



**INFILL/REDEVELOPMENT PROJECT  
MEETING WITH INTERESTED PARTIES  
WEDNESDAY, JUNE 10, 2009, 2:00PM – 4:00PM  
2300 NORTH JOG RD, WEST PALM BEACH  
1<sup>ST</sup> FLOOR CONFERENCE ROOM (VC-1E-60)**

**AGENDA**

- A. CALL TO ORDER**
- B. DECEMBER 10, 2008 INTERESTED PARTIES MEETING MINUTES - (*EXHIBIT A*)**
- C. FOLLOW-UP TO MARCH 24, 2009 BCC WORKSHOP**
  - 1. BCC March 24 Workshop Presentation
  - 2. Review White Paper
  - 3. Discuss Approval Process and BCC Direction
- D. ARTICLE 1.F NON-CONFORMITIES UPDATE**
- E. OPEN DISCUSSION**
- F. ADJOURN**



## EXHIBIT A

### INFILL/REDEVELOPMENT TASK FORCE WITH INTERESTED PARTIES (IRTF/IP) A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### MINUTES OF THE DECEMBER 10, 2008 SUBCOMMITTEE MEETING

PREPARED BY EILEEN PLATTS, ZONING SECRETARY

On Wednesday, December 10, 2008 at 2:00 p.m. the Infill/Redevelopment Task Force (IRTF) with Interested Parties met in the First Floor Conference Room (VC-1E-60), at 2300 North Jog Road, West Palm Beach, Florida.

#### A. CALL TO ORDER

The meeting began at 2:05 p.m.

##### **Members Present - 3**

Wendy Tuma – Chair  
Joni Brinkman – Vice Chair  
Jeff Brophy – Architect

##### **Public Present - 2**

Misha Ezratti – GL Homes  
Julian Bryan – Julian Bryan and Assoc.

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

Maryann Kwok (Zoning)  
William Cross (Zoning)  
Anthea Gianniotis (TCRPC)  
Eileen Platts (Zoning)

##### **Other:**

Ashlee Zeller (Zoning)  
Dana Little (TCRPC)  
Darlene Beasley (Building)  
Nate Marx (Planning)  
Bryan Davis (Planning)  
Quazi Bari (Traffic)  
Houston Tate (OCR)  
Audley Reid (OCR)  
Edward Nessenthaler (Planning)  
Stephanie Gregory (Planning)

#### B. GENERAL UPDATE

Maryann Kwok welcomed everyone to the meeting and explained that this meeting is to update the public on the progress that the IRTF has made in their last meetings.

#### C. TCRPC PRESENTATION ON CODE ANALYSIS

Anthea Gianniotis, from the Treasure Coast Regional Planning Council (TCRPC), started by explaining that this presentation was developed by pulling out components from ten different codes and using them to perform a general analysis that concentrated on the following Zoning Structure organization methods: How subdivision standards were handled; How the Uses were handled; How Open Space was regulated; What the Individual Regulations for the different lot types were; and, The Parking.

Anthea stated that in the Form Based Code (FBC) used for City Place the Regulating Plan denotes Primary and Secondary streets. She explained that Primary Streets are held to a very strict form base standard, Secondary Streets have reduced regulations, and that these types of streets were a very important tool in form based codes. She also discussed what other counties have in their FBC, i.e.: requiring all new development to install parallel alleys; minimum and maximum block face standards; and, transects.

## EXHIBIT A

Bryan Davis stated that Planning Staff is working on a code not unlike Columbia Pike but would like to use GIS layers instead of auto cad. Anthea explained that the Columbia Pike Code is an older code which used a form of auto cad that predated GIS and that he might be cutting edge on this type of code, she would find out how Miami 21 was mapping and what their strategy for folding in GIS was and get back to him.

### **D. ILLUSTRATIVE PLAN**

Dana Little, from the Treasure Coast Regional Planning Council (TCRPC), started by stating that the Illustrative plan, formally referred to as a model regulating plan, is a graphic illustration of the purpose and intent of the IR-O code. He explained that the Illustrative Plan will show what the spirit and intent of the IR-O is, tie all the issues together, and give a road map on how to use this code. The instructions on how to create the spirit and intent start in the Block Structure chapter.

Dana explained that the IR-O will be a form based code (FBC) which will be eligible for all commercial land uses throughout the county, and will allow for and create incentives for good urbanism that protects the public realm.

### **E. BLOCK STRUCTURE CONCEPT**

Bill Cross stated that the discussion today will be on Walkability, Streets, and Sustainable Neighborhoods. He referred to Policy 1.2.1 of the Comp. Plan that mandates that the buildings be pushed up to the streets, create sustainable walkable neighborhoods and mandates/encourages more of a Traditional Neighborhood Development type commercial development style. Staff wants to encourage sustainable developments which are a multi modal use, establish connectivity standards, create developments that have a sense of place, and minimize adverse impacts of automobile traffic patterns in commercial development on existing adjacent residential communities.

Bill explained that with Block Standards we are talking about alleys and streets with on-street parking, street trees, and a pedestrian sidewalk that is separated by the street trees. Also, Block Dimensions, Parking lot access and placement, connectivity to adjacent parcels and building placement. He stated that a majority of the IR-O is comprised of smaller parcels which will not be subject to Block Standards, but they will have some alley requirements and share the same components of different sections of the IR-O for building placement, parking access and placement. Bill explained that with Block Standards there is maximum length, minimum length and perimeter length and property that doesn't trip those requirements will be exempt.

Bill referred to Baldwin Park as being what we would want to have for a block structure. It has all of the elements we are talking about, a block with streets on all sides which have sidewalks, street trees and on-street parking. The intent is to ensure that the block structure stays intact and the vehicular crossings and pedestrian realms are kept separate.

### **F. BUILDING PLACEMENT CONCEPT**

Maryann Kwok began her presentation by stating that the question staff has to answer is how to apply these concepts of block structure and infill development to the existing county situation and that the two main categories we are dealing with in the IR-O are vacant lots and existing developments.

Jeff Brophy questioned how to deal with liability issues and maintenance of a sidewalk that has been placed on private property? Bill Cross stated that we have a lot of issues with this due to the presence of utility easements but there are a lot of other counties that are implementing the same ideas and they are working for them. The primary goal is to place the pedestrian/sidewalk on the other side of the trees.

### **G. ADJOURNMENT**

The Infill/Redevelopment Task Force with Interested Parties meeting ended at 4:05 p.m.

U:\Zoning\CODEREV\2009\LDRAB\Sub-committees\Infill\6-10-09 Interested Parties\Exhibits and Handouts\Exhibit A - 12-10-08 IP Minutes.doc

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT



**MARCH 24, 2009  
BCC WORKSHOP**

PRESENTED BY

**PBC ZONING DIVISION  
AND  
TREASURE COAST REGIONAL  
PLANNING COUNCIL**



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## REQUEST FOR BCC DIRECTION

- ▣ Conventional Code – *Versus* – Form Based Code.
- ▣ Streamlining the Approval Process.



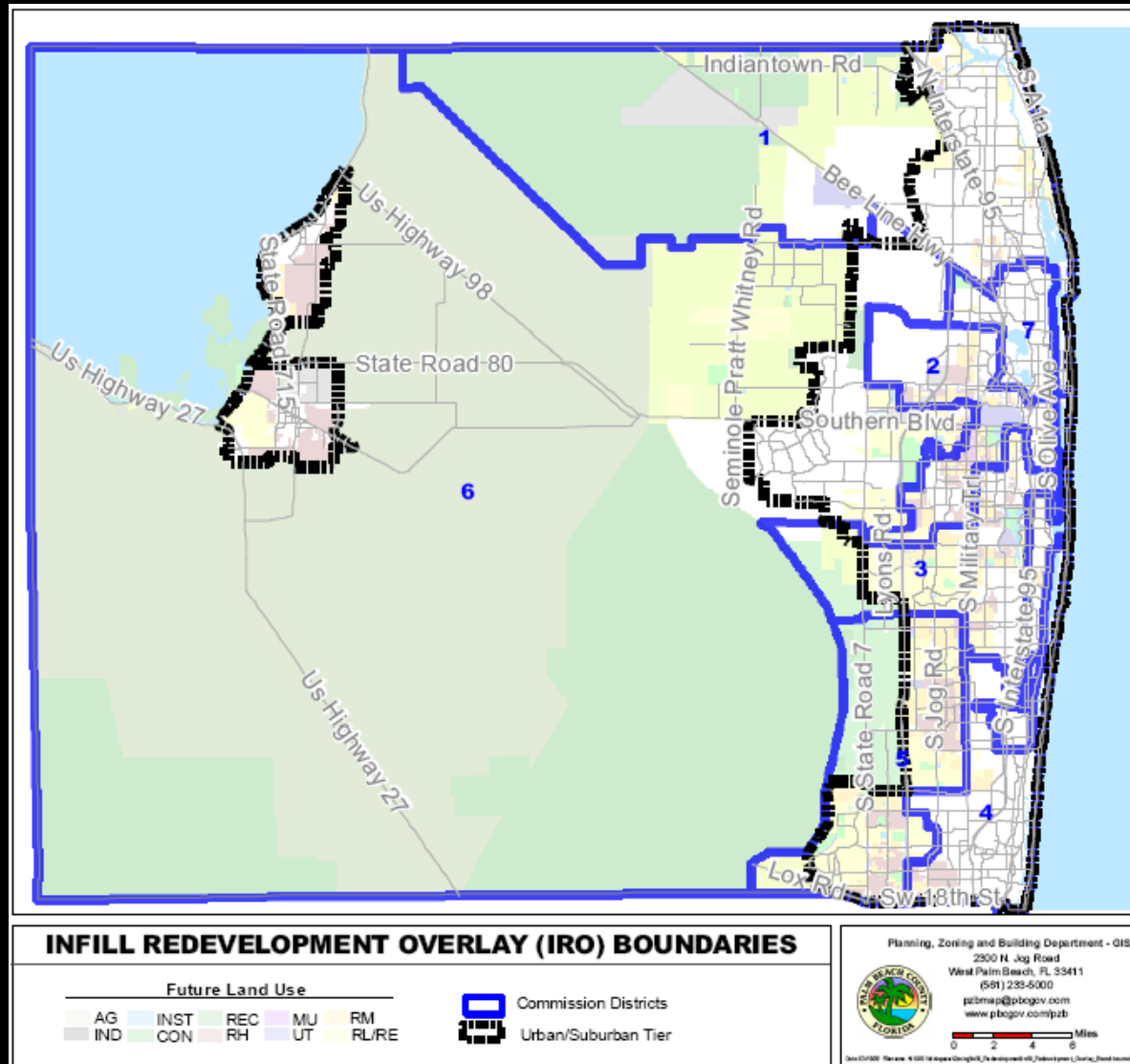
# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHAT ARE THE BOUNDARIES OF THE IRO?

- ▣ Urban/Suburban Tier (aka Urban Service Area).

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHAT ARE THE BOUNDARIES OF THE IRO?



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

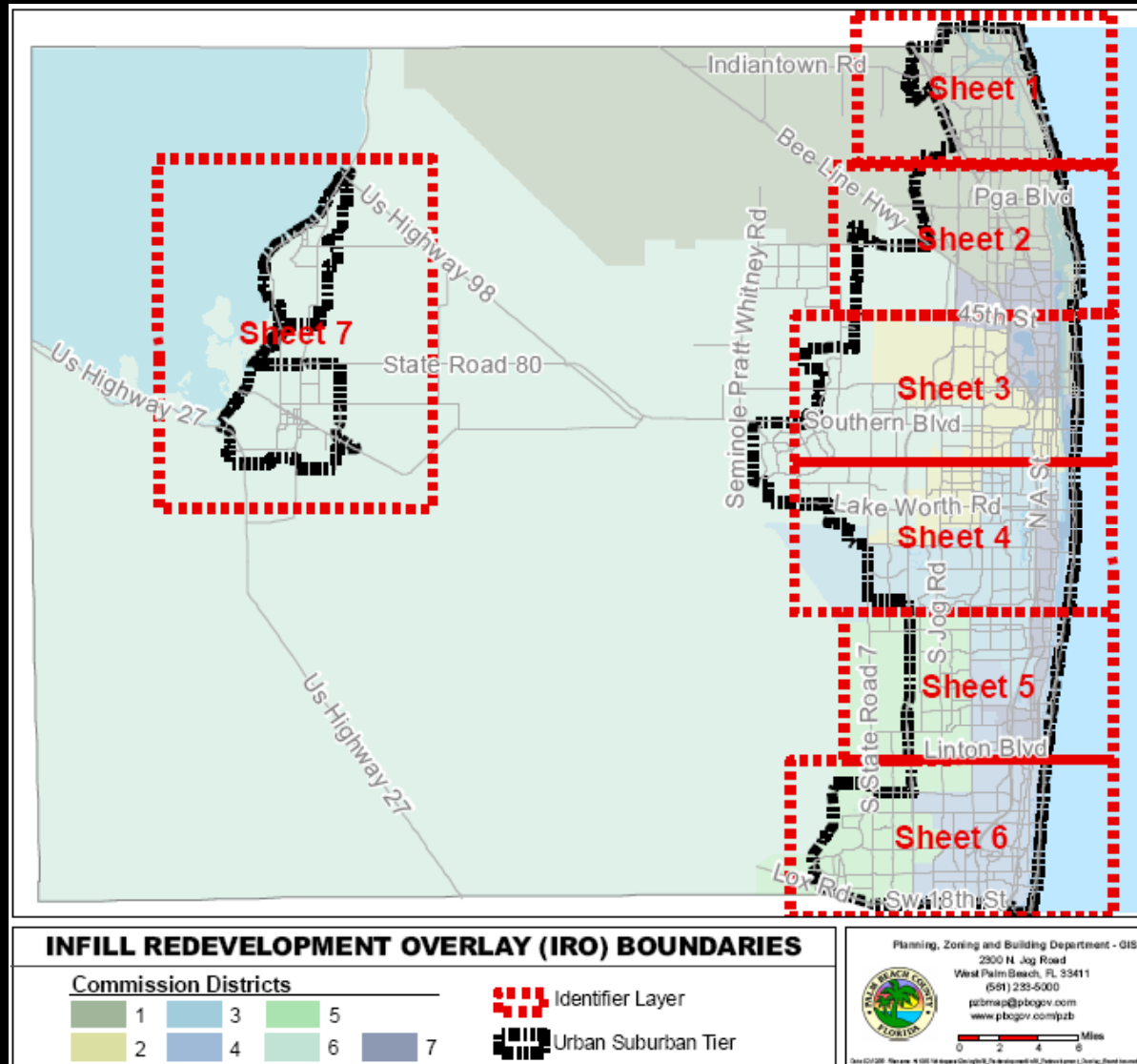
## WHAT ARE THE BOUNDARIES OF THE IRO?

- ▣ Urban/Suburban Tier (aka Urban Service Area [USA]).
- ▣ Properties with a Commercial Future Land Use (FLU) Designation.
  - Why USA Commercial Only? Priority to implement existing Commercial Policies of the Plan, including allowing mixed use; the ULDC already addresses residential infill and redevelopment; and, additional review may be undertaken in future.



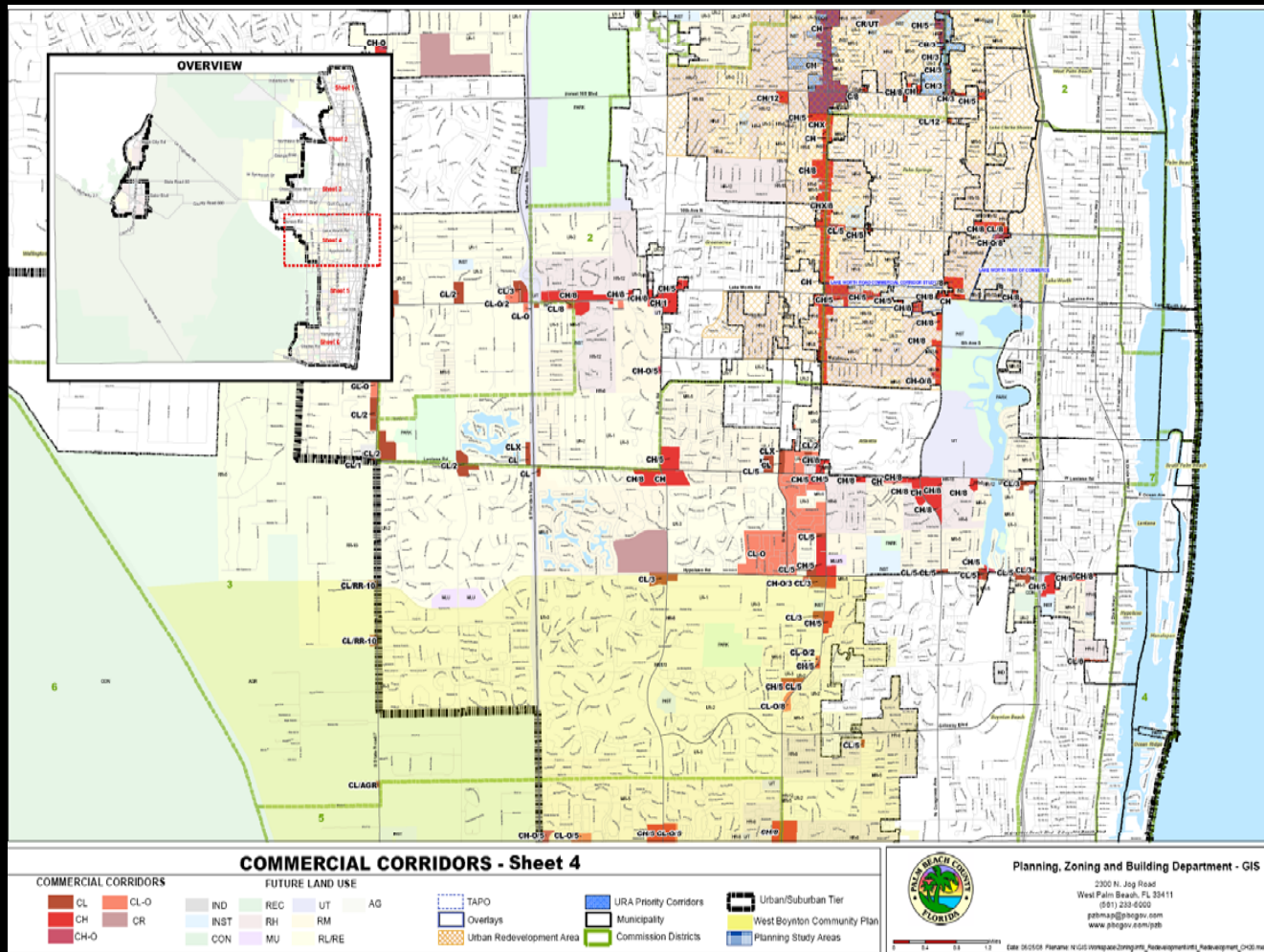
# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHAT ARE THE BOUNDARIES OF THE IRO?



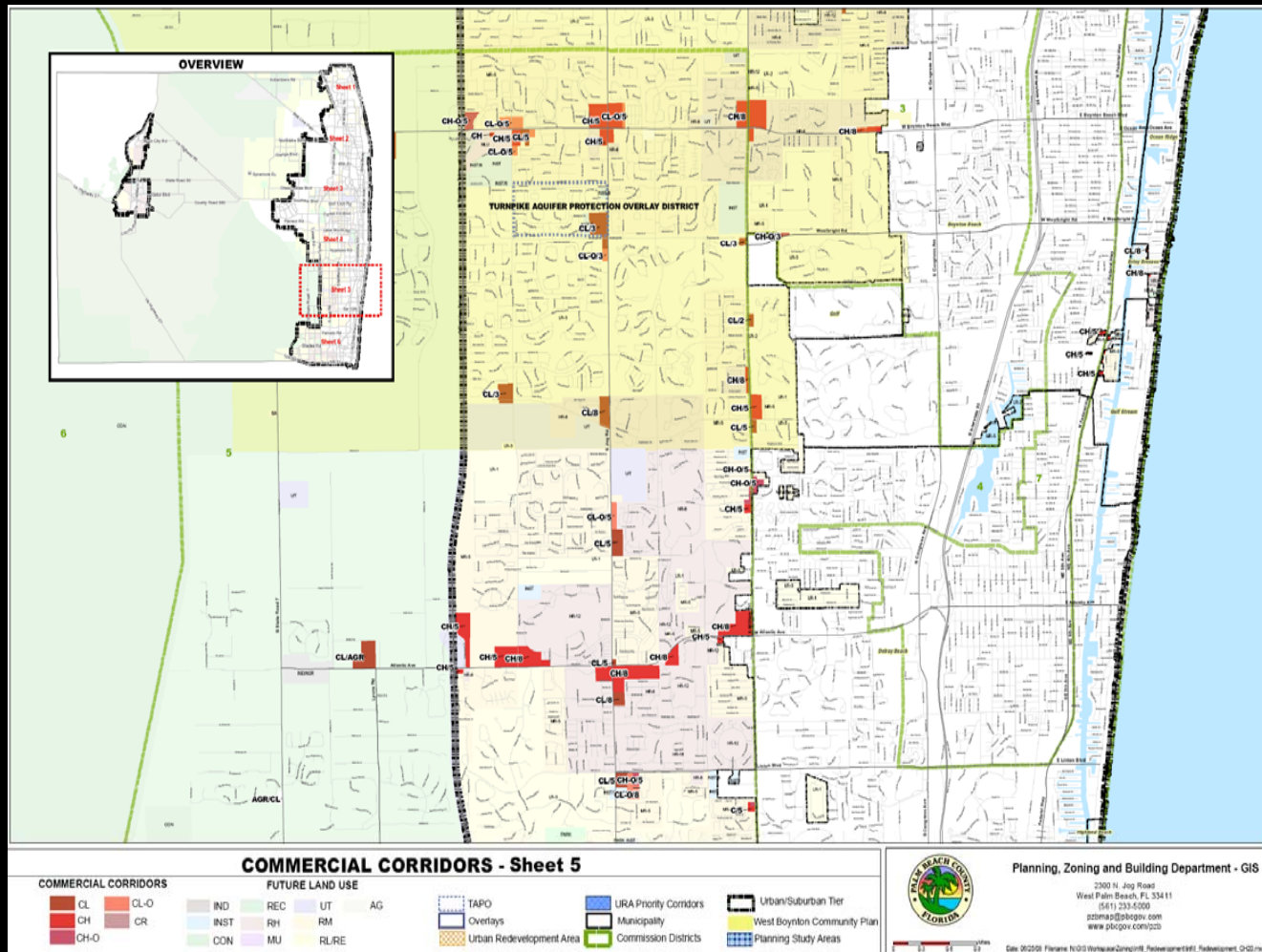
# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHAT ARE THE BOUNDARIES OF THE IRO?



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHAT ARE THE BOUNDARIES OF THE IRO?





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

CONVENTIONAL CODE **VERSUS** FORM BASED CODE?



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY A FORM BASED CODE?

- ▣ If We Regulate Built Form, Let Form Regulate Uses.
  - Predictable Built Environment = Less Use Regulation.

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## TYPICAL CONVENTIONAL CODE





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## HISTORIC REFERENCE



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY A FORM BASED CODE?

- ▣ If We Regulate Built Forms, Let Form Regulate Use.
  - Predictable Built Environment = Less Use Regulation.
  
- ▣ Required by the Comprehensive Plan.



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY A FORM BASED CODE? **REQUIRED BY THE PLAN.**  
**INCREMENTAL RETROFIT** OF EXISTING COMMERCIAL - 1



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY A FORM BASED CODE? **REQUIRED BY THE PLAN.**  
**INCREMENTAL RETROFIT** OF EXISTING COMMERCIAL - 2





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY A FORM BASED CODE? **REQUIRED BY THE PLAN.**  
**INCREMENTAL RETROFIT** OF EXISTING COMMERCIAL - 3



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY A FORM BASED CODE

- ▣ If We Regulate Built Forms, Let Form Regulate Use.
- ▣ Required by the Comprehensive Plan.
- ▣ Sustainable/Green Development.
  - Social, Economic and Ecological Factors.
  - Green Task Force.

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY A FORM BASED CODE?

- ▣ If We Regulate Built Forms, Let Form Regulate Use.
- ▣ Required by the Comprehensive Plan.
- ▣ Sustainable/Green Development.
- ▣ Industry Trends.

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

*A Guidebook to*  
NEW URBANISM IN FLORIDA 2005

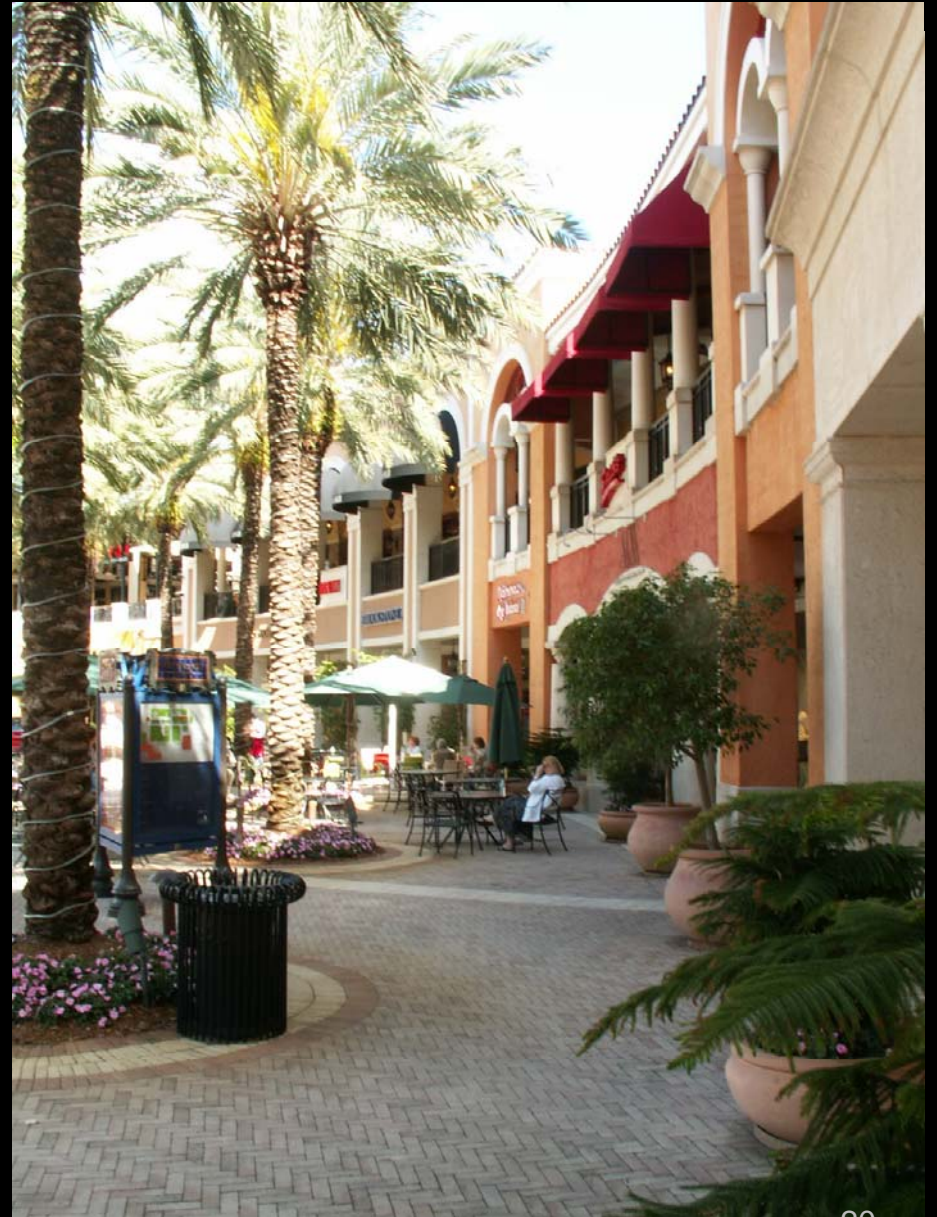


CNU Florida



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WEST PALM BEACH  
LARGE SITE



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## DELRAY BEACH – SMALL SITE





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WEST PALM BEACH – **SMALL SITE**



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WEST PALM BEACH

### CONTEXT





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WEST PALM BEACH – VERTICAL MIXED USE



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WEST PALM BEACH – HORIZONTAL MIXED USE





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## PALM BEACH GARDENS

### MEDIUM SITE & CONTEXT





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## PALM BEACH GARDENS

### MEDIUM SITE AND CONTEXT



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT



PALM BEACH GARDENS



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT



PALM BEACH GARDENS



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## PALM BEACH GARDENS



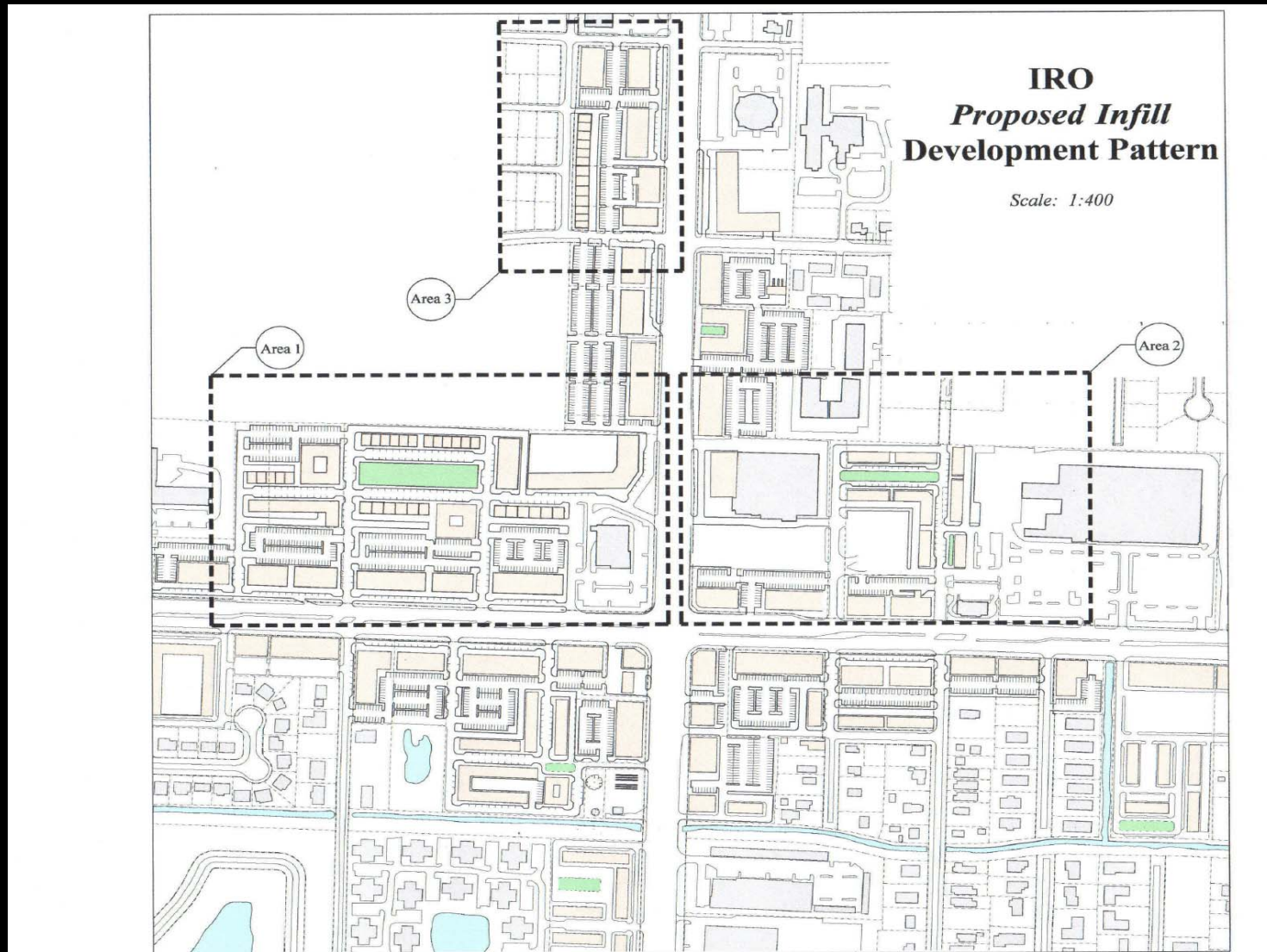
## INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

### HOW DO WE ESTABLISH SUSTAINABLE DEVELOPMENT REGULATIONS?

- ▣ Identify Current Development Obstacles and Impediments.
- ▣ Develop Possible Redevelopment Solutions.
- ▣ Form Based Code (*alternative set of optional development standards that provide predictability for the built environment*).
- ▣ Floating Regulating Plan.

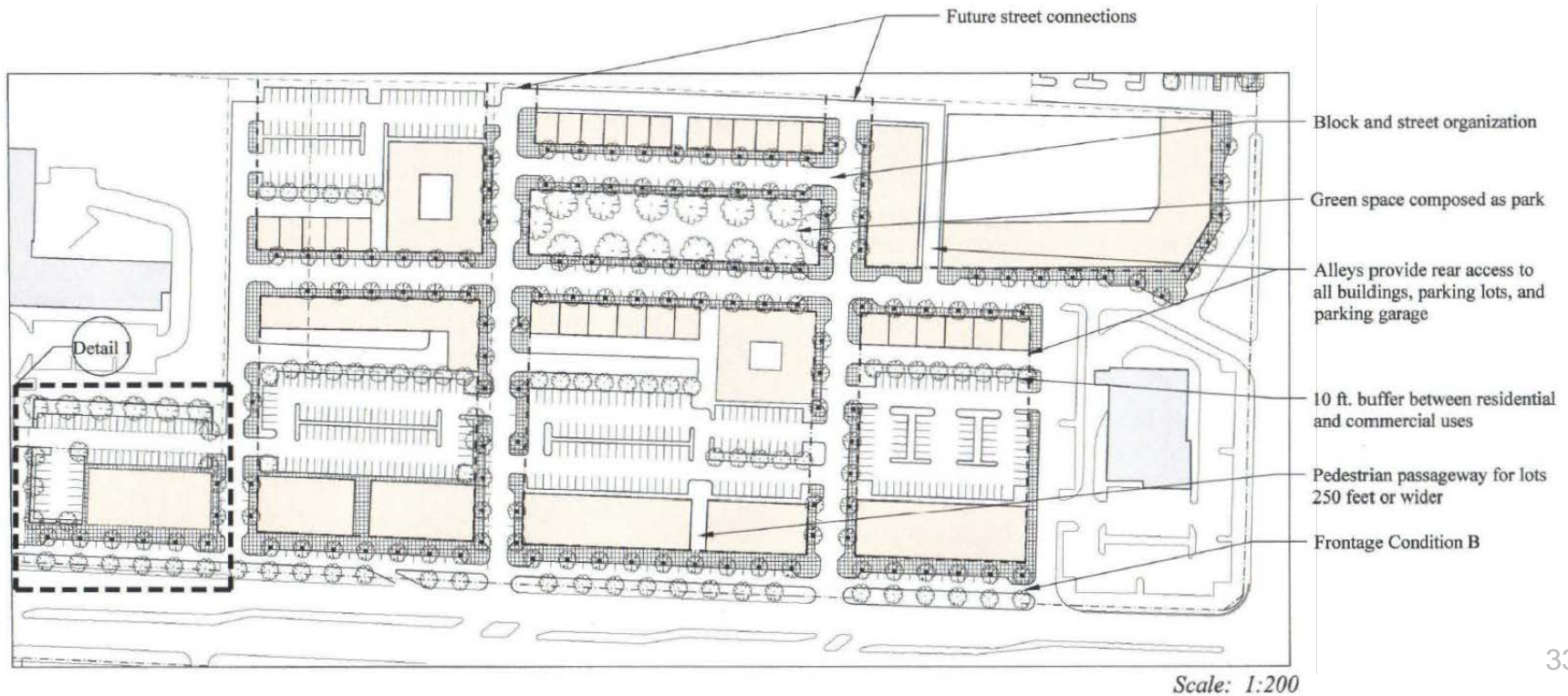
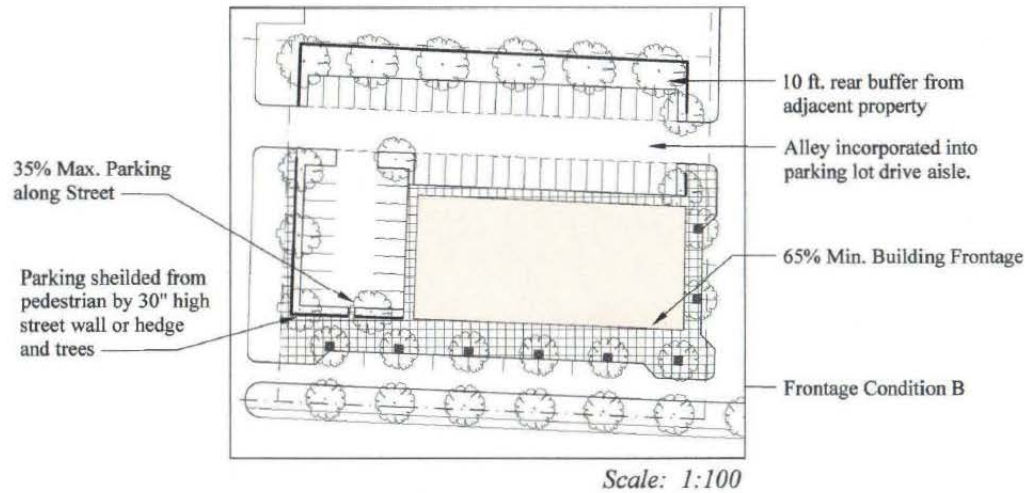
# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## TREASURE COAST REGIONAL PLANNING COUNCIL



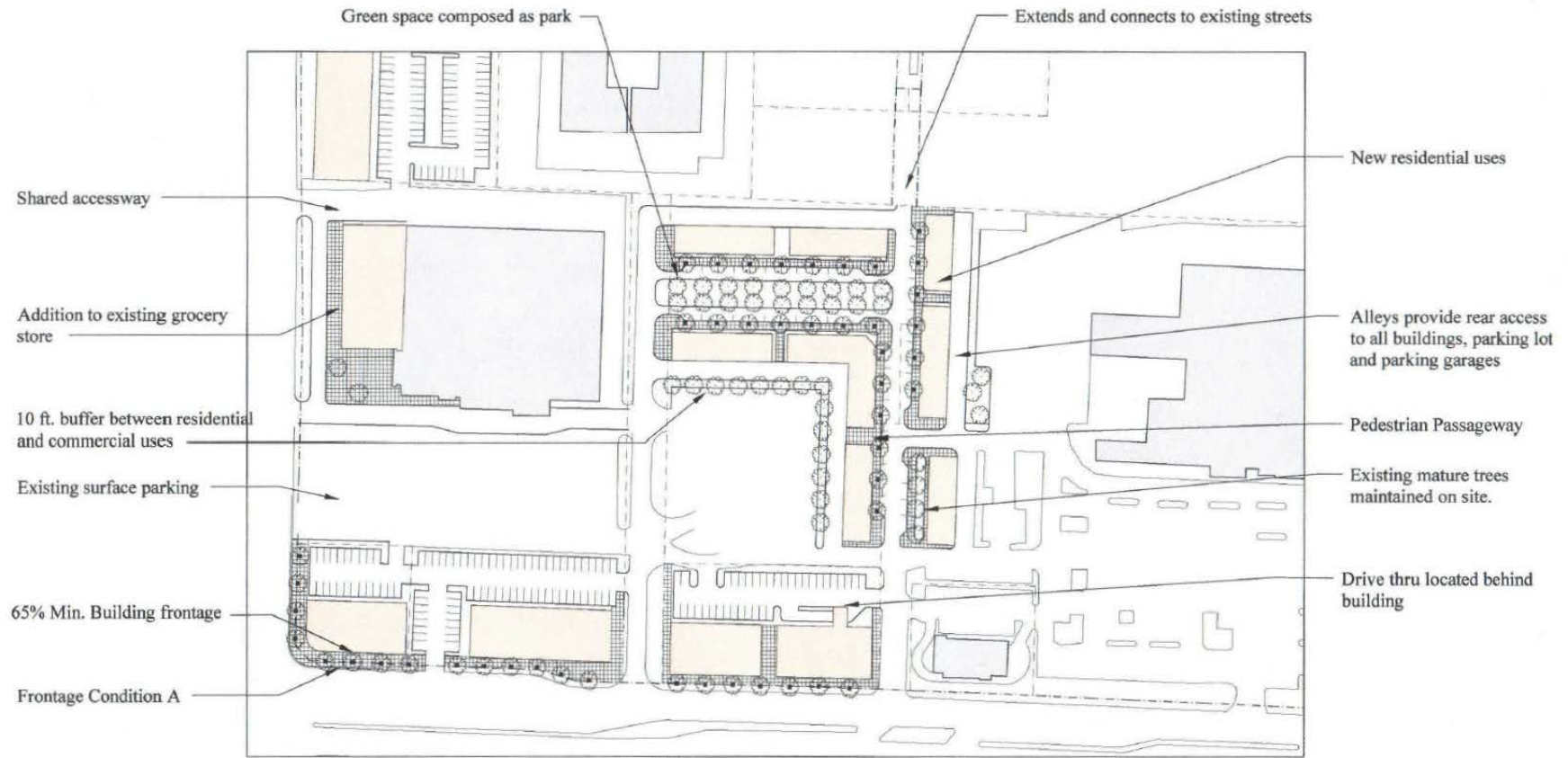


# IRO Proposed Infill Development Pattern *Area 1*



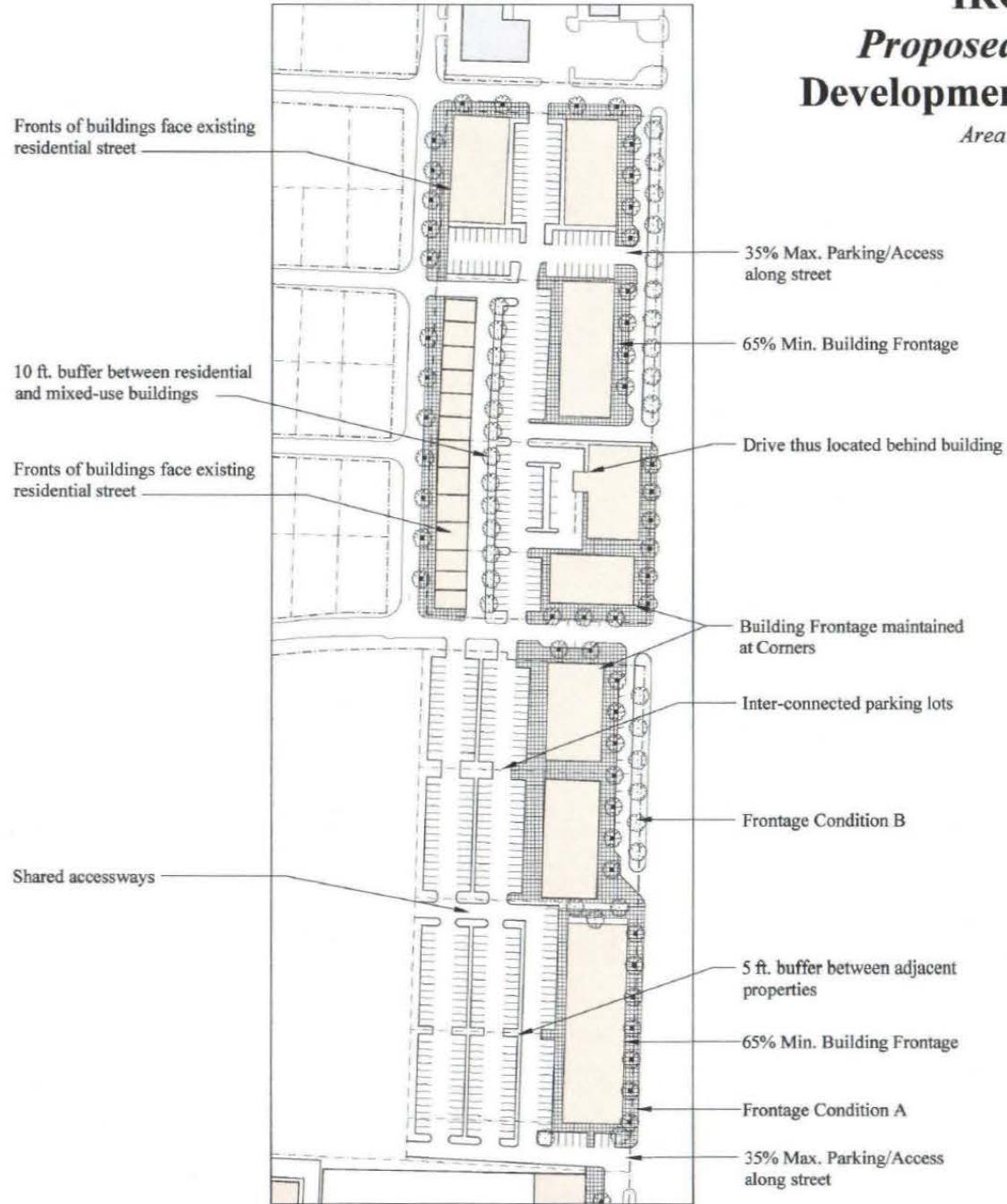
# IRO Proposed Infill Development Pattern

Area 2



# IRO Proposed Infill Development Pattern

Area 3



Scale: 1:200

## INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

### WHY STREAMLINE THE APPROVAL PROCESS?

- ▣ Incentive for Developers – Provide Incentive for Investment.
- ▣ Input from Land Development Industry.



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY STREAMLINE THE APPROVAL PROCESS?

**EXAMPLE** – OKEECHOBEE PLACE

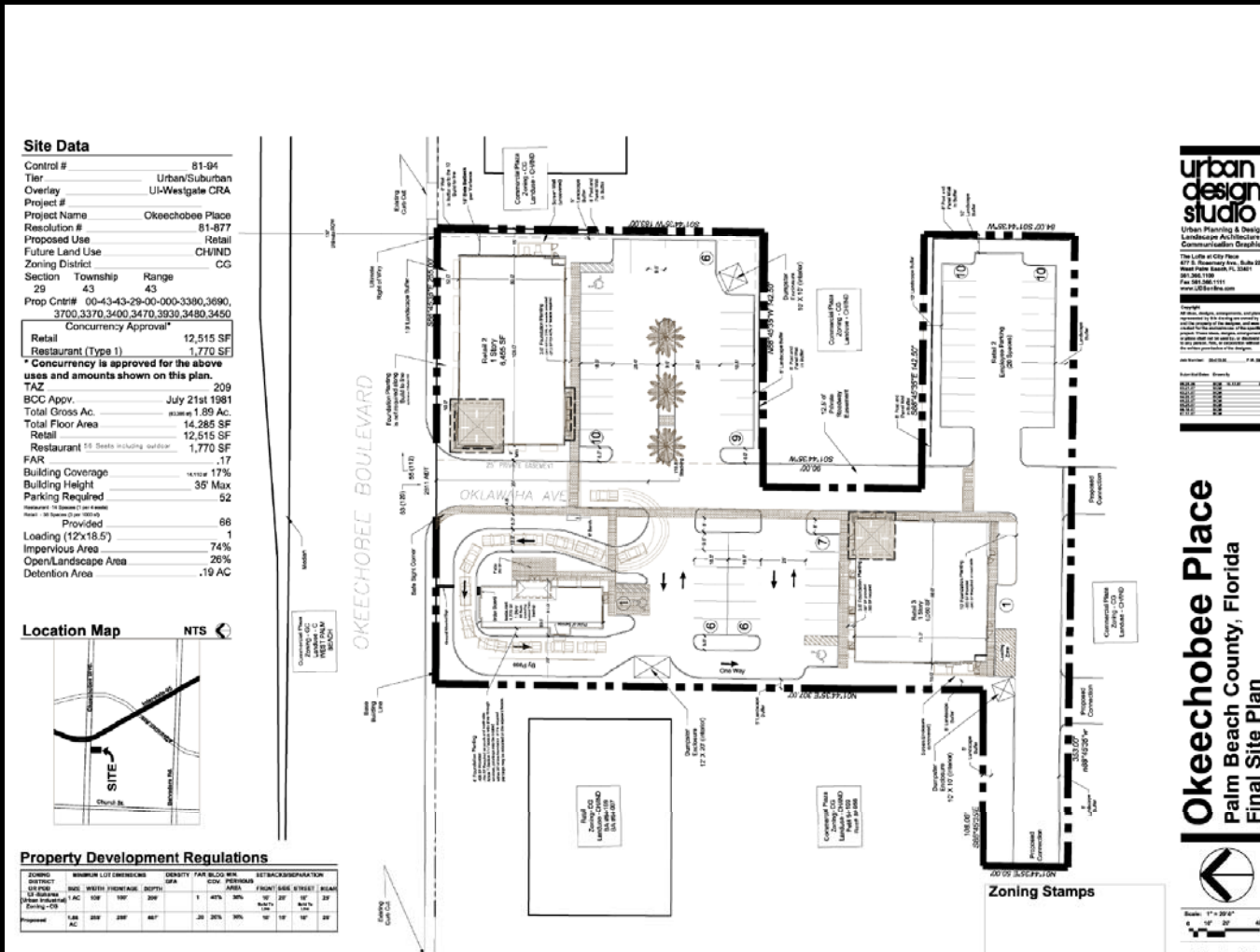




# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY STREAMLINE THE APPROVAL PROCESS?

### EXAMPLE – OKEECHOBEE PLACE



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY STREAMLINE THE APPROVAL PROCESS?

**EXAMPLE** – OKEECHOBEE PLACE



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY STREAMLINE THE  
APPROVAL PROCESS?

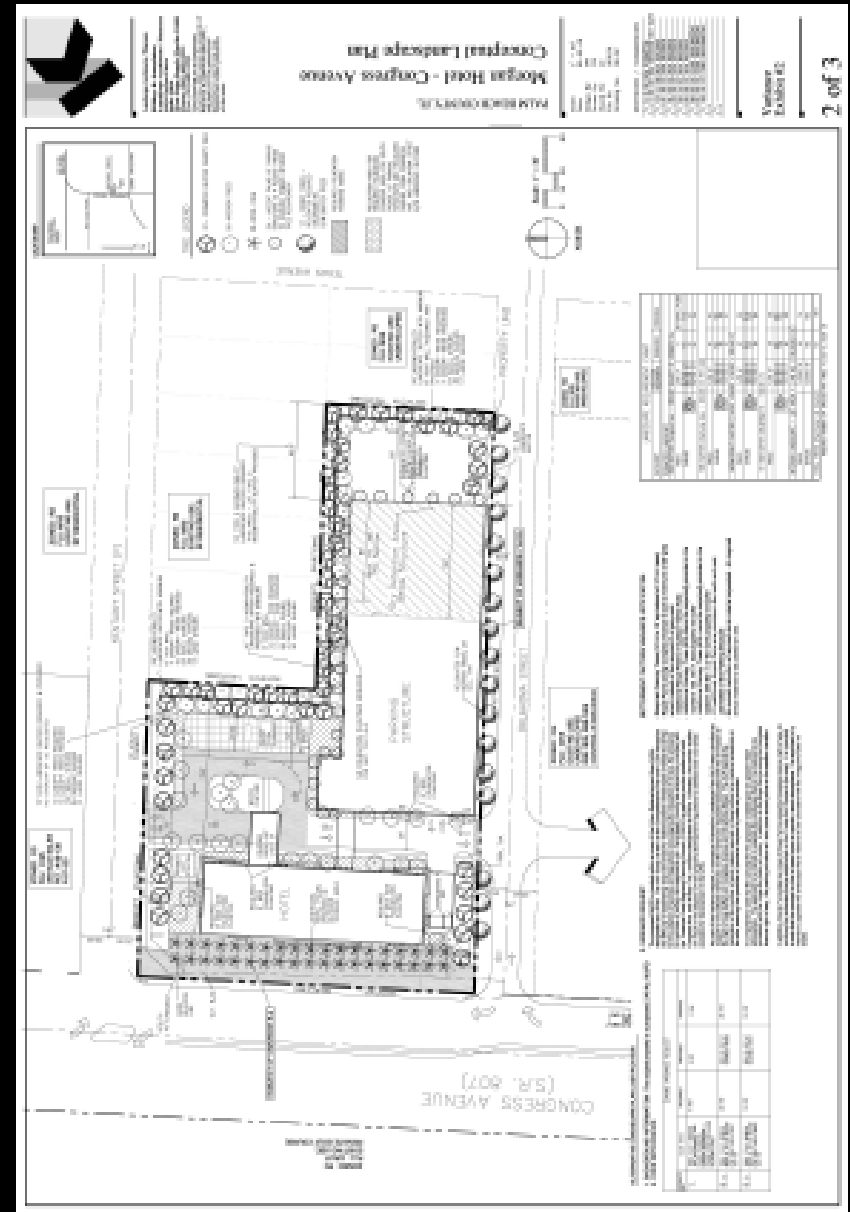
**EXAMPLE**  
OKEECHOBEE PLACE



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

WHY STREAMLINE THE APPROVAL PROCESS?

**EXAMPLE**  
MORGAN HOTEL





# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY STREAMLINE THE APPROVAL PROCESS?

### EXAMPLE – MORGAN HOTEL



NORTHWEST PERSPECTIVE VIEW  
NTS

**REG**  
ARCHITECTS  
INTERIORS  
PLANNERS  
INCORPORATED



1988 2006  
RICK GONZALEZ, AIA  
PRESIDENT AR-0014572  
2015 SOON HURWAY, SUITE 204  
WEST PALM BEACH  
FLORIDA 33411  
PH: (561) 659-2183  
FAX: (561) 659-5144  
www.regpk.com  
CORPORATION NUMBER  
AA-000407

CONCEPTUAL DESIGN

MORGAN  
HOTEL  
CONGRESS AVENUE

PALM BEACH COUNTY, FL

REVISIONS	NO.
05-14-07	1
06-06-07 WALL	2

DATE 01-22-07  
SCALE NTS  
DRAWN VJD  
CHECKED REG  
REG No. 00005

REVISIONS AND USE OF THESE DRAWINGS IS LIMITED TO THE PROJECT AND SITE SPECIFIC. ANY OTHER USE OF THESE DRAWINGS WITHOUT THE WRITTEN CONSENT OF REG ARCHITECTS INTERIORS PLANNERS INCORPORATED IS PROHIBITED. THE USER OF THESE DRAWINGS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. REG ARCHITECTS INTERIORS PLANNERS INCORPORATED IS NOT RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THESE DRAWINGS. THE USER OF THESE DRAWINGS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. REG ARCHITECTS INTERIORS PLANNERS INCORPORATED IS NOT RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THESE DRAWINGS.

NORTHWEST  
PERSPECTIVE  
VIEW

P-1

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY STREAMLINE THE APPROVAL PROCESS?

When Would BCC **Public Hearing** Process Be Required?

1. Prior Conditions of Approval (e.g. DOA).
2. Rezoning required (consistency with FLU).
  - Includes any projects applying for a FLU Amendment.
3. Thresholds (acreage, square footage, height, and **USES**).

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY STREAMLINE THE APPROVAL PROCESS?

### Approval Process **Scenario One**

- ▣ Previous Approval – BCC Approval .
- ▣ To clean up conditions and evaluate requests for IR-O.
- ▣ IRO – Administrative (DRO/Bldg Permit) Approval.
  - Threshold: acreage, square footage, height, and **USES**.

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY STREAMLINE THE APPROVAL PROCESS?

### Approval Process **Scenario Two**

- ▣ New Project with Rezoning – BCC Approval.
- ▣ IRO – Administrative (DRO/Bldg Permit) Approval.
  - Threshold: acreage, square footage, height, and **USES**.



# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## WHY STREAMLINE THE APPROVAL PROCESS?

### Approval Process **Scenario Three**

- ▣ Project with commercial Zoning and FLU.
- ▣ IRO – Administrative (DRO/Bldg Permit) Approval.
  - Threshold: acreage, square footage, height, and **USES**.

# INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT

## REQUEST FOR BCC DIRECTION

- ▣ Adopt an Optional Form Based Code
  - *(i.e. Green, Sustainable, Predictable Built Environment).*
- ▣ Streamline the Approval Process
  - Threshold: acreage, square footage, height, and **USES**.

Note: 2<sup>nd</sup> BCC Workshop Tentatively Scheduled for June 30, 2009.

**PBC ZONING DIVISION  
INFILL/REDEVELOPMENT OVERLAY (IR-O) PROJECT  
SUMMARY WHITE PAPER**

**INTRODUCTION**

The Infill and Redevelopment Overlay (IR-O) 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 (see attached maps). 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 IR-O 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 IR-O 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. Facilitate commercial revitalization in the Urban/Suburban Tier, by incrementally retrofitting commercial corridors and isolated land uses with sustainable development that creates a sense of place, improved streetscapes and integration into the surrounding community;
2. Implement the Goals, Objectives and Policies of the Comprehensive Plan that mandate sustainable, walkable urban/suburban redevelopment;
3. Accommodate TCRPC regional goals, along with other State and Federal requirements that address future growth management challenges and problems (e.g. TCRPC Strategic Regional Policy Plan);
4. Utilize Smart Growth and Form Based Coding principles to establish standards that create a predictable built form that improves the streetscape and relates to the pedestrian realm (e.g. storefronts, street trees, sidewalks, and other public use areas and amenities);
5. Advocate walking, cycling and mass transit as viable alternatives to automobile use;
6. Foster interconnectivity between non-residential and other non-residential or residential uses;
7. Foster sustainability by integrating the social, economic and ecological needs of the community with overall regional and national policy;
8. Mitigate adverse impacts of commercial development to surrounding residential uses and the community as a whole;
9. Promote commercial and residential mixed use;
10. Respect market realities, industry trends, and property rights;
11. Address multi-disciplinary regulatory and development review processes;

12. Offer property development incentives that will encourage developers or business owners to utilize the IR-O (e.g. reduced setbacks, reduced parking, increased FAR, enhanced landscaping to increase efficiency in uses of properties);
13. Streamline the development review process; and,
14. Establish a Countywide Redevelopment Overlay within the Urban/Suburban Tier that unifies multiple redevelopment efforts such as the Westgate/Belvedere Homes CRA Overlay (WCRA-O) and the Urban Redevelopment Area (URA) by bridging goals while allowing for similar benefits outside of such areas.

## STRATEGIES FOR REDEVELOPMENT

The foundation of the IR-O 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. **FLOATING REGULATING 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 IR-O, 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?

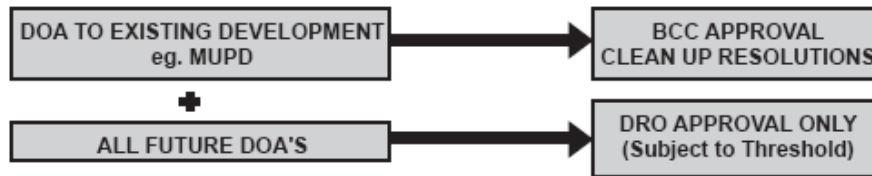
As proposed, there are generally three potential implementation options that may result with the adoption of Phase I amendments.

- 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.



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

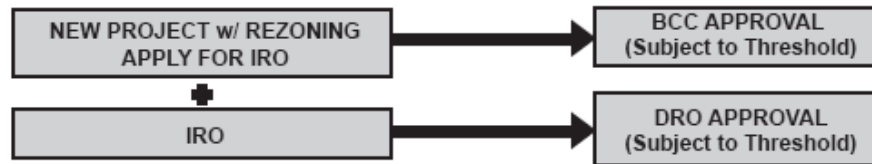


**SCENARIO TWO - REQUIRE NO BCC APPROVAL**



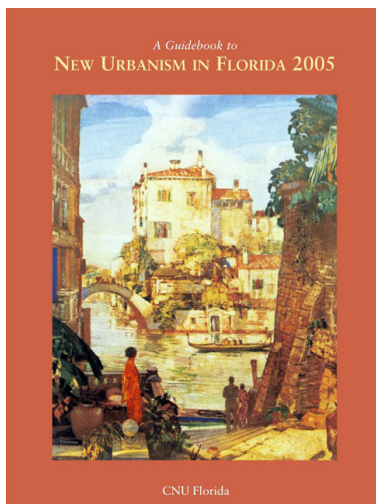
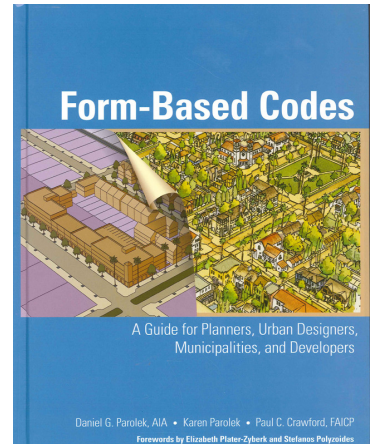
\*May affect and need code for change in WFH, TDR, etc.

**SCENARIO THREE - REQUIRE BCC APPROVAL**



**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 are 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)**

A kick-off meeting for the IR-O project was organized in February 2008, and an Infill Redevelopment Task Force (IRTF) was created consisting of members of various land development related industries and interested parties. The Task Force is a subcommittee of the LDRAB, 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. At this stage, several IRTF meetings were held from March to December 2008 to discuss different topics ranging from visioning of the IR-O, predictable review/approval process; street cross sections; drainage; traffic; blocks; building types and building placements.

### **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 IR-O 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

At this stage, the TCRPC is preparing an Illustrative plan for a specific area of the County (intersection of Lake Worth Road and Military Trail), the function of this plan is to provide dimensional information that is used to test different site conditions against the objectives of the IR-O. The plan will consist of a series of detailed site plans of individual lots to demonstrate that the IR property development requirements such as setbacks, frontage roads, rear parking and

how they will physically placed and fitted in different sites. The illustrative plan is a tool to assist staff in truthing the IR-O vision. This will serve as a basis for a Floating Regulating Plan that will apply to each parcel of land to be developed with an IR-O.

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**

**DRAFT**

**INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
NON-CONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 05/29/09)**

**Part 1.1 ULDC, Articles 1.F.1, General, 1.F.2, Non-Conforming Use, and 1.F.3, Non-Conforming Structure, are hereby deleted in entirety, and replaced with new Articles 1.F.1, General, 1.F.2, Non-Conforming Use, and 1.F.3, Non-Conforming Structure, as follows:**

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

**Comment [w1]:** We still need to do something to bridge the gap between "Previous Approvals" and "Non-conformities"? Simply put – it seems that the entire Prior Approval section speaks to addressing potential non-conformities – hence, should it not be a sub-part of non-conformities?

**CHAPTER F NONCONFORMITIES**

**Section 1 General**

**A. Purpose and Intent**

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

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

**B. Determination of nonconforming status**

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

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

**C. Applicability**

**1. Improvements to nonconformities**

This Section specifies the types of improvements allowable to be performed for nonconformities. The types of improvements include: Expansion, Maintenance, Renovation and Damage Repair.

**2. Exemption**

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

**3. Submittal Document**

**Comment [w2]:** This seems to be a part of the "Purpose and Intent" section.

**Comment [w3]:** Key change to point out – correct to change from use to apply to all non-conformities!

**Comment [w4]:** Delete word "use" here – as sentence appears to refer to all types of non-conformities. Same as #2 below.

**Comment [w5]:** Should also reference "Previous Approvals."

**Comment [w6]:** See Lenny – is this sufficiently defined later, or does it need clarification here?

**Notes:**

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

(Updated 05/29/09)

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

D. Current Assessed Value

Current Assessed Value is utilized to calculate allowable improvements for a nonconforming use or nonconforming structure. In determining the value of improvements allowable for a nonconforming use or a nonconforming structure, take 125 percent of the Assessed Value of the structure determined by the County Property Appraiser Office for non-government facilities, and an additional 60 percent of Assessed Value of the structure for government facilities.

1. Alternative

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

2. Value Exemption

Value Exemptions such as Homestead, Seniors, Disabled Persons and Disabled Veterans allowed by the County Property Appraiser Office shall be included in the Current Assessed Value.

Typical Example:

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

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

Step One

Assessed Value of Non-conforming structure = \$100,000  
Establish Current Assessed Value: \$100,000 x 125% = \$125,000

Step Two

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

Step Three

Maximum percentage for Maintenance or Renovation.  
The applicant may choose to utilize the full 30% under Maintenance or Renovation; OR  
Choose a certain percentage under Maintenance and Renovation so long the combined total percentage for these 2 types of improvements does not exceed 30%.

In this scenario, the applicant chooses to utilize 10% for Maintenance and 20% for Renovation:

\$125,000 x 10% Maintenance = \$12,500 (b); AND,  
\$125,000 X 20% Renovation = \$25,000 (c);

Step Four

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

Comment [w7]: Add in reference to separate/distinct Airport Zone section – concur with continuing to keep it separate, just too complicated.

Comment [w8]: This is one of our best simplifications!

Comment [w9]: This is more detailed, information and easier to understand than the existing Figure 1.F.3, Non-conforming Structures – but can it be converted to a flow chart.

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

(Updated 05/29/09)

- 1 **E. Cumulative Improvements in Total Value**
- 2 In determining the value of an improvement necessary to perform expansion, maintenance, renovation or
- 3 damage repair, the "aggregate cost approach" as outlined in the most current building valuation data in
- 4 the Building Safety Journal
- 5 or other comparable guidelines adopted in law or accepted in practice by the Building Official, shall be
- 6 used as the sole basis for calculation.
- 7 This Section shall apply to the cumulative improvements in total value over the previous seven years.
- 8 **1. Maximum Percentage for combined types of improvements**
- 9 One or a combination of these types of improvements: expansion, maintenance, renovation, or
- 10 damage repair to a nonconformity shall be performed within a 12 consecutive month period so long
- 11 the accumulative total percentage of these improvements does not exceed the allowable maximum
- 12 percentage listed below in **Table 1.F.1.F-1, Nonconformities - Allowable Percentage and**
- 13 **Approval Process.** Under no circumstances, the maximum percentage for each type of these
- 14 improvements could be combined.
- 15 **2. Exemption**
- 16 An applicant may apply to the Executive Director of PZ&B for an exemption for the 12 consecutive
- 17 month period for damage repair pursuant to **Damage Repair, Application Form XXX.** (*this is to*
- 18 *address hurricane damage or damages from any natural disaster where an applicant may take more*
- 19 *than 12 months to receive money from the Insurance Companies. Create this form requiring*
- 20 *applicant to provide justification and documents from Insurance Company.*)
- 21 **F. Nonconforming Scenarios**
- 22 This table summarizes possible improvement scenarios that may apply to a nonconforming use or a
- 23 nonconforming structure. Maximum percentage is based on current assessed value of the structure. For
- 24 additional requirements for each type of nonconformities, see following Sections.
- 25

**Comment [w10]:** We really need input from Rebecca on this terminology – and perhaps some background info. from Jon???

**Comment [w11]:** Would be great as a Flow Chart – similar to those we're developing for the How to Use This Code Section of the IRO ;)

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NON-CONFORMITIES  
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(Updated 05/29/09)**

**Table 1.F.1.F-1  
Nonconformities - Allowable Percentage and Approval Process**

	Major Nonconforming use	Minor Nonconforming use	Conforming use in a nonconforming structure
<b>Expansion</b>			
Non-Government	All expansion of use must be interior to the existing structure. <i>(does not indicate % limit)</i>	10% max. <u>DRO</u>	<u>Expansion must comply with Code, DRO</u>
Government	All expansion of use must be interior to the existing structure	45% max. <u>DRO</u>	Expansion must comply with Code, DRO
LWRCC-O, WCRA-O, IR-O	All expansion of use must be interior to the existing structure	50% max. <u>DRO</u>	Expansion must comply with Code, DRO
<b>Renovation</b> <i>(does not separate major or minor)</i>			
Non-Government	<u>10% max.</u>	<u>30% max.</u> <u>By Right</u>	20% max. By Right >20<30% ZC, Type II Variance
Government	<u>10% max.</u>	<u>45% max.</u> <u>By Right</u>	<u>20% max.</u> <u>By Right</u> <u>&gt;20&lt;30%</u> ZC, Type II Variance
LWRCC-O, WCRA-O, IR-O	<u>10% max.</u>	50% max. <u>DRO</u>	≤50% max. <u>DRO</u>
<b>Maintenance</b>			
Non-Government	20% max. <u>By Right</u>	30% max. <u>By Right</u>	20% max. By Right
Government	30% max. <u>By Right</u>	45% max. <u>By Right</u>	<u>45% max.</u> <u>By Right</u>
LWRCC-O, WCRA-O, IR-O	<u>40% max.</u> <u>DRO</u>	<u>50% max.</u> <u>DRO</u>	<u>50% max.</u> <u>DRO</u>
<b>Damage Repair</b>			
Non-Government		30% max. By Right	
Government		<u>30% max.</u> <u>By Right</u>	
LWRCC-O, WCRA-O, IR-O		<u>50% max.</u> <u>DRO</u>	

Footnote:

1. For nonconforming use, there is no difference in the allowable maximum percentage regardless of whether the use is accommodated in a conforming structure or in a nonconforming structure.
2. Any improvements that exceed the above maximum percentage shall not be permitted, except in conformity with this Code.
3. All Overlays shall be in compliance with applicable sections and performance criteria of Article 3.B, Overlays.

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NON-CONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 05/29/09)**

**Section 2 Nonconforming Use**

**A. Nonconforming Use classifications**

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

**1. Major**

A major nonconforming use is a use that was legally established in a zoning district where the use is now prohibited under the terms of this Code. Major nonconforming uses are inappropriately located and create incompatibilities that are detrimental to the public welfare. Pursuant to Policy 2.2-e, FLUE of the Plan, the intent 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. Therefore, this Code imposed restrictions to physical and financial investments in major nonconformities to further the intent of this Policy.

**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 for the higher review and approval process to correct the nonconforming status of the use for the benefit of future development order amendments and other types of improvements.

**3. Nonconforming to Airport Regulations**

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

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

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

**B. Change in Use**

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

**C. ~~Discontinuance or Cessation~~**

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

**D. Expansion**

**1. Major Nonconforming Use**

A major nonconforming use shall not be expanded except it may be expanded within the structure of which was approved for such use in a valid development order prior to the use becomes nonconforming.

Expansion shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1, Nonconformities - Allowable Percentage and Approval Process**.

**Comment [w12]:** Lenny to comment – per his prior e-mail on topic?

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

(Updated 05/29/09)

**2. Minor Nonconforming Use**

A minor nonconforming use may be expanded on one occasion, provided the expansion complies with the terms of this Code and in compliance with the following:

- a. The expansion would not exceed ten percent of the approved floor area of the structure or ten percent of the current assessed value of the structures on site, whichever is less; or any other form of measure of intensity/density for the specific use such as but not limited to: beds for congregate living facilities; decks for restaurants; number of children for daycares; number of fueling stations or gas pumps for convenience store with gas sales or other traffic intensity measures; and,
  - 1) For a convenience store with gas sales, the applicant may be allowed to either increase the floor area of the store or increase the number of pumps subject to the ten percent limitation and approval of a Traffic Study by the Engineering Department. Any fractional number of the pumps that may occur during the calculations shall be rounded upward to the nearest whole number for one half or more of a whole pump, and downward if the it is less than one half of a whole pump. The gas canopy of the fueling stations may be expanded along with and must be proportional to the increase of the pumps.
- b. The expansion will result in a reduction of nonconforming features to the greatest extent possible, and shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1, Nonconformities - Allowable Percentage and Approval Process.**

**Comment [w13]:** This valuation does not make sense. As discussed – the language in Plan Policy FLUE 2.2-e needs to be amended as the limitation of 10% of the original value is questionable.

**E. Maintenance or Renovation**

Maintenance or renovation shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1, Nonconformities - Allowable Percentage and Approval Process.**

**F. Damage Repair**

Damage to a structure shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1, Nonconformities - Allowable Percentage and Approval Process.** Current assessed value shall be established at the time of damage.

**G. Relocation**

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

**1. Exception**

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

**Comment [w14]:** How can a non-conforming use become less non-conforming by relocation?

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**Notes:**

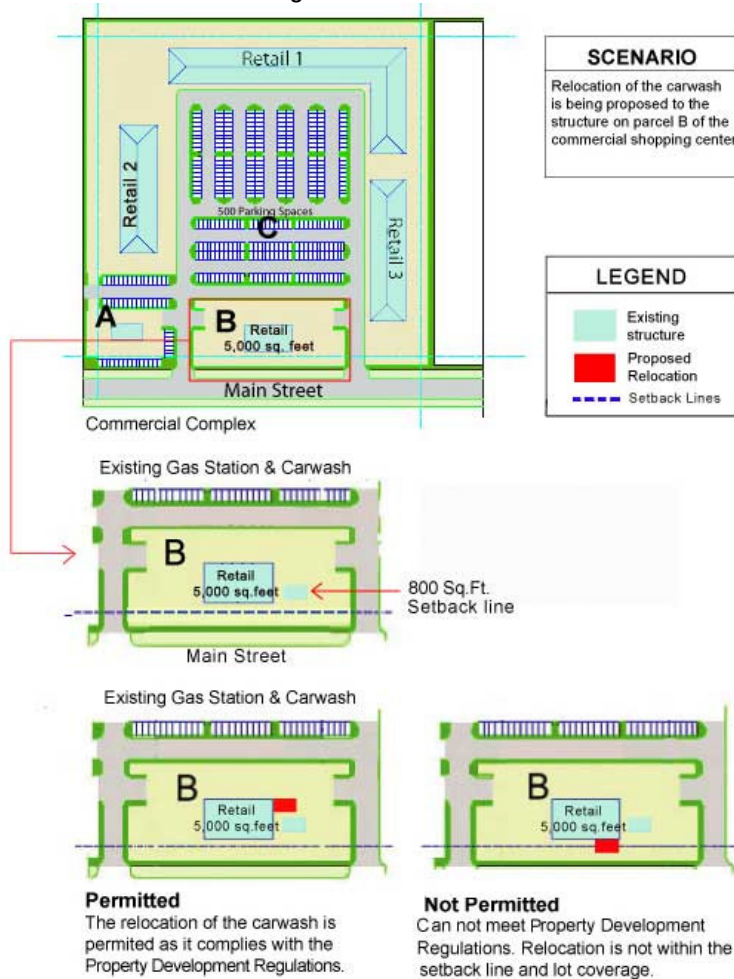
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INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
NON-CONFORMITIES  
SUMMARY OF AMENDMENTS

(Updated 05/29/09)

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



1  
2  
3

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**INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
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SUMMARY OF AMENDMENTS  
(Updated 05/29/09)**

1 **Section 3 Non-Conforming Structure**

2 **A. General**

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

**Comment [w15]:** Could this be moved to General, under Applicability?

4 **B. Expansion**

5 Expansion of a nonconforming structure shall not change or increase the nonconforming features of the  
6 structure, and shall not result in the intensification of a nonconforming use through the structural  
7 expansion. Expansion shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1,**  
8 **Nonconformities - Allowable Percentage and Approval Process.**

9 **C. Maintenance or Renovation**

10 Maintenance or renovation shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1,**  
11 **Nonconformities - Allowable Percentage and Approval Process.**

12 **D. Damage Repair**

13 Damage repair shall be performed not to exceed the percentage pursuant to **Table 1.F.1.F-1,**  
14 **Nonconformities - Allowable Percentage and Approval Process.**

15 **E. Relocation**

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

19 **F. Uses and Structures within an Airport Zone**

**Comment [w16]:** Not sure if there are any changes here – but would agree best to leave alone. Maybe we could just add a statement that this is in addition to other Non-conformities regulations?

20 **1. Applicability**

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

27 **a. Exemptions**

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

31 **2. Existing Uses and Occupancy**

32 The requirements of [Art. 16, Airport Regulations](#), shall not be construed to necessitate the removal,  
33 lowering or alteration of a structure or building supporting an existing use nonconforming to the  
34 requirements therein, or otherwise interfere with the continuance of such use which legally existed  
35 prior to November 1, 1996, provided the continuation does not jeopardize life or health. Construction  
36 or alterations which existed or had started prior to November 1, 1996, and is diligently pursued and  
37 completed in accordance with building permitting requirements as defined by PZB, shall not be  
38 required to comply with the provisions in [Art. 16, Airport Regulations](#).

39 **a. Change in Use and Occupancy**

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

44 **3. Abandonment of a Use**

45 If a use nonconforming to the Airport Regulations has been abandoned for 365 days (one Year), a  
46 permit cannot be issued to repair, reconstruct or restore the structure to re-establish the use unless  
47 the extent of the repair, reconstruction or restoration complies with the requirements in [Art. 16.B.1,](#)

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SUMMARY OF AMENDMENTS**

(Updated 05/29/09)

[Airspace Height Regulations](#), and [Art. 16.C.1.E. General Land Use Regulations-Off Airport Land Use Compatibility Schedule](#).

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

**a. Height Restrictions**

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

**b. Use Regulations**

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

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

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

**5. Relocated Buildings**

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

**6. Obstruction and Marking Requirements**

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

**Section 4 Nonconforming Lot**

**A. Applicability**

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

**1. Legal Access Requirements**

**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]**

**Comment [w17]:** Note: Have concerns with Planning continuing to process FLU amendments that create new Nonconformities; as well as our own rezoning/site plan approvals where newly approved development has not commenced and existing uses aren't identified as a phase of the new development or FLU change. Example: Panama Hattie's has an existing Commercial Office up front, but as it's not on the approved MUPD plan, what regulations do you apply??? Common sense says – original CG table, but there's nothing in the code to clarify such. Ron Wong might be best able to explain my concerns....

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

(Updated 05/29/09)

**3. FLU and Zoning Consistency**

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

**4. Lot Recombination Requirements**

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

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

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

1. The newly created lot complies with the lot dimensions of this Code, or reduces the non-conformity; and, [Ord. 2008-037]
2. Can comply with the requirements of [Art. 11, Subdivision, Platting and Required Improvements](#). [Ord. 2008-037]

**C. Residential Development Regulations**

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

1. Minimum Setback Requirements:
  - a. If the minimum depth dimension is nonconforming:  
Front: 30 percent of lot depth  
Rear: 20 percent of lot depth.
  - b. If the minimum width dimension is nonconforming:  
Side Interior: 15 percent of lot width.  
Side Street: 20 percent of lot width.
  - c. Nonconforming lots that are 100 feet or less in width and 100 feet or less in depth may apply a 25-foot setback from the affected property line.
2. The maximum lot coverage is 40 percent of the total lot area or the maximum district coverage whichever is more restrictive.
3. Accessory structures shall comply with all applicable Code requirements.

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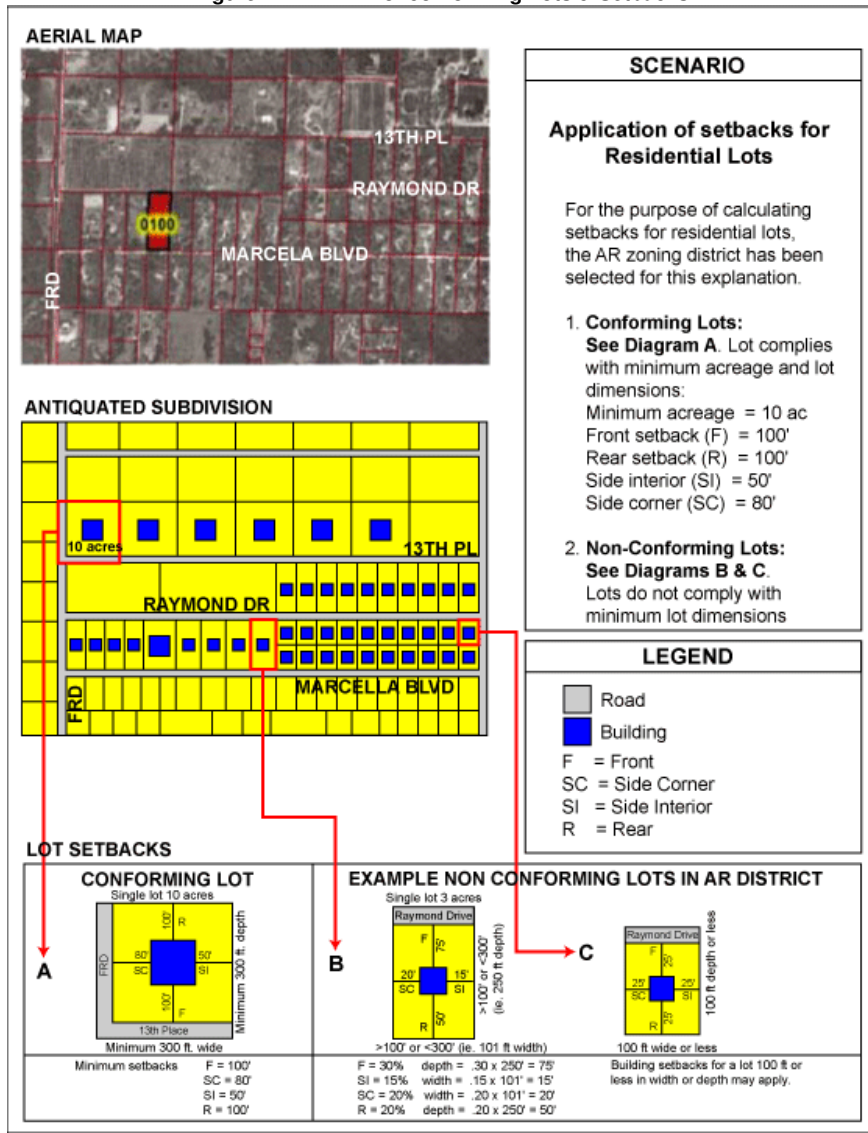
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**INFILL REDEVELOPMENT OVERLAY (IRO) PROJECT  
NON-CONFORMITIES  
SUMMARY OF AMENDMENTS**

(Updated 05/29/09)

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



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NON-CONFORMITIES  
SUMMARY OF AMENDMENTS  
(Updated 05/29/09)**

[Ord. 2005-002]

**D. Accessory Dwellings**

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

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

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

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

1. The proposed use is allowed by this Code; and
2. All other property development regulations, supplemental development regulations and setbacks for the use are met, or variances are obtained pursuant to the requirements of [Art. 2.B.3, Variances.](#) **[Ord. 2008-037]**
3. Variance is not required for projects that utilize the IR-O property development regulations.

**Part . ULDC, Articles 1.1.2.N.31 and 32, Definitions as follows:**

<b>Reason for amendment:</b> Redefine Nonconforming use, Minor since it was erroneously defined, and move definitions of Art.1.1.N.31 and 32 under Art.1.F.2.
---------------------------------------------------------------------------------------------------------------------------------------------------------------

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

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

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

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

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