically involves the submission and review of a master plan, site plan, or building plans, but may not necessarily involve such. It shall not include land use designations established by Local Government's Comprehensive Plan. It does not include comprehensive general rezoning district boundary changes initiated by PBC. It typically involves a petition of the landowner for his property alone and not adjoining properties. It does not include vegetative removal, clearing, grading or demolition permits.

34. Development Order Permit, Preliminary -

a development order for an amendment to the official zoning map, a planned development, a conditional use, a special use, a variance, a coastal protection permit, a flood prevention permit, an environmentally sensitive lands permit, a wetlands permit, a Wellfield protection permit, or a sea turtle protection permit. An application for the approval of a master plan, site plan or subdivision plan, or other request by the Board of County Commissioners or the PBC Appointed Bodies pursuant to Art.17.

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EXHIBIT E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

35. Development Permit - any amendment to the text of this Code or Official Zoning Map (rezone), conditional use, special use, planned development, site plan/final subdivision plan, subdivision, building permit, variance, special exception, certificate of conformity unique structure, or any other official action of PBC having the effect of permitting the development of land or the specific use of land. An application requesting approval of a master plan, site plan, subdivision plan, building permit or amendment to the text of this Code; or Official Zoning Map (rezone), conditional use, requested use, special use, planned development, traditional development, waiver, deviation, variance, special exception, certificate of conformity, a coastal protection permit, a flood prevention permit, an environmentally sensitive lands permit, a wetlands permit, a Wellfield protection permit, or a sea turtle protection permit or any other official action of PBC having the effect of permitting the development of land or the specific use of land.

Part .4 ULDC, Articles 1.F.1, General, 1.F.2, Non-Conforming Use, 1.F.3, Non-Conforming Structure, and 1.F.4, Non-Conforming Lot (pages 16-23 of Article 1 [Supplement No. 6]) are hereby deleted in entirety, and replaced with new Articles 1.F.1, General, 1.F.2, Non-Conforming Lot, 1.F.3, Non-Conforming Structure, 1.F.4, Non-conforming Use and 1.F.2, Non-Conforming Site Element, as follows:

Reason for amendment: [Zoning] 1) Repeal Art.1.F in its entirety, under the proposed amendments, Art.1.F has been reorganized in this order: General provisions for nonconformities, Lot, Structure, Use and Site Elements. Proposed Art.1.F.1 includes the following changes: 2) General: move all the general items such as Improvement Value, maximum allowable improvements from other sections to this Section. 3) Add Provisions to address Infill Redevelopment Overlays such as Urban Redevelopment Areas, Westgate Community Redevelopment Areas, Lake Worth and Infill Redevelopment Overlay. Also establish regulations to address natural disaster damage repairs. 4) Replace Assessed Value, South Florida Building Code, with updated terminologies/references. 5) Adjust current limits on improvement value and allow a higher percentage of improvement value for the Infill Redevelopment Overlay to provide incentives for redeveloping older communities that have more impediments associated with redevelopment. Add Table to summarize percentage and approval process for each category of improvements.

CHAPTER F NONCONFORMITIES

Section 1 General

A. Purpose and Intent

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

In addition, this Chapter addresses projects within the Redevelopment Areas in Art.3.B (IRO, LWRCCO, URA-PRA, and WCRAO) where new developments and redevelopments are regulated by form-based design standards. The intent is to provide incentives to encourage infill and redevelopment in these areas, improve the overall quality of the surrounding communities, to address any development restrictions unique to each overlay and to ensure overall compliance with the general intent of non-conformity provisions.

B. Applicability

This Chapter applies to nonconforming lots, structures, uses and site elements. In determining whether such nonconformities will be regulated by the provisions of this Chapter, the following shall apply:

- 1. Nonconforming status shall not be provided for any: lot, structure, use, or site element, which was illegally created, commenced, constructed or unlawfully continued, or commenced after the restrictions, became applicable.
2. Nonconforming status shall only be authorized upon demonstration by the applicant that a lot, structure, use or site element was created, commenced or constructed, and not merely contemplated, unless permitted by this Code.
a. For a nonconforming use, affidavits alone are not sufficient evidence to establish nonconforming status. The applicant must demonstrate that the use was in continuous operation during business hours and not an occasional use of the property. The applicant will be required to submit a Vested Use Recognition Form established by the Zoning Director to confirm the use is vested.
3. An accessory nonconforming use shall not become the principal use.

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**EXHIBIT E**

**ARTICLE 1  
PRIOR APPROVALS AND NONCONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)**

**C. Improvements to Nonconformities**

There are four classifications of improvements that may be made to nonconformities. These include: Expansion, Maintenance, Renovation, and Natural Disaster Damage Repair pursuant to Art.1.1.2, Definitions.

**D. Improvement Value**

Improvement Value, as determined by the Palm Beach County Property Appraiser, is utilized to calculate allowable improvements for all types of nonconformities listed in this Chapter. The maximum allowable improvement is based upon the Property Appraiser’s most recent Improvement Value of the structure as follows: 125 percent for non-government structures including structures in the Redevelopment Area or in the Overlays, and 185 percent for government structures. A property owner may apply to the property Appraiser for a re-assessment to obtain the most recent improvement value of the structure. If a new value is established, it shall be forwarded directly to the Zoning Director from the Property Appraiser.

**E. Total Value of Improvements**

The International Code Council’s [Building Valuation Data Table](#), which provides the “average” construction costs per square foot, shall be used as the sole basis in determining the value of an improvement necessary to perform expansion, maintenance, renovation, or natural disaster damage repair for any type of nonconformity. The table is outlined in the most current building valuation data in the Building Safety Journal, as amended periodically by the International Code Council. As an alternative to the Building Valuation Data table, an applicant may submit other comparable guidelines adopted by law or accepted in practice by the Building Official.

**F. Expansion for Nonconformities**

Expansion shall comply with Table 1.F.1.F, Nonconformities – Percentage and Approval Process for Expansion and other applicable Sections of this Chapter. No variance shall be permitted beyond the percentages stated in this Table.

**Table 1.F.1.F, Nonconformities – Percentage and Approval Process for Expansion**

Improvement Classification	Major Nonconforming Use in a Conforming Structure (1)	Minor Nonconforming Use in a Conforming Structure (1) (2)	Conforming Use in a Nonconforming Structure	Nonconforming Site Element (4)
<b>Expansion</b>				
Non-Government and Government	One time only 10% max. allowed with DRO Approval.	One time only 10% max. allowed with DRO Approval.	Comply with Code through applicable review approval process.	Comply with applicable Code to greatest extent possible through applicable review approval process.
IR-O, PRAs, LWRCC-O, WCRA-O (3)	Shall not be expanded in area it occupies unless it is being expanded into an area of a structure, which was designed and approved for such use in a valid development order prior to becoming nonconforming.	Shall not exceed 10% max. of approved floor area of the structure or 10% of the improvement value of the structures on site, whichever is less, or other form of measures pursuant to Art.1.F.4.D.	Shall not change or increase the nonconforming features of the structure. Shall not result in the expansion of a nonconforming use.	
Notes:				
1. Nonconforming use in a nonconforming structure shall not expand.				
2. Expansion shall be based upon intensity or density pursuant to Art.1.F.4.D, Nonconforming Use.				
3. A higher percentage shall be allowed for Redevelopment Areas and Overlays to encourage infill and redevelopment that requires built forms to regulate uses. All improvements must comply with applicable Sections of Art.3.B, Overlays.				
4. Refer to Art.1.F.5, Nonconforming Site Elements for additional information.				

**G. Maximum Improvement to a Nonconformity**

The standards, limitations, and approval processes for improvements to nonconformities shall be as follows:

1. Maintenance, Renovation and Natural Disaster Damage Repair - The total combined value for improvement classifications shall not exceed the allowable maximum percentage of any single improvement classification. The percentage of each improvement classification is pursuant to **Table 1.F.1.G, Nonconformities - Percentage and Approval Process for Maintenance, Renovation, and Natural Disaster Damage Repair**.
2. Maintenance – may be performed in any 12-consecutive month period.
3. Renovation and Natural Disaster Damage Repair - The cumulative changes in total value of improvement are calculated over the previous five-year period as a nonconforming use or structure is renovated or repaired for damages.
4. Public utility facilities with nonconforming structures on existing sites shall not be subject to the requirements of this Chapter.

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**EXHIBIT E**

**ARTICLE 1  
PRIOR APPROVALS AND NONCONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)**

1  
2  
3  
4  
5  
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- 5. For additional requirements for each type of nonconformities, see applicable Sections of this Chapter.
- 6. No variance shall be permitted for the percentages stated in Table 1.F.1.F, Nonconformities – Percentage and Approval Process for Expansion.
- 7. Repair for non natural disaster damage shall comply with percentage pursuant to Table 1.F.1.F, Nonconformities – Percentage and Approval Process for Expansion.

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**EXHIBIT E**

**ARTICLE 1  
PRIOR APPROVALS AND NONCONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)**

**Table 1.F.1.G,  
Nonconformities - Percentage (1) and Approval Process for  
Maintenance, Renovation and Natural Disaster Damage Repair**

<b>Improvement Classifications</b>	<b>Major Nonconforming use (1) (2)</b>	<b>Minor Nonconforming use (1) (2)</b>	<b>Conforming Use in Nonconforming Structure (1)</b>	<b>Nonconforming Site Elements</b>
<b>Non-Government</b>				
Maintenance	≤20%; By Right	≤30%; By Right	≤20%; By Right	Comply with applicable Code to greatest extent possible through applicable review approval process. (5)
Renovation				
Natural Disaster Damage Repair				
<b>Government (3)</b>				
Maintenance	≤30%; By Right	≤ 45%; By Right	OR >20%≤30%; DRO	
Renovation				
Natural Disaster Damage Repair				
<b>PRA's, LWRCC-O WCRA-O, IR-O (4)</b>				
Maintenance	≤20%; By Right  OR >20%≤30%; DRO	≤30%; By Right  OR >30 ≤ 50%; DRO	≤30%; By Right  OR ≤ 50%; DRO	
Renovation				
Natural Disaster Damage Repair				
<b>Notes:</b>				
1.	All percentages shall be based on the Improvement Value of the structure pursuant to Art.1.F.1.D, unless stated otherwise herein.			
2.	For nonconforming use in a conforming or nonconforming structure, the percentage of the nonconforming use shall apply.			
3.	A higher percentage shall be allowed for Government structures as appraisals by the Property Appraiser's Office are conducted less for Government structures due to exemptions for property tax.			
4.	A higher percentage shall be allowed for Redevelopment Areas and Overlays to encourage infill and redevelopment that requires built forms to regulate uses. All improvements must comply with applicable Sections of Art.3.B, Overlays			
5.	If the use or structure is nonconforming, the maximum allowable percentage for improvements for the site elements shall be included in the total value of improvements.			

**Reason for amendment:** [Zoning] 1) Reorganize text in Sections 2 through 5 in this order to establish a hierarchy of nonconformities: Lot, Structure, Use and Site Element. 2) Original text of nonconforming lot has not been changed under this exercise, and is being carried forward as new text.

**Section 2 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**

**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**

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EXHIBIT E

ARTICLE 1  
PRIOR APPROVALS AND NONCONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

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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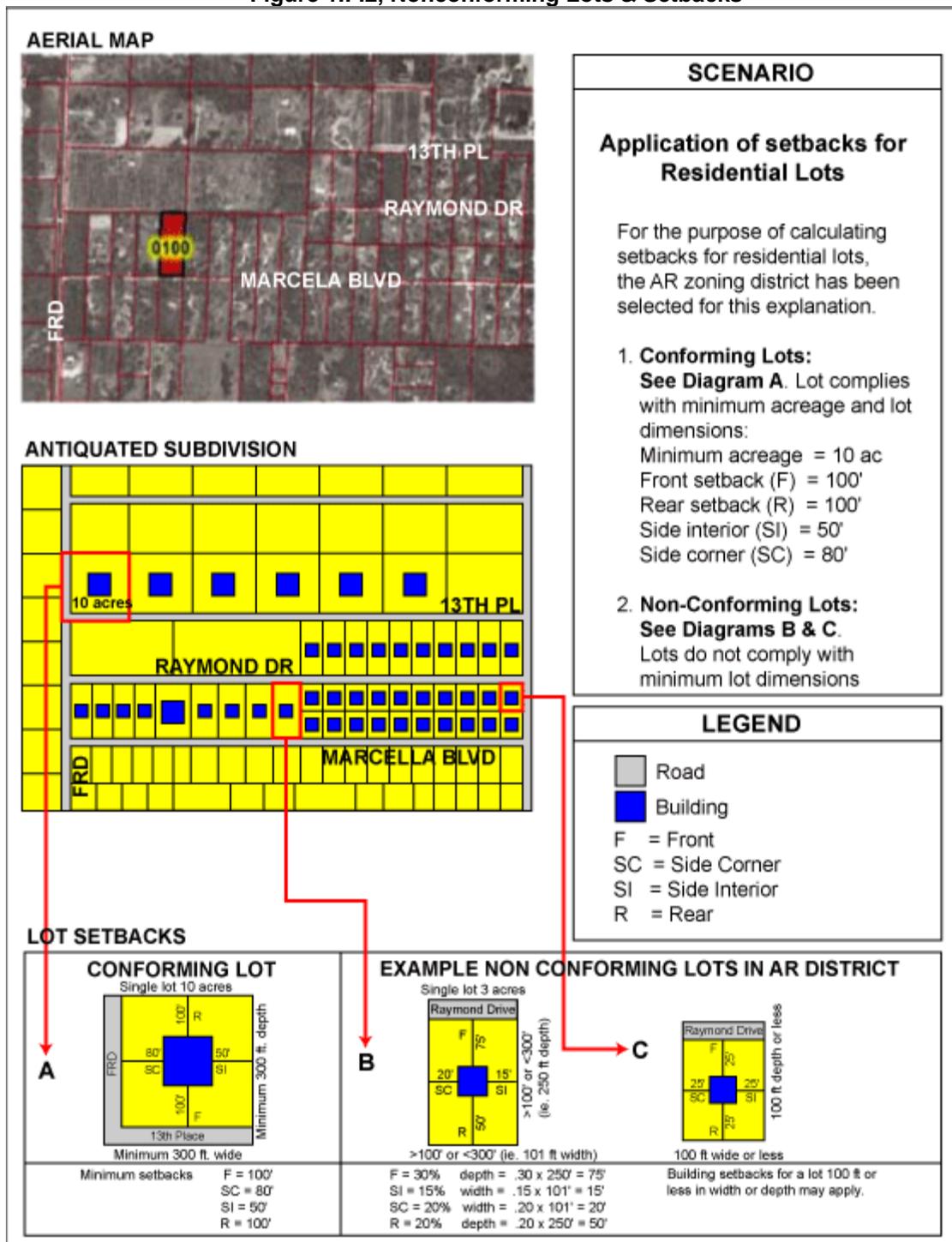
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**EXHIBIT E**  
**ARTICLE 1**  
**PRIOR APPROVALS AND NONCONFORMITIES**  
**SUMMARY OF AMENDMENTS**  
(Updated 11/12/09)

Figure 1.F.2, Nonconforming Lots & Setbacks



[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

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EXHIBIT E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

- 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.

Reason for amendment: [Zoning] 1) Refer all improvement percentages to the General Section, Tables 1.F, Nonconformities –Percentage and Approval Process for Expansion and Nonconformities –Percentage and Approval Process for Maintenance, Renovation and Natural Disaster Damage Repair. 2) Add damages caused by Acts of Nature such as hurricanes; floods, wildfires, etc. and establish limitations for repairing a nonconforming structure or a nonconforming use. 3) All regulations pertaining to Airport Zone (e.g. PBIA) remain as is.

Section 3 Nonconforming Structure

A. General

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

B. Expansion

Expansion of a nonconforming structure shall not change or increase the nonconforming features of the structure, and shall not result in the intensification of a nonconforming use through the structural expansion. Expansion shall not exceed the percentage pursuant to Table 1.F.1.F, Nonconformities - Percentage and Approval Process for Expansion.

C. Maintenance, Renovation and Natural Disaster Damage Repair

Maintenance, renovation, and damage repair caused by acts of nature shall not exceed the percentage pursuant to Table 1.F.1.G, Nonconformities - Percentage and Approval Process for Maintenance, Renovation, and Natural Disaster Damage Repair.

D. 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 do 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 or alterations which existed or started prior to November 1, 1996, and are 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

Permits shall not 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

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EXHIBIT E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

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. [Relocated from Art.1.F.3, Nonconforming Structures]

Reason for amendment: [Zoning] 1) Add clarification to define differences between Major and Minor nonconforming uses. 2) Amend Discontinuance or Cessation of use based on County Assistant Attorney, Leonard Berger's letter dated 8/14/07. Summary of reasons for code amendments: some courts enforce the time limits without regard to any evidence of intent, others hold that discontinuance or abandonment of a nonconforming use requires some evidence of intent, even under zoning ordinances with time limitations. Therefore, it may be reasonable to interpret the ULDC to allow an owner the opportunity to provide evidence of intent to maintain the nonconforming use. This means once the County demonstrates the time period has been exceeded, the owner would have the burden to demonstrate his/her intent to maintain the use. 3) Refer all improvement percentages to the General Section, Tables 1.F, Nonconformities -Percentage and Approval Process for Expansion and Nonconformities - Percentage and Approval Process for Maintenance, Renovation and Natural Disaster Damage Repair. 4) Add damages resulted from Acts of Nature such as hurricanes; floods, wildfires, etc. and establish limitations for repairing a nonconforming use or a nonconforming use. 5) Add text to clarify minor nonconforming use may also utilize the percentage of the floor area instead of the value of the structure, whichever is less, to address certain uses such as canopy/pumps of a gas station. This is an ongoing issue with application review of gas stations.

Section 4 Nonconforming Use

A. Nonconforming Use classifications

There are three classes of nonconforming uses: Major, Minor, and 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 and create or threaten to create incompatibilities that are detrimental to the public welfare. The intent of the PBC Comprehensive Plan is to eliminate or reduce existing or previously approved land uses, and activities, which were lawful before the adoption of the Plan but are now prohibited, regulated or restricted under the terms of the Plan.

2. Minor

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 pursuant to the review and approval process now in effect 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. Nonconforming uses that are also nonconforming to the Airport zoning regulations shall comply with both the nonconforming provisions and the Airport nonconforming provisions. These uses shall be regulated as follows:

- a. A major nonconforming use shall comply with the major nonconforming use provisions.
b. A minor nonconforming use shall comply with both provisions of the minor nonconforming use and the Nonconforming to Airport Regulations.

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EXHIBIT E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

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

A nonconforming use that is intentionally discontinued, abandoned, or changed to an accessory use shall lose its nonconforming status and shall not be reestablished or resumed. Any subsequent use in the same location shall be consistent with this Code. A use that has been discontinued, abandoned, or changed to an accessory use for a period of more than 180 consecutive days, or for a total of 540 calendar days during any three year period shall constitute a presumption of the intent to discontinue, abandon, or change to an accessory use. In the event either time period has been exceeded, an applicant shall have the burden rebutting the presumption by presenting competent, substantial evidence of the intent to maintain the nonconforming use.

D. Expansion

1. Major Nonconforming Use

Expansion shall not exceed the percentage pursuant to Table 1.F.1.F, Nonconformities - Percentage and Approval Process for Expansion.

2. Minor Nonconforming Use

A minor nonconforming use may be expanded pursuant to Table 1.F.1.F, Nonconformities - Percentage and Approval Process for Expansion, and the following:

- a. The expansion shall not exceed ten percent of the approved floor area of the structure or ten percent of the improvement 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.

E. Maintenance, Renovation and Natural Disaster Damage Repair

Shall not exceed the percentage pursuant to Table 1.F.1.G, Nonconformities - Percentage and Approval Process for Maintenance, Renovation, and Natural Disaster Damage Repair. For natural disaster damage repair, improvement value shall be established at the time the damage occurred.

F. Relocation

See Figure 1.F.4, Relocation and Expansion for permitted relocation of nonconformities. A nonconforming use shall not be relocated.

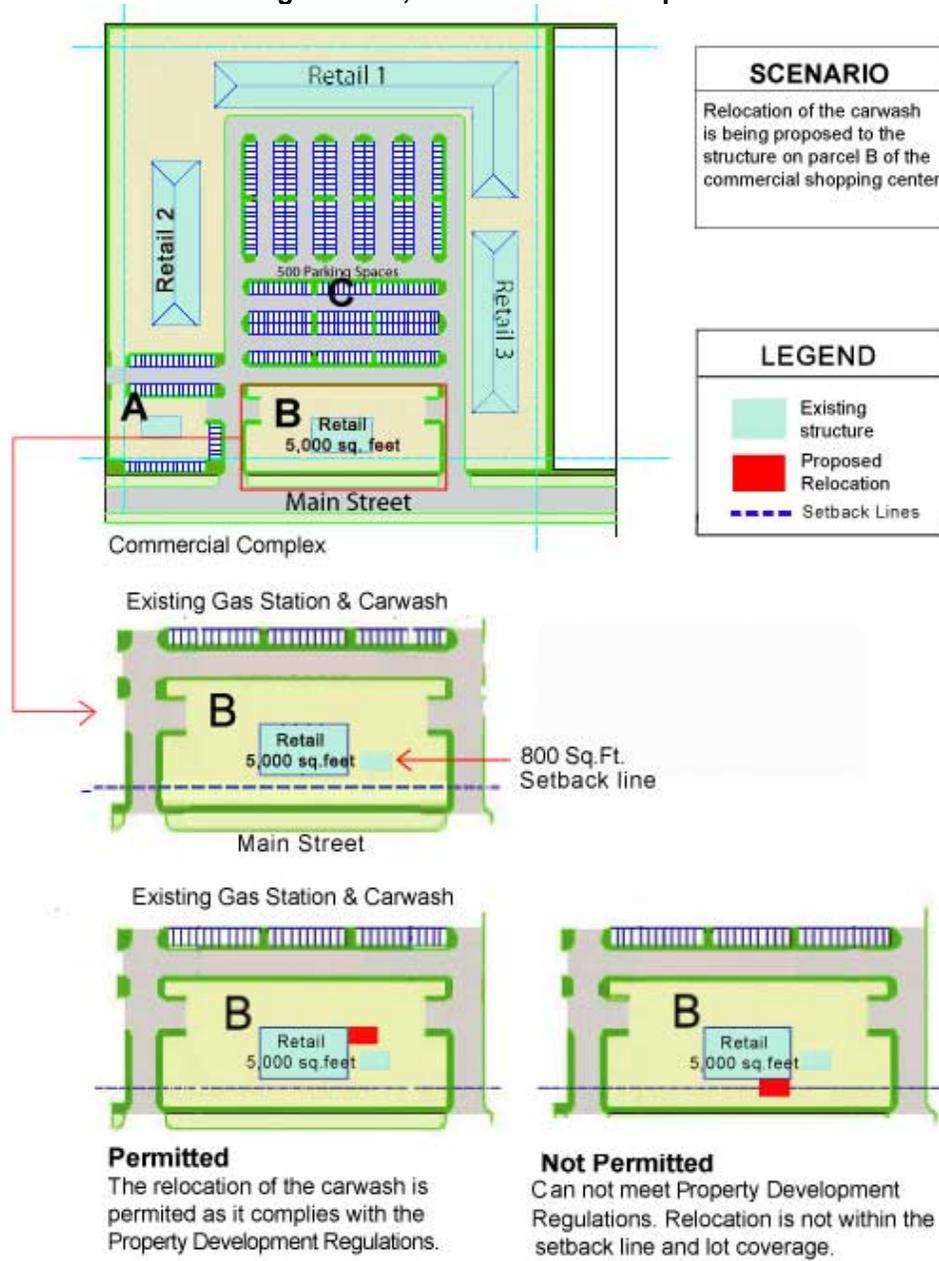
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**EXHIBIT E**  
**ARTICLE 1**  
**PRIOR APPROVALS AND NONCONFORMITIES**  
**SUMMARY OF AMENDMENTS**  
*(Updated 11/12/09)*

Figure 1.F.4, Relocation and Expansion



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**EXHIBIT E**

**ARTICLE 1  
PRIOR APPROVALS AND NONCONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)**

**Reason for amendment:** [Zoning] This Section was previously part of Art.1.E, Prior Approvals, and has been relocated to Art.1.F under the Nonconformity Section. The majority of the existing Code text is carried forward, the thresholds for improvements have been tabularized to be consistent with the format of nonconforming use and structure.

**Section 5 Nonconforming Site Element**

**A. Applicability**

This Section establishes procedures for improvements and modifications to a prior approval with nonconforming site elements and establishes thresholds for vesting nonconformities. This Section shall apply to non-conforming site elements, including but not limited to: Art. 5.E.4.E, Outdoor Lighting, Art. 6, Parking, Art. 7, Landscaping, and Art. 8, Signage that may be impacted by proposed improvements or modifications to a prior approval. In addition, this Section shall also apply to projects that meet the threshold pursuant to Art.5.B, Generators and Art.5.C., Design Guidelines.

**B. Modification or Improvement to a Prior Approval with Nonconforming Site Elements**

Proposed modification or improvement to a project where the use or structure is conforming or has been brought into conformance with this Code through an applicable approval process, and where only the site elements are nonconforming, the following requirements shall be met:

**1. Projects without an Approved Plan**

A project without an approved plan shall comply with this Code.

**2. Unbuilt Projects with an Approved Plan**

An unbuilt project with an approved plan shall only comply with Article 6, Parking, Article 7, Landscaping, and Article 8, Signage in the affected area to the greatest extent possible without the loss of density, intensity or required parking.

**3. Built Projects with an Approved Plan**

Projects, which have commenced development or have been constructed, shall comply with the requirements of this Code and the following:

a. Projects with 80 percent or more of the approved density or intensity (number of units, square feet or footprint of buildings) constructed shall remain valid for any information and items clearly shown on the approved development order. The affected area shall meet this Code to the greatest extent possible.

b. Projects with less than 80 percent of the approved density or intensity constructed shall comply with Article 6, Parking, Article 7, Landscaping, and Article 8, Signage in the affected area to the greatest extent possible without the loss of density, intensity, or required parking.

**C. Additional Improvement Threshold for Nonconforming Site Elements**

When improvements are proposed to a conforming structure with a conforming use, the associated nonconforming site elements must also be improved to comply with current Code requirements. (See Zoning Division Technical Manual for examples). The required improvements shall be determined based on the Improvement Value of the structure pursuant to Table 1.F.5, Thresholds for Improvements – Nonconforming Site Elements. These improvements are required in addition to the standards pursuant to Art.1.F.5.C, Built Projects with an Approved Plan.

**Table 1.F.5, Thresholds for Improvements - Nonconforming Site Elements**

Use or Structure	Percentage <small>1, 2</small>	ULDC Requirements
Non-Government	> 35%	Art. 5.E.4.E, Outdoor Lighting Art. 6, Parking Art. 7, Landscaping Art. 8, Signage
	>75%	In addition to the above requirements: Art. 5.C, Design Standards, if applicable Art. 5.B.1.A.18, Permanent Generators, if applicable
Government	>100%	Art. 5.E.4.E, Outdoor Lighting Art. 6, Parking Art. 7, Landscaping Art. 8, Signage Art. 5.C, Design Standards, if applicable Art. 5.B.1.A.18, Permanent Generators, if applicable
<small>Notes:</small> 1. The percentage is based on the Improvement Value of conforming structure(s). 2. The percentage applies to improvements for a conforming use or structure with nonconforming site elements. If the use or structure is nonconforming, the maximum allowable percentage shall comply with Table 1.F.1.F, Allowable Percentage and Approval Process for Nonconformities.		

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EXHIBIT E

ARTICLE 1  
PRIOR APPROVALS AND NONCONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 11/12/09)

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**D. Standalone Improvements to Nonconforming Site elements**

Standalone Improvements to Nonconforming Site elements shall comply with Art.1.F.5.B in the affected area, to the greatest extent possible, and the following, where applicable:

**1. Outdoor Lighting**

Alterations or additions to outdoor lighting shall comply with Art.5.E.4.E, Outdoor Lighting.

**2. Vehicular Use Areas**

Alterations or additions to vehicular use areas shall comply with Art. 5.E.4.E, Outdoor Lighting Standards, Art. 6, Parking, and Art. 7, Landscaping.

**a. Non-residential PDDs and TMDs Parking Calculation**

Proposed modifications to a previously approved development, whether modifications is for the entire or a portion of the development, shall be in compliance with the following:

- 1) the minimum parking requirements pursuant to the non-residential parking requirements of Art.3.E.1.C.2.h, Parking; and,
- 2) applicable sections of Art.7, Landscaping.

**3. Sign Renovations or Additions**

Approved signs as shown on plans or pursuant to conditions of an approval shall remain valid. Renovations or additions to a sign shall be in compliance with Article 8, Signage. The maximum percentage of improvements for a nonconforming sign shall be based on the original value of the previously approved sign.

**4. Landscaping**

Approved landscape plans shall remain valid unless the development is amended or modified. The affected area of the amended or modified plans shall be subject to [Art. 7, Landscaping](#) to the greatest extent possible. All plans shall also be subject to [Art. 14.C, Vegetation Preservation and Protection](#).

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EXHIBIT E

ARTICLE 1
PRIOR APPROVALS AND NONCONFORMITIES
SUMMARY OF AMENDMENTS
(Updated 11/12/09)

Part 5. ULDC, Article 1.C.4.H, Measurement, as follows:

Reason for amendment: [Zoning] Add how to measure number of pumps for convenience store with gas sales or auto service station.

H. Gas Pumps

For calculation purposes, any fraction of the number of pumps shall be rounded upward to the nearest whole number for one half or more of a whole pump, and downward if it is less than one half of a whole pump.

....

Part 6. ULDC, Article 1.I.2.D.2 Definitions, as follows:

Reason for amendment: [Zoning] Amend definitions for Nonconforming use, Major and Minor, since they were not adequately defined. The proposed definitions will

....

2. Damage - loss in structural integrity or value due to an act of calamity. Also see Natural Disaster Damage.

Part 7. ULDC, Article 1.I.2.I.7 Improvement Value, Definitions, as follows:

Reason for amendment: Add Improvement Value to Article 1.I.2.I. to be consistent with the current Property Appraiser's glossary.

7. Improvement Value - For the purposes of Art.1.E and 1.F, Improvement Value means a value placed on a structure and shall be determined by the PBC Property Appraiser. Also see Art.1.I.2.I, for definition of Improvement.

[Renumbered Accordingly....]

Part 8. ULDC, Article 1.I.2.M.3, Definitions, as follows:

Reason for amendment: Amend definition for Maintenance to include repair of fixing of bearing and nonbearing walls to lessen restrictions for property owners.

....

3. Maintenance - repair or fix existing nonbearing walls, fixtures, wiring, air conditioning and plumbing necessary to permit structures to remain in a state of good repair without creating additional improvements. See Repair for additional allowed improvements.

Part 9. ULDC, Article 1.I.2.N.9, Definitions, as follows:

Reason for amendment: Add definition for Natural Disaster Damage. Amend definition for Minor Nonconforming use to be consistent with new amendments for Art.1.F.

....

9. Natural Disaster Damage - loss in structural integrity due to an act of nature such as hurricane, tornado, wild fire, flood. This does not include fire, termites and other damages not related to those listed herein.

[Renumbered accordingly.]

....

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Part 10. ULDC, Article 1.I.2.N.32-33, Definitions, as follows:

Reason for amendment: Amend definition for Minor Nonconforming use to be consistent with new amendments for Art.1.F.

3233. 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, under a prior code. 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.

3334. Non-Conformities - for the purposes of Art. 1, uses of land, structures, lots, site elements, 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.

[Renumbered accordingly.]

Part 11. ULDC, Article 1.I.2.R.23, Definitions as follows:

Reason for amendment: Amend definition for Repair to include repair for Nonconformities under Art.1.F.

23. Repair - for the purposes of Art. 15, as defined by Rule 64E-6, F.A.C. For the purposes of Art.1.F, improvements to restore to a structural sound condition and shall include walls and other improvements included under Maintenance.

Part 12. ULDC, Article 1.I.2.S.56, Definitions as follows:

Reason for amendment: Add definition for Site Elements for purposes of the new amendments under Art.1.E and 1.F.

56. Site Elements - For the purposes of Art.1.E, and 1.F Site Elements shall include existing or proposed items for the site, which include but not limited to: parking, loading, outdoor lighting, landscaping, or signage.

[Renumbered accordingly.]

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