



**Town of Lake Park, Florida  
Planning & Zoning Board  
Meeting Minutes**

**October 7, 2019 6:30 P.M.**

535 Park Avenue, Lake Park, Florida 33403

**CALL TO ORDER**

The meeting was called to order at 6:34 p.m.

**PLEDGE OF ALLEGIANCE**

Board Member Rice led the Pledge of Allegiance.

**ROLL CALL**

Judith Thomas, Chair	Arrived at 6:35 p.m.
Martin Schneider, Vice-Chair	Excused
Lawrence Malanga	Present
Charlemagne Metayer	Present
Joseph Rice	Present
Vacant (1 <sup>st</sup> Alternate)	

Also in attendance were Community Development Director Nadia DiTommaso, Town Planner Karen Golonka, Attorney Thomas Baird, and Assistant to the Community Development Director Kimberly Rowley.

**APPROVAL OF AGENDA**

**Motion: Board Member Rice moved to approve the agenda; Board Member Metayer seconded the motion.**

Vote on Motion:

Board Member	Aye	Nay	Other
Board Member Malanga	X		
Board Member Metayer	X		
Board Member Rice	X		
Vice-Chair Schneider			Absent
Chair Thomas	X		

Motion passed 4-0.

**APPROVAL OF MINUTES**

- Planning & Zoning Board Meeting minutes of August 5, 2019.

Chair Thomas had one correction to page 5 of the meeting minutes. She asked that the word dense be changed to “low intensity”.

**Motion: Board Member Rice moved to approve the Planning & Zoning Board Meeting minutes of August 5, 2019 as amended; Board Member Metayer seconded the motion.**

Vote on Motion:

Board Member	Aye	Nay	Other
Board Member Malanga	X		
Board Member Metayer	X		
Board Member Rice	X		
Vice-Chair Schneider			Absent
Chair Thomas	X		

Motion passed 4-0.

### **Public Comment**

Chair Thomas explained the Public Comment procedure.

### **ORDER OF BUSINESS**

The normal order of business for Hearings on agenda items are as follows:

- Staff presentation
- Applicant presentation (when applicable)
- Board Member questions of staff and applicant
- Public Comments – limited to 3 minutes per speaker
- Rebuttal or closing arguments for quasi-judicial items
- Motion on floor
- Vote of Board

### **NEW BUSINESS:**

**1. PZ-19-009: CONTINUED FROM AUGUST 5, 2019 – TOWN CODE TEXT AMENDMENT CREATING SECTION 78-84 K.3 RELATED TO HEIGHT AND STORIES EXEMPTIONS FOR PARKING GARAGES WITHIN THE FEDERAL HIGHWAY MIXED-USE DISTRICT OVERLAY (FHMUDO) AND AMENDING TOWN CODE SECTION 78-83, APPENDIX A, FIGURE 1 “TOWER BUILDING TYPE” TO ELIMINATE THE INTERIOR SIDE SETBACK REQUIREMENT FOR BUILDINGS WHEN 80% BLOCK CONSOLIDATION IS ACHIEVED FOR A DEVELOPMENT PLAN.**

Community Development Director Nadia DiTommaso explained the item (see Exhibit “A”). Board Member Rice asked if future Text Amendments could revise the height restrictions as was being proposed. Community Development Director DiTommaso explained that the Text Amendment includes a cap along the Federal Highway Corridor

on the east side. South of Cypress Drive was a cap of 5-stories or 55-feet; north of Cypress Drive, the Text Amendment addresses height restrictions, as well as placing a cap of 3 stories, or 33 feet. Board Member Rice asked for clarification if the text amendment could be revised in the future. Community Development Director DiTommaso explained that anything was possible. She clarified that what occurs south of Cypress Drive could not repeat itself north of Cypress Drive, because the base height in the south block area was already higher than what was permissible elsewhere.

Attorney Baird asked that the Chair stick to the Order of Business as she had outlined earlier, with Board Member questions and public comment until the appropriate time. Chair Thomas agreed and read the order of business again.

Community Development Director DiTommaso continued the presentation (see Exhibit "A"). She read the proposed language into the record, which could be found on page 3 and 4 of Exhibit "A".

Public Comment open:

1) Julie Sarkozy, 301 Lake Shore Drive, asked for a definition of a "use liner on the active Federal Highway and Lake Shore Drive frontage of the building".

Chair Thomas explained that after all the public comments are made, staff would respond to each question.

2) Diane Bernhard, 301 Lake Shore Drive, urged the Board to require shadow analysis or shadow studies from all developers that propose tall building in the Town. Secondly, she reminded the Board that the marketing company, hired by the Town, suggested a limit of 18-stories.

3) Frank Katz, 301 Lake Shore Drive, expressed concern with the height of the structure since they are asking to exempt the parking lot portion. He asked what the total structure height would be including the parking structure.

Public Comment closed:

Community Development Director DiTommaso responded to the question as follows:

Regarding the active use liner. She read how the Town Code defines it and then summarized it. She read "active use within an enclosed building designed for human occupation with a direct view to adjacent streets or public open spaces".

The second definition was the more applicable definition, which reads "active use liner means an active use that serves to conceal uses designed for parking and other non-habitable uses. Active liner uses generally include, but are not limited to commercial, residential, hotel, office, and the commercial uses associated with live, work". She stated that in staff's opinion, the active use was an important element to the Text Amendment. If the Town were going to move forward with this exemption, it was important that the parking garages are architecturally consistent with the remainder of the building. All five levels of parking are being proposed for exemption south of Cypress Drive. Secondly, it was important that it incorporate a use that would bring activity to the development itself.

It was for this purpose that the active use liner was extended beyond the ground floor of the structure.

Chair Thomas clarified that the speaker seemed to want to know if there was egress or traffic on the street. Community Development Director DiTommaso stated that currently the way the Town Code reads there would be that activity at the street level. She stated that it encourages restaurants and shops so there would be activity.

Community Development Director DiTommaso explained that shadow analysis and shadow study were part of the Development Plan review process for any developer.

Community Development Director DiTommaso explained that the building structure final height on the existing code on the south side would be a maximum of 15-stories or 18-stories with a height bonus. She stated that south of Cypress Drive there would be a maximum of 209 feet with the possibility of additional exemptions up to 55 feet. Chair Thomas stated that it would be a maximum of 263-265 feet. Community Development Director DiTommaso explained that the math changes depending on the blocks and where they are located along the corridor. Discussion ensued with staff on the different maximums.

Board Member Rice stated that he was in favor of the Text Amendment and the project as a whole, but was concerned that one of the items he requested during his one-on-one meeting with staff was that the item be presented to the Town, as they did during the visioning event. He suggested that the item be brought to the Town so that those that are not in favor of the project have an opportunity to raise their concerns. He would like to see another visioning session. He expressed concern that the project was moving too quickly.

Board Member Malanga expressed the same concern as Board Member Rice. He stated that the block usage was intended to stop developers from pushing the residents out of their single family home. He stated that the project was good for the Town and he was excited for the project, however, the height maximums were a concern. He stated that the caps were originally 220 feet and now they are at 255 feet. He asked if that included the variance. Chair Thomas explained that it would be 265 feet with the variances and the five-story exemption. He expressed concern with the height of the structure. He suggested that the Text Amendment go before the Town, as it did during the visioning.

Board Member Metayer expressed concern with the height, especially when several blocks would be impacted by the development. He stated that they want to do what was best for the residents of the community.

Board Member Malanga asked if Vice-Chair Schneider had any notes regarding the project. Community Development Director DiTommaso stated that they spoke during the one-on-one meeting, but he did not leave any notes and did not reach out with any questions.

Chair Thomas asked when does this go before the Town Commission. Community Development Director DiTommaso explained that it was scheduled to go before the

Commission as an Ordinance on First Reading on October 30, 2019. Chair Thomas stated that she reviewed the August 5, 2019 agenda and minutes and she had concerns. She stated that the public engagement or workshop the Board wanted was to be sure that the public was made aware of this. She asked if it was staff's intent to have some sort of public engagement prior to it going before the Town Commission. She stated that during the August 5, 2019 meeting she asked that the residents surrounding the area, not only within 300 feet, be notified either by mail, or flyer, or on the Town's website of the Text Amendment. She included those in the City of Rivera Beach that would be impacted. She expressed concern with the Federal Highway Mixed-Use plan, which had been discussed for about two-years, was the huge height density packed development that would be sitting outside of the southeast side of the Town. Traffic was a concern, as well as the impact to the road. She asked where did staff come up with "at least 10% of the total number of required spaces would be provided for the public". She asked if we have seen exemptions within a redevelopment area similar to what was being proposed in the Town. She asked if the five-story exemption was a guarantee or was it an opportunity. She asked if the developments along the City of Riviera Beach near the Blue Heron Bridge and in the Village of North Palm Beach near the Intracoastal were reviewed since they are similar. She understood that this was a Text Amendment that was geared for one block that would be the highest and most intense block within the Town. She asked that the Text Amendment be reviewed under that context.

Community Development Director DiTommaso asked for clarification regarding the extended notifications outside of the development area. Chair Thomas agreed because of the changes that would occur to the block area that it should be considered. Community Development Director DiTommaso clarified that what was being requested was that she send out notices, not by certified mail, to those that would be impacted by the development before the development was set in stone and before the development plan itself was brought forward. Chair Thomas agreed. Community Development Director DiTommaso responded to the question regarding when would additional notices be sent to those impacted by the development, which by Statute is a 300-foot buffer. She further explained that when the Land Development Regulations were developed a capacity analysis was developed to ensure that even at maximum build out throughout the entire corridor, we maintained a certain level of service. Now with this additional type of development they would be required to go through that same test, the traffic performance standards test that requires TPS approval. She has not heard if that stretch of Silver Beach Road would be widened at any point mainly because they are single-family homes located on that one block. She explained that the traffic performance standard was part of any development that comes through, more importantly the development that was on Silver Beach Road and Federal Highway. Palm Beach County is widening the street further west.

She explained discussions that took place between administration and Marina staff regarding the need for additional parking at the Marina. This was how the 10% of the total number of required spaces was developed. She explained that staff was not aware of any other municipal Code that were similar to what the Town has as it relates to exemptions and that the Town, throughout this entire process, is trying to be unique and attract viable, market-driven development. She stated that with respect to the Chair's question regarding this being a guarantee or an opportunity, she thought it was both. She

explained how this would be a guarantee because it included a height exemption that could be utilized and it would be an opportunity for development within the Town, both for the developer and the Town.

Chair Thomas recapped the discussion of the total number of stories for the particular block, the minimums and maximums, the parking, impact, and design.

Board Member Rice asked if future Text Amendments could increase the height maximums. Community Development Director DiTommaso stated that any future development would have to adhere to the cap that was in this Text Amendment assuming that is the Code in place at that time.

Chair Thomas requested that the public become aware of the Text Amendment through the notification discussed earlier. Community Development Director DiTommaso stated yes, we would meet the requirements and discuss additional notices internally.

Board Member Rice asked Attorney Baird if the Board could request that the item be brought before the Town for a Town Hall before a vote were made on the Text Amendment. Attorney Baird explained that the Board could make recommendations and he explained what recommendation was being requested of the Board from Staff in order to move this item forward. He clarified that this was the second time the Text Amendment appears before the Board. He explained that there would be additional public hearings before the Town Commission on the plan. He stated that he could not tell the Board that they couldn't postpone the item again; but there would need to be a good basis for the postponement.

**Motion: Board Member Rice moved to continue the Text Amendments until the conditions that were discussed during the meeting were addressed; Board Member Malanga seconded the motion.**

Vote on Motion:

Board Member	Aye	Nay	Other
Board Member Malanga	X		
Board Member Metayer	X		
Board Member Rice	X		
Vice-Chair Schneider			Absent
Chair Thomas		X	

Motion passed 3-1.

Attorney Baird asked for clarification on the motion. He asked if the motion was to continue the item until a public Town Hall meeting was held and the reason.

Board Member Rice stated "that was the motion I made".

Attorney Baird asked if it was like another public hearing. He clarified that the Board already had two public hearings here.

Board Member Rice - "with all due respect you said that we had the option of making that motion and I made that motion and now you're questioning the motion we made".

Attorney Baird – "I was just asking...".

Board Member Rice – "so do you respect the motion of the Board or don't give us that advice".

Attorney Baird – "I didn't give you that advice".

Chair Thomas asked Community Development Director DiTommaso, since this was not a continuation, would we do a notice again. Community Development Director DiTommaso stated that they would do another notice and would take it back internally to determine our next steps. Chair Thomas asked Attorney Baird for clarification since this item would be coming before the Board again would the requirement for certification of public hearing be required or could it be brought before the Board as a Workshop. Attorney Baird understood the action the Board took was to postpone indefinitely this Text Amendment until the Board could have a "Town Hall Meeting" where the public was invited to that meeting would discuss this Text Amendment.

Board Member Rice stated that he did not ask the Town to discuss a Text Amendment. He asked that those affected be notified of the Text Amendment changes that they were making because they were different from the first amendments, He stated that the Board was now being asked to go beyond what was presented originally. He stated that he did not ask the Town to make a judgement on the Text Amendment; that was the Board's job. That was not what he said.

Chair Thomas and Board Member Rice discussed for clarification purposes what was being asked. Board Member Rice clarified that notice to those affected around the area be notified, a Town Hall meeting be conducted so those affected could ask questions, and that the meeting take place before the Town Commission for final action on the Text Amendment.

Attorney Baird asked if the item was being disposed or not. He explained that the item that was on the agenda was for a recommendation on the Text Amendment. So the Board either needs to take action on Text Amendment or not take action on it. Chair Thomas asked what was done as of date right now. She stated that her understanding was, based on the vote, this was a continuation to another meeting. Attorney Baird agreed that it was also his understanding.

Chair Thomas explained to the Board that this was a Florida State Statue requirement of how we notice. Therefore, if we continue the item we have to do additional notification to the public. We just cannot do a Workshop and hear the item because the Board still needs to do a formal notification (because no action could be taken during a Workshop) in order to move the recommendation forward to the Town Commission. So in essence, what another notification meeting would be needed and then afterwards the next publicly noticed meeting it would go before the Town Commission. The Board discussed the motion and the instructions to move this item forward.

Attorney Baird explained that the Board voted on the motion, so if someone wants to reconsider the prior motion there would need to be a motion to reconsider the recommendation for postponement, then a second and a vote. Then a new motion could be entertained.

Chair Thomas passed the gavel to Board Member Rice.

**Motion: Chair Thomas made the motion to reconsider the Boards prior vote; Board Member Metayer seconded the motion.**

Vote on Motion:

Board Member	Aye	Nay	Other
Board Member Malanga		X	
Board Member Metayer	X		
Board Member Rice		X	
Vice-Chair Schneider			Absent
Chair Thomas	X		

Motion failed 2-2.

Chair Thomas announced that the motion failed. She excused herself from the meeting for a moment.

Board Member Rice asked for clarification on what just took place. Attorney Baird explained that the motion to reconsider failed, so the prior motion stands with a 3/1 vote to postpone the Text Amendment.

Someone from the audience was speaking to the Board Members, but was not at the microphone therefore what they said was not captured for the record.

**2. PZ-19-011: PROPOSED AMENDMENT TO THE ZONING CODE TO CREATE A NEW ZONING DISTRICT ENTITLED “C-1-B NEIGHBORHOOD COMMERCIAL DISTRICT” IN SECTION 78-69 OF THE TOWN CODE OF ORDINANCES.**

Town Planner Karen Golonka explained the item (see Exhibit “B”). Board Member Rice suggested that massage be defined because other businesses do massage type services. Planner Golonka would change the definition to certain types of businesses that massage would not be a primary use.

Chair Thomas thanked staff for creating a new district. Planner Golonka thanked the Board for the recommendation and stated that notices would be provided to the businesses in the area.

Public Comment open:

None

Public Comment closed:

**Motion: Board Member Rice moved to approve the proposed amendment to the zoning code to create a new zoning district entitled “C-1-B NEIGHBORHOOD**



**COMMERCIAL DISTRICT” in Section 78-69 of the Town Code of Ordinances; Board Member Metayer seconded the motion.**

Vote on Motion:

Board Member	Aye	Nay	Other
Board Member Malanga	X		
Board Member Metayer	X		
Board Member Rice	X		
Vice-Chair Schneider			Absent
Chair Thomas	X		

Motion passed 4-0.

**3. PZ-19-012: (CONTINUED TO NOVEMBER 4, 2019): AMENDING THE LAND DEVELOPMENT REGULATIONS ASSOCIATED WITH THE CLIC-1 CAMPUS LIGHT INDUSTRIAL/COMMERCIAL DISTRICT AND ASSOCIATES USES PURSUANT TO TOWN CODE SECTION 78-75.**

**Motion: Board Member Metayer moved to continue item PZ-19-012 to the November 4, 2019 Planning & Zoning Board meeting; Board Member Malanga seconded the motion.**

Vote on Motion:

Board Member	Aye	Nay	Other
Board Member Malanga	X		
Board Member Metayer	X		
Board Member Rice	X		
Vice-Chair Schneider			Absent
Chair Thomas	X		

Motion passed 4-0.

**Project Updates from the Community Development Director**

Community Development Director DiTommaso gave an updated on 754 Park Avenue announcing that demolition has begun and the next steps would be to begin building out the development plan that was approved.

**Planning & Zoning Board Member Comments**

The Planning & Zoning Board members had no comments.

**Community Development Director Comments**

Community Development Director had no further comments.

**ADJOURNMENT**

There being no further business to come before the Planning & Zoning Board and after a motion to adjourn by Board Member Rice and seconded by Board Member Malanga, and by unanimous vote, the meeting adjourned at 8:09 p.m.

  
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Judith Thomas, Chair

  
\_\_\_\_\_  
Vivian Mendez, MMC, Town Clerk



Approved on this 4<sup>th</sup> of November, 2019



**TOWN LAKE OF PARK**

**PLANNING & ZONING BOARD**

**Meeting Date: October 7, 2019**

**Agenda Item # PZ-19-009**

**(continued from August 5, 2019)**

**STAFF REPORT**

**DESCRIPTION** – TOWN CODE TEXT AMENDMENT CREATING SECTION 78-84 K.(3), (4), and (5) RELATED TO HEIGHT AND STORIES EXEMPTIONS FOR PARKING GARAGES WITHIN THE FEDERAL HIGHWAY MIXED-USE DISTRICT OVERLAY (FHMUDO) AND AMENDING TOWN CODE SECTION 78-83, APPENDIX A, FIGURE 1 "TOWER BUILDING TYPE" TO ELIMINATE THE INTERIOR SIDE SETBACK REQUIREMENT FOR BUILDINGS WHEN 80% BLOCK CONSOLIDATION IS ACHIEVED FOR A DEVELOPMENT PLAN.

***Staff Recommendation: Approval.***

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**INITIAL PLANNING AND ZONING BOARD MEETING – AUGUST 5, 2019**

The Planning and Zoning Board considered the application for a text amendment that would create Section 78-84 K.3. at their August 5, 2019 public meeting. The text amendment proposes to introduce additional flexibility in overall building height (in feet) and stories for the "Core" area identified in the Federal Highway Mixed Use District Overlay (FHMUDO). This flexibility is important since sometimes land development regulations, as adopted, do not take into account the various design elements that are needed and required in order to make a development successful. The Board expressed the following concerns (summarized) which ultimately led them to "continue" the item:

**(1) The text amendment is catered to one developer specifically.**

**STAFF RESPONSE:** The reality is that typically, when code regulations are created, they are only put to the test when the first developer submits their plans therefore, while it may seem this is being proposed for one developer, it is actually being proposed for the first developer, as well as any developer that entrusts the Town with their multi-million dollar proposal moving forward. In the end, the first developer takes on the most risk.

**(2) Additional flexibility in height alters the vision that was created for the corridor and everyone who was originally involved in creating the regulations, including those properties within the FHMUDO should be notified and involved in this text amendment.**



**TOWN LAKE OF PARK**

**PLANNING & ZONING BOARD**

**Meeting Date: October 7, 2019**

**Agenda Item # PZ-19-009  
(continued from August 5, 2019)**

**STAFF RESPONSE:** The *Vision Lake Park* created (feasible) mixed-use redevelopment options on the east and west sides of the US-1 corridor. A developer who is proposing bringing forward an almost (100%) code-compliant project with a mixed-use concept that incorporates the necessary open space, pedestrian and streetscape elements that the Code requires, ultimately meets the original and adopted intent of the *Vision Lake Park*. An individuals' 'ground level' experience will not be altered by a 255 foot versus a 210 foot, or a 190 foot versus a 160 foot (for example) overall building height since the intent of the corridor has always been to introduce more intense mixed-use development. The more immediate reality is that from an economic development perspective, we need to introduce the best possible development that is successful in the long run and if granting some additional height is needed, this is minimal in comparison to the overall "vision" that will ultimately be achieved and that is, in reality, desired not only by Staff and the developer, but by those in the surrounding areas as well since they see the value in introducing this type of development in the Town.

Regarding the noticing, the actual site plan application, which is the "development application", is required to be noticed by certified mail to everyone within 300 feet and this will be satisfied. An Ordinance proposing to create an architectural-related exemption in the Code is a text amendment that is approved by Ordinance and required to be advertised once it moves forward to the Town Commission (10 days prior to adoption).

**(3) Since design is flexible, there should be a "cap" on how many stories of parking should actually be exempt and not leave it open-ended.**

**STAFF RESPONSE:** A "cap" has been inserted into the proposed Section. It is also being limited to the east side of Federal Highway (for now). *See revised proposal.*

**(4) The addition of public parking will be very difficult, if not impossible, to monitor and enforce.**

**STAFF RESPONSE:** While this is true, this is like any other public parking area. Certain mechanisms such as signage, camera surveillance and fine impositions for enforcement purposes can be installed onsite to allow for the proper use of the parking spaces (some additional language has been included in the proposed Section – *see revised proposal*). In the end, requiring additional public parking, for public use, that is free of charge, is an added benefit to the existing operation and future viability of the Marina, special events, and overall area.



**TOWN LAKE OF PARK**  
**PLANNING & ZONING BOARD**  
**Meeting Date: October 7, 2019**  
**Agenda Item # PZ-19-009**  
**(continued from August 5, 2019)**

**(5) A 200 foot (or more) structure is a big deal for the Town and we cannot focus solely on revenue, but rather on the community and our character as well.**

**STAFF RESPONSE:** The *Vision Lake Park* process already established the ability to introduce a 200+ foot structure in the Core Sub-Area adjacent to the Marina. The text amendment would simply introduce some additional flexibility as it relates to the required private parking and additional public parking, in an attempt to maximize the value and viability of the development project. A cap has been incorporated to limit the additional flexibility.

In conclusion, Staff revised the proposal to incorporate the “cap” recommended by the Board and added some additional terminology related to the public parking space(s) enforcement. A reference to limiting the exemption to the east side of Federal Highway (for now) has also been incorporated. The revised proposal is for the following: **NEW Chapter 78, Article III. Section 78-84 K.(3), (4), and (5)**

**(3) Structures with parking garages within identified development parcels in the Core Sub-Area of the Federal Highway Mixed Use District Overlay, east of Federal Highway, are entitled to an exception to the maximum height established for the Core Sub-Area to accommodate the parking of vehicles within the structure. The parking garage shall not be considered as part of the measurement of the total height of a building, provided that: (a) the developer contributes funds to the Federal Highway Mixed-Use District Public Improvement Fund in accordance with Section 78-84(L) proportionate to the overall construction value; and (b) at least 10% of the total number of required parking spaces in the parking garage are designated as free public parking. The free public parking spaces shall be identified as free public parking by signage. The parking garage shall be equipped with camera surveillance of the public parking areas; (c) the parking garage shall be developed with an active use liner on the Federal Highway and Lake Shore Drive frontages of the building.**



## TOWN LAKE OF PARK

### PLANNING & ZONING BOARD

Meeting Date: October 7, 2019

Agenda Item # PZ-19-009

*(continued from August 5, 2019)*

(4) Structures within identified development parcels in the Core Sub-Area of the Federal Highway Mixed Use District Overlay, south of Cypress Drive, are entitled to an exemption of up to 5 stories, or 55 feet.

(5) Structures within the development parcels in the other Core Sub-Areas of the Federal Highway Mixed Use District Overlay, north of Cypress Drive are entitled to an exemption cap of 3 stories, or 33 feet.

#### **ONE-ON-ONE MEETINGS WITH BOARD MEMBERS**

Since the Board meeting of August 5, one-on-one meetings with Board Members, staff and the developer's team, were also held to discuss what has been explained above, in response to the Board's discussion at the August 5 meeting. These meetings were positive and Staff believes the Board now has a better understanding of what we are trying to achieve. In addition, after reviewing the general development plan with the Board Members at these one-on-one meetings, given the proposed design and the Board Members' understanding that the original vision for the corridor was to allow for block consolidation and minimize the potential impacts to single-family homes on the west side of the corridor, the following additional recommendation was made by Staff and acknowledged by some of the Board Members at these one-on-one meetings. This additional amendment is necessary since, ultimately if a developer has consolidated at least 80% of any given block, the impacts of development to any remaining lots will not be lessened by an interior setback and ultimately the Town must weigh the ultimate redevelopment vision against any remaining lots that will still be impacted by development:

**Amending Section 78-83, Appendix A, Figure 1 related to Tower Building Types to eliminate the interior side setback requirement when 80% block consolidation is achieved for a development plan (see next page):**



TOWN LAKE OF PARK  
 PLANNING & ZONING BOARD  
 Meeting Date: October 7, 2019

Agenda Item # PZ-19-009  
 (continued from August 5, 2019)

MIXED USE DISTRICT: BUILDING TYPOLOGY AND PLACEMENT REGULATING DIAGRAMS

FIGURE 1: TOWER BUILDING TYPE

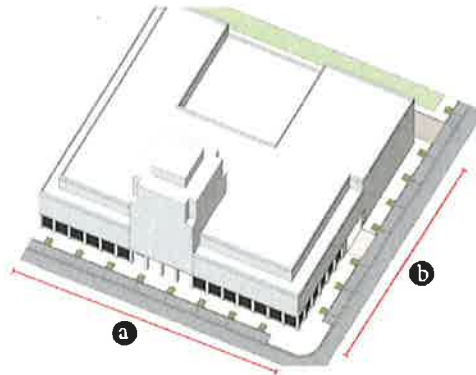
SUB-AREA: Core

DEFINITION:

a multi level building organized around a central core where a part of the building is higher in proportion.

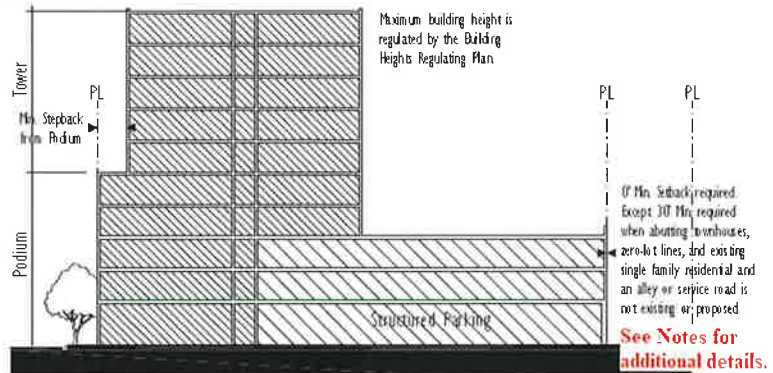
- BUILDING LINE
- - - PROPERTY LINE
- ▨ ACTIVE USE
- ▧ PARKING AREA
- a LOT WIDTH
- b LOT DEPTH

BUILDING MASSING



LOT STANDARDS:	MIN.	MAX.
a. Lot Width	200'	375'
b. Lot Depth	150'	N/A
c. Lot Area	N/A	N/A
d. Impervious Area	N/A	90% (1)
e. Pervious Area	10%	N/A (1)
f. Interior Side Setback	0' (2)	N/A
g. Rear Setback	0' (2)	N/A

BUILDING CONFIGURATION



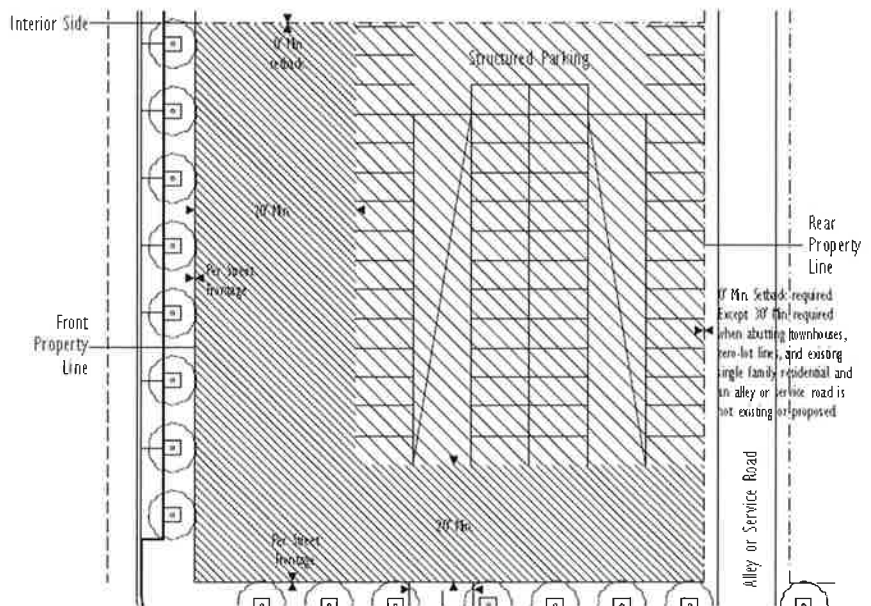
NOTES:

- At grade
- Except 30' minimum when abutting townhouse, zero lot lines and existing single family residential and an alley or service road is not existing or proposed, **unless full block consolidation or at least 80% block consolidation is attained.**

OPEN SPACE STANDARDS:

All multi-family residential, live-work units and mixed use developments with residential dwellings shall reserve a minimum of 10% of the site for common, private open space.

BUILDING SETBACKS





**TOWN LAKE OF PARK**

**PLANNING & ZONING BOARD**

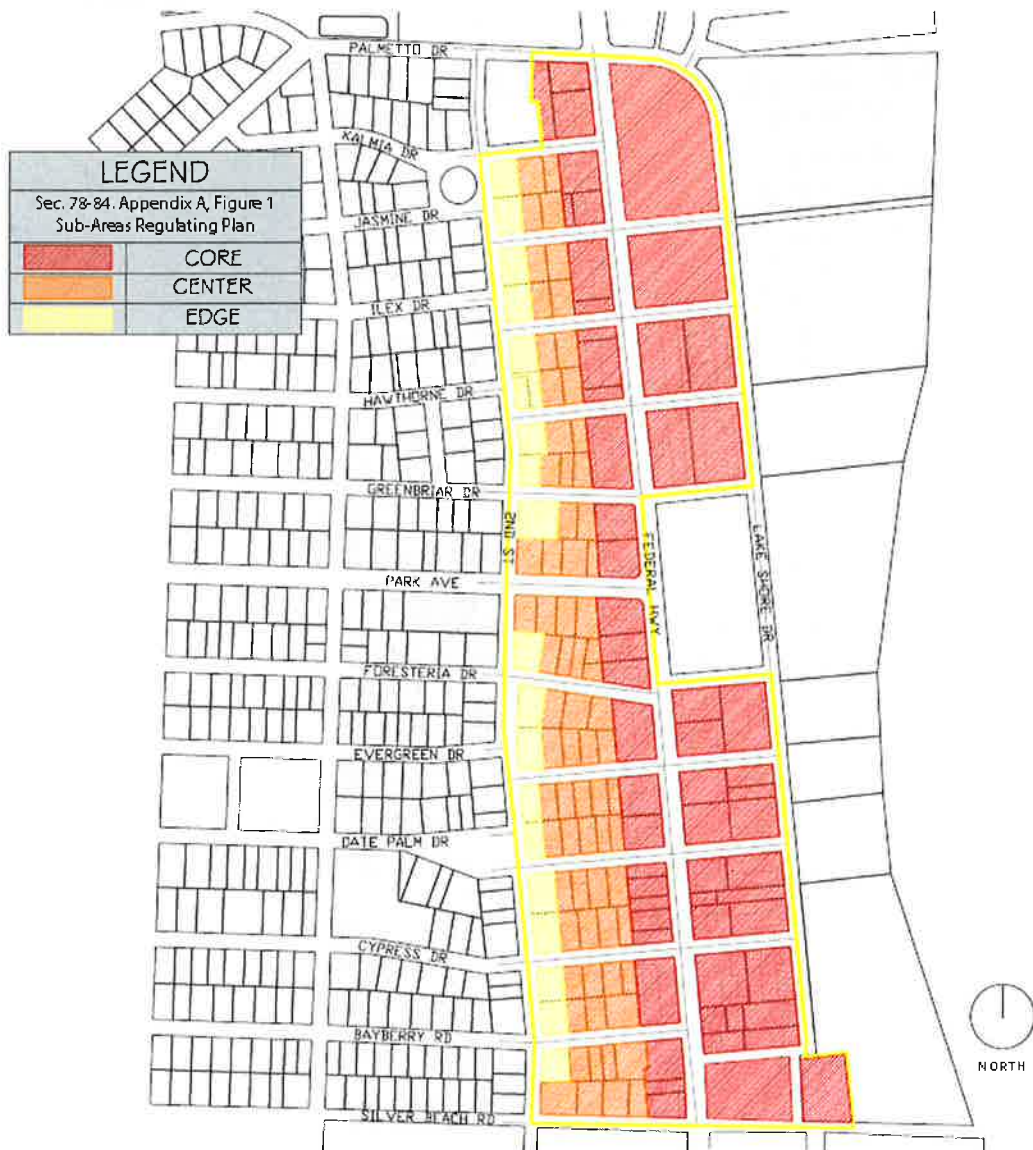
**Meeting Date: October 7, 2019**

**Agenda Item # PZ-19-009**  
*(continued from August 5, 2019)*

**FINAL PROPOSAL**

In conclusion, after several months of discussion and with a mixed-use project submittal on the horizon, this is a Staff initiated application for two text amendments that are required in order to encourage and allow market-feasible development along the US-1 corridor. While Staff has been working with one developer in particular, normally this occurs when newly developed land development regulations are put to the test within existing market conditions.

**FOR REFERENCE ONLY:**







**TOWN LAKE OF PARK  
PLANNING & ZONING BOARD  
Meeting Date: October 7, 2019  
Agenda Item # PZ-19-009  
(continued from August 5, 2019)**

**FROM PREVIOUS STAFF REPORT:**

Given Staff's working relationship with several individuals associated with the redevelopment area adjacent to our Marina, based on their expertise and experience, Staff requested that they (the property owner and developer's team) prepare justifications related to why this text amendment is required. This is important since typically, developers face similar challenges and we want to ensure that the land development regulations encourage feasible and successful site development, not only within the imminent land area adjacent to our Marina, but elsewhere within the Federal Highway Mixed-Use District Overlay (FHMUDO). Naturally, Code provisions should always benefit the community as well and be geared towards the public's health, safety and general welfare therefore, in addition to the extensive public benefit a large mixed-use project will bring to the community as it relates to the ability to introduce increased services (at a minimum), additional requirements are also being folded into the text amendment per the proposal hereinabove. In requesting the justifications from the developer, Staff received the following information:

*(While the following justification is project specific, it is extremely important and relevant not only for this "imminent" project, but also for the future redevelopment viability of the entire corridor. All projects are subject to their individual public hearing process therefore, there will be ample opportunity to review and comment on any site plan specific details that are presented in the future)*

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**START OF ZABIK & ASSOCIATES (AGENT FOR NAUTILUS 211) JUSTIFICATION**

**NOTE: The following information is from Zabik & Associates (verbatim) and some responses are repetitive:**

**1. PROJECT FEASIBILITY (if the text amendment were not enacted)**

*If the text amendment is not adopted, the Nautilus 211 project is not feasible. The risks associated with a \$350 million project require that the development team have full*



**TOWN LAKE OF PARK  
PLANNING & ZONING BOARD  
Meeting Date: October 7, 2019**

**Agenda Item # PZ-19-009  
(continued from August 5, 2019)**

*confidence in governmental approvals. The Nautilus 211 project will be developed based on one of the underlying assumptions in the new Lake Park code. That assumption being the ability to consolidate a full block, or the better part a block, in order to successfully develop a project that makes the most economical sense. Full review of the original design plan for the Nautilus 211 project found that it would not be feasible to build without acquisition of the condominium lot as the original configuration would be limited to parcels along the western side of the block. The one developer-owned parcel on the eastern side of the block would not support the proposed development due to code-required setbacks and restrictions. Due to this reason, the development team acquired the condominium parcel located at the northeast corner of the block further pursuing the Vision Lake Park goal of block consolidation and re-development.*

*The proposed configuration is designed to maximize the development potential currently allowed by code. This design could be considered inconsistent with some provisions of the Lake Park zoning code. The proposed text amendment provides an umbrella clarification to allow the development to move forward. The proposed text amendment provides clear language as to developer requirements for contributions to Lake Park. The proposed text amendment also provides clear guidance as to overall building height and numbers of stories.*

*This text amendment only has an upside for the Town of Lake Park. It clearly defines the public benefit and reduces any risk to the Town of Lake Park due to a public challenge. The clarification in this text Amendment allows the approval of Nautilus 211 to be the standard by which all projects will be judged. It sets a precedent that defines the public benefits for the Town of Lake Park. In addition, it clarifies the requirements for active use liners, retail and commercial space.*



**TOWN LAKE OF PARK  
PLANNING & ZONING BOARD  
Meeting Date: October 7, 2019  
Agenda Item # PZ-19-009  
(continued from August 5, 2019)**

**2. MARKET NEEDS (requiring the text amendment specifically)**

*The development will not be feasible without the adoption of the proposed text amendment. This text amendment only has an upside for the Town of Lake Park. It clearly defines the public benefit and reduces any risk to the Town of Lake Park due to a public challenge. The clarification in this text amendment allows the approval of Nautilus 211 to be the standard by which all products will be judged. It sets a precedent that is for the benefit of the Town of Lake Park. In addition, it clarifies the requirements for active use liners, retail and restaurant space.*

*A full summary, of the current market conditions based on two targeted specific market studies, and a third overall economic review of Palm Beach County, fully supports the development of Nautilus 211. The development of high-rise condominiums includes a significant "fixed-cost component" due to the required density and infrastructure required to support high-rise development. There are significant economies of scale as recognized by the Town of Lake Park code the Nautilus 211 project. In order to be successful, this project needs to be able to take full advantage of these economies of scale.*

*Analysis of the high-rise condominium market shows that for developments to be successful, there needs to be sufficient units and enough height to make them economically feasible. The lack of mid-rise condominiums in the market is a clear indication of the significant fixed costs associated with the development and construction of condominiums in today's market. Investors and lenders are looking for developments that minimize risk and have attractive rates of return. Significantly increasing the projected income from projects of this nature is directly tied to the level of quality and in the elevation of the units. The higher the unit, the better the view and thus the higher price per square foot. These higher prices per square foot are necessary to offset the significant fixed cost portions of the project.*



## TOWN LAKE OF PARK

### PLANNING & ZONING BOARD

Meeting Date: October 7, 2019

Agenda Item # PZ-19-009  
(continued from August 5, 2019)

*In summary, the economics of Palm Beach County, along with continued and strong population growth, support the development of additional housing. Housing at this price-point is in strong demand. A review of market analyses indicates minimal competition for this product in the north Palm Beach County area. The project site location adjacent to the Lake Park Marina offers a unique location. In all real estate the number 1 rule is: location, location, location.*

### **3. PROJECT SUCCESS (if the text amendment were not enacted)**

*The Nautilus 211 project, as outlined above, would not be feasible without the adoption of the proposed text amendment. The economics of this project require the clarifications of this text amendment in order to proceed. The text amendment provides clear guidance with respect to the number of stories, height of the building and Town benefits.*

*We recognize that a project of this size requires a willing partner on the part of the local government. The Nautilus 211 team has moved forward based on the new Lake Park zoning code providing a vision for upscale development along the US1 corridor in Lake Park.*

*This development was conceived based on the Vision Lake Park program. While we recognize we are the "test case" for the detailed specifics of the zoning code, the proposed text amendment provides clear guidance allowing the project to move forward. The project, being the first under the new zoning code, will set a positive precedent for subsequent projects and guarantee additional public benefit. While the proposed text amendment is essential to the Nautilus 211 project, the clarification it provides will also be essential to future development to realize the goals of Vision Lake Park.*

*The property in which the Nautilus 211 project is located is currently underutilized. The proposed development of Nautilus 211 took into account the Town of Lake Park's new zoning code and the Town of Lake Park's requirements to develop based upon climate change and sea level increases through 2060. The substantial increase in property taxes,*



**TOWN LAKE OF PARK  
PLANNING & ZONING BOARD  
Meeting Date: October 7, 2019**

**Agenda Item # PZ-19-009  
(continued from August 5, 2019)**

*public parking benefit and enhancement of Lake Park amenities will be of great long-term benefit to the Town of Lake Park.*

*We are proposing that you move forward with the text amendment in order to prevent any third-party challenges that could jeopardize future Town developments or the Town's code.*

- 4. Renderings Illustrating Potential Visual Impact (*as an example only* – will be treated on a case by case basis and each project will be subject to its own public hearing process).**

**Full size version enclosed.**



EAST ELEVATION - BUILDING HEIGHT 255 FEET



EAST ELEVATION - BUILDING HEIGHT 209 FEET

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**END OF ZABIK & ASSOCIATES JUSTIFICATION**

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TOWN LAKE OF PARK  
PLANNING & ZONING BOARD  
Meeting Date: October 7, 2019  
Agenda Item # PZ-19-009  
(continued from August 5, 2019)

### **SUMMARY AND CONCLUSION**

The Town Manager and Community Development Staff have met on several occasions with the team representing the very first mixed-use project within the FHMUDO. The development team submitted a copy of their “Assessment of Financial Viability” (enclosed). Their design team has spent months designing the site with the Town’s desired vision of proposing the best and most attractive development. For the most part, their team has indicated that the recently adopted land development regulations are workable however, interior parking structures (parking garages) would need to be considered as it relates to the overall (permissible) stories and height in feet. The number of residential units proposed in a mixed use building is generally market-driven and pro-forma driven to meet a desirable return on investment that encourages a developer to move forward and ultimately renders a project successful not only for the developer, but for the final built product. A secondary text amendment is also being proposed for the interior side setback to single-family residential properties for the “Tower Building Type Design”, only when the original “block consolidation” intent is met in order to limit impacts to neighboring properties. While the Town’s responsibility is to focus on the built environment and the community as a whole, we have an equal responsibility to ensure our redevelopment plans and provisions are delivered in a feasible manner. Being the first development often means taking on the most risk and discovering items within the provisions that need to be amended. For these reasons, the text amendments are being proposed.

### **STAFF RECOMMENDATION**

**APPROVAL OF THE NEW TOWN CODE SECTION 78-84 K. (3), (4) AND (5) AND AMENDMENT TO TOWN CODE SECTION 78-83, APPENDIX A, FIGURE 1 “TOWER BUILDING TYPE”.**



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**Memorandum**

**To:** Forest Development, LLC  
**From:** THE CONCORD GROUP  
**Date:** August 30, 2019  
**Re:** **Assessment of Financial Viability Relative to Select Programming Scenarios for the Nautilus 211 Condominium Project in Lake Park, Florida**

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**BACKGROUND AND OBJECTIVE**

Forest Development, LLC (“Forest Development”) is refining its programming and pricing strategy for a two-tower condominium development along the intercoastal waterfront of Lake Park, Florida (“the Project”). The Project is well located at the southwest corner of Lake Shore and Cypress Drive, adjacent to the city’s marina. Two development scenarios are considered for the site, each differentiated by building elevation. Scenario 1 considers the development of 271 condominiums, in two 17-story towers, each 209 feet in height. Scenario 2 plans the development of 332 units in two 23-story towers, with a building elevation of 255 feet.

In support of project financing, Forest Development required a market assessment of the financial viability of each scenario. To meet management’s objective, The Concord Group (“TCG”) completed the following work scope:

1. Visited the Project site and evaluated its marketability for the development of upscale condominium units;
2. Identified relevant condominium competition in the north Palm Beach County coastal marketplace, and surveyed for unit pricing, elevation and view premiums and absorption;
3. Recommended a pricing strategy for the Project and recommended condominium prices, including elevation and view premiums, for each development scenario;
4. Evaluated construction cost estimates provided by Forest Development;
5. Developed a cash flow model for the Project, and concluded to developer / equity return (IRR and equity multiple) for each scenario;
6. Based on the results of Step 5, concluded to the financial viability of each development scenario.

The following is a brief summary of our findings and conclusions generated by the market update.

**PRICING POTENTIAL**

The Project site represents a rare, water-fronting residential development opportunity in the greater Palm Beach County marketplace. The nearest “like” project to the site is the three-building Water Club highrise project located approximately four-miles to the north in North Palm Beach. Developed by Kolter, the Water Club is planned for nearly 200 units at build-out, with nearly every unit possessing unobscured, intercoastal views. TCG recommends pricing the Project units at 15% to 20% discount to North Palm Beach, owing to Water Club’s superior proximity to upscale dining and entertainment options.

Base pricing (lower level units) at Water Club ranges from the mid-\$700,000s to high \$900,000s for units ranging in size from 1,600 to 2,000 square feet (note: Water Club possesses larger unit sizes, but the larger units are located on upper floors). TCG recommends base pricing in the mid- to high \$700,000s, with Scenario 2 base pricing of \$770,000 (1,895 SF unit) and Scenario 1 at \$790,000 (1,970 SF).

## THE CONCORD GROUP

Typical Water Club elevation / view premiums average approximately \$30,000. Penthouse units achieve an even greater premium, with top floor premium revenue of \$250,000. Scenario 2 garners more premium revenue compared to Scenario 1 due to its higher elevation, with an additional four floors of units possessing dramatic intercoastal and ocean views.

Based on the above, TCG projects a per unit average price of \$1.055M for Scenario 1 (average premium of \$265,000 per unit, or \$535 PSF) and \$1.093M for Scenario 2 (\$577 PSF, average premium of \$323,000).

### DEVELOPER / EQUITY RETURN

TCG modeled the development cash flow of each building scenario, under the following market driven assumptions:

- Vertical costs of \$375 PSF (\$300 hard cost, \$75 soft);
- Debt Financing – 75% of costs, assuming 6.5% APR and 2.0% loan fee;
- Broker Commissions – 3.0% of sale price;
- Sales Pace – 100 sales per year.

#### Scenario 1 – 209' Option

Scenario 1 generates an IRR of 14.9% and multiple of 1.7.

#### Scenario 2 – 255' Option

Scenario 2 generates an IRR of 19.1% and multiple of 2.1.

### CONCLUSIONS

Condominium development carries many risks, not limited to potential cost over-runs, construction defect litigation and downward trending market forces slowing sales pace and lowering sale prices. Active developer / equity partners and providers price these risks at a minimum 20% return (IRR) and / or 2.0 plus investment multiple. Based on these minimum threshold requirements, TCG concludes that Scenario 1 is not financeable. Scenario 1 neither achieves a 20% IRR nor 2.0+ multiple. Scenario 2 is considered financially viable, with additional elevation and view premium revenue enhancing returns, with an IRR close to 20% and a multiple in excess of 2.0.

\* \* \*

The above assignment was completed by Hunter Holliday and Michael Reynolds. Should you have any questions regarding the data or conclusions generated by the analysis, feel free to contact us at (949) 717-6450.



**DESCRIPTION: PROPOSED AMENDMENT TO THE ZONING CODE TO CREATE A NEW ZONING DISTRICT ENTITLED "C- 1B NEIGHBORHOOD COMMERCIAL DISTRICT" IN SECTION 78-69 OF THE TOWN CODE OF ORDINANCES**

**REQUEST:** At the request of the Planning and Zoning Board, Staff is proposing a new commercial zoning district – the "Neighborhood Commercial District". The purpose of this district is to allow small scale commercial uses that 1) serve the immediate area and 2) have minimal impacts on the adjacent residential area.

The zoning code will be amended by repealing the existing zoning code section 78-69 entitled "C-1B Business District" and creating a new section 78-69 entitled "C-1B - Neighborhood Commercial District".

**STAFF RECOMMENDATION: APPROVAL, WITH ANY CHANGES BY THE BOARD**

## BACKGROUND

The proposed amendment is being brought forward in response to the Planning and Zoning Board's request to develop a "neighborhood commercial type" zoning district to apply to the parcels on Prosperity Farms Road that are currently zoned R-3 Residence. Those parcels are shown on the map in [Exhibit A](#)

At the August 5, 2019 Planning and Zoning Board meeting the Board did not take action on the staff initiated request to rezone the 8 lots on Prosperity Farms Road from R-3 Residence District to the C-1 Business District to bring the zoning into conformity with the adopted Land Use category of Commercial. The Board acknowledged that the current R-3 District zoning was internally inconsistent and limited in the uses allowed. However, valid concerns were raised regarding the variety and potential intensity of some of the uses in the C-1 Business District.

The Board requested that staff develop a "neighborhood commercial type" category to address the concerns raised. The consensus was to look at uses in both the R-3 and C-1 zoning districts, and select those that would be most compatible with an adjacent residential area. The Board did not want the district to be a "mixed use" district that allowed residential. Further, residential uses are not identified as permissible uses in the Commercial Land Use category.

Based on the above comments, staff has prepared draft regulations for the Board's review and comment. The current 78-69 C-1B Business District, which is no longer used, would be repealed and replaced by the new 78-69 C-1B Neighborhood Commercial District. The text of the proposed new C1-B Neighborhoods Commercial District is shown in Exhibit B of this report.

## ANALYSIS

In creating the new district, the staff considered the following factors:

- The district, at least in the foreseeable future, would only be applicable to the section of Prosperity Farms Road which is currently zoned R-3. Therefore, the intent was not to create a new theoretical neighborhood district, but one that recognizes existing realities.
- New regulations should not create substantial nonconformities for the existing structures. Thus the overall site plans and existing setbacks were reviewed for all developed lots.
- Uses should be compatible with adjacent residential, with minimal impacts
- Regulations should limit large-scale commercial redevelopment.

A maximum lot size of one-half acre is proposed, to prevent the major consolidation of lots which was of concern to the Board. Of the lots currently zoned R-3, the majority are 0.2480 acre, or 18,803 sq. ft. Therefore, no more than two of these could be combined for redevelopment.

Staff has proposed modifications to the rear setback regulations of the R-3, to better protect adjacent residential uses. As proposed, the rear yard setback would be increased from seven (7) feet to fifteen (15) feet. Of the eight lots currently zoned R-3, the proposed setback will cause only one lot to go from conforming to non-conforming. (Another lot, at 1605 Prosperity Farms Road is currently nonconforming, with a .5 foot rear setback.)

The proposed C-1B regulations follow this report, in Exhibit B. The format is set up for review purposes, and will be reformatted in final ordinance form. In order to clearly see where each use is derived from, uses are listed by their origin of R-3 or C-1. We have also added additional uses that would be appropriate. **Existing text from either R-3 or C-1 is shown in black. New text is shown in red italics.**

While the Board directive was to develop uses from the R-3 and C-1 districts, staff also reviewed neighborhood commercial districts from other municipalities, including Delray Beach, Jupiter, North Palm Beach, Lake Worth Beach and Palm Springs.

Following Planning and Zoning Board approval, staff will prepare an ordinance for Town Commission approval. If the new C-1B District is adopted by the Town Commission, Town staff will bring to the Board a request to rezone the Prosperity Farms Road properties to C-1B, Neighborhood Commercial, at which point all affected properties would be notified. In addition, per Board request, at that time we will send courtesy notices to the adjacent residential properties that back up to the lots as well, assuming this is still the desire of the Board. Additionally, a recommendation to this effect should be made to the Town Commission since this is above and beyond the required policy set by the Town Commission in the Town Code.

**STAFF RECOMMENDATION:**

**APPROVAL, WITH ANY CHANGES PER BOARD INPUT.**

**EXHIBIT A – For Reference Only –  
Prosperity Farms Road Parcels currently zoned R-3**



## EXHIBIT B

### PROPOSED NEW C-1B NEIGHBORHOOD COMMERCIAL ZONING DISTRICT

#### Key

Uses identified as being from either the **R-3** or **C-1** zoning districts.

**Red** = new text, not in either district

Subsections (3) through (7) are taken from the R-3 zoning district, and modified.

#### Section 78-69 C-1B Neighborhood Commercial District

*Purpose. To allow small scale commercial uses that serve the immediate area and have minimal impacts on the adjacent residential area. Uses shall be pedestrian oriented and scaled accordingly.*

*Within the C-1B district the following regulations shall apply:*

- (1) *Uses permitted:* Within the **C-1B district**, no building, structure, land or use shall be permitted and no building shall be erected, structurally altered or enlarged, except for the following uses:

#### (from C-1)

- a. Animal grooming establishments;
- b. Bakeries, the products of which are sold but are not produced on site;
- c. **Personal Services such as** barbershops, beauty shops, nail salons, **estheticians, and beauty spas. Massage and tattoo parlors shall not be permitted;**
- d. Offices – business and professional;
- e. Retail Shops;
- f. Instructional studios, including but not limited to **tutoring**, yoga, exercise, painting, photography, voice, martial arts and other similar instructional studio uses which are deemed appropriate by the Community Development Director.

#### (from R-3)

- g. ~~Nursery or kindergarten~~ *placed as special exception, below*
- h. Banks;
- i. Medical or Dental clinics or **offices, or lab;**

#### (New proposed uses)

- j. **Repair of small appliances, electronic or business equipment;**
- k. **Ice cream store, neighborhood café, or deli;**

(2) Uses by special exception

- a. Nursery, kindergarten or *daycare*
- b. *Uses similar to above permitted uses, but not explicitly listed, if so determined by the Community Development Director to be compatible with the district and surrounding areas.*

(3) *Building height limit.* No building or structure shall exceed 2 stories or 30 feet in height and minimum height shall not be less than 13 feet.

(4) *Maximum lot size shall not exceed one-half ( .5 ) acre*

(5) Setback regulations

Front yard. There shall be a front yard *setback* of not less than 25 feet measured from the highway right-of-way line /property line to the front wall of the building or structure.

Side yard. There shall be a side yard *setback* of not less than ten feet, *unless abutting a residential district which shall require 15 feet.* On a corner lot, there shall be a side yard of not less than 15 feet from the property line of the intersecting street.

Rear Yard. There shall be a rear yard *setback* of not less than ~~seven~~ *fifteen* feet measured from the rear lot line to the rear wall of the building. *This setback shall also apply to any active outdoor uses such as playgrounds or play areas associated with the primary business.*

(6) Special Regulations

- a. *All uses shall be operated entirely within enclosed buildings*
- b. *No outdoor storage allowed*
- c. *Hours of operation are limited to 6am to 11am.*

(7) *Off-street parking.* See section 78-142 for parking requirements