

Section 4.4.13 Central Business (CBD) District:

(A) **Purpose and Intent:** The Central Business District (CBD) Zone District is established in order to preserve and protect the cultural and historic aspects of downtown Delray Beach and simultaneously provide for the stimulation and enhancement of the vitality and economic growth of this special area. Establishment of the CBD District is consistent with and implements, in part, Objective C-4 of the Land Use Element of the Comprehensive Plan. The CBD District is generally applied to territory depicted in the Commercial Core designation on the Future Land Use Map.

The areas described below and shown in Figures 4.4.13-1, 4.4.13-2 and 4.4.13-3 provide for development that is consistent with the adopted Downtown Delray Beach Master Plan. [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 21-04 5/4/04]

Central Core: The regulations are intended to result in development that preserves the downtown's historic moderate scale, while promoting a balanced mix of uses that will help the area evolve into a traditional, self-sufficient downtown. Residential development is permitted at higher densities in this area than any other part of the city, in order to foster compact, pedestrian oriented growth that will support downtown businesses. [Amd. Ord. 21-04 5/4/04]

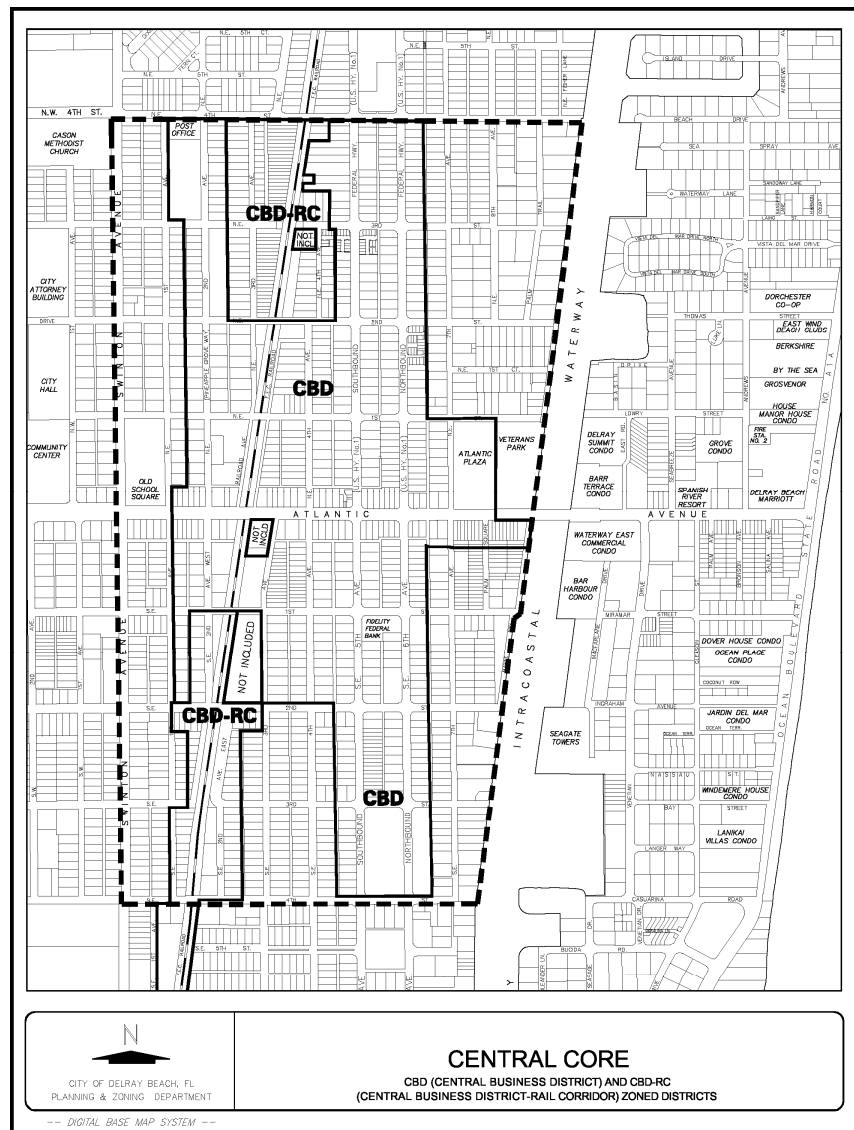


Figure 4.4.13-1 – Central Core

SECTION 4.4.13 (A)

Beach Area: The goal for this area is to “preserve and enhance the character of these areas, the public condition of the beach, the vitality of its center, and the natural environment.” The Master Plan calls for redevelopment of existing buildings in a manner that places storefronts close to the street and parking in the rear. Where existing buildings are separated from the pedestrian ways by wide landscaped areas, the addition of arcades and new building square footage to bring the storefronts closer to the street is encouraged. [Amd. Ord. 21-04 5/4/04]

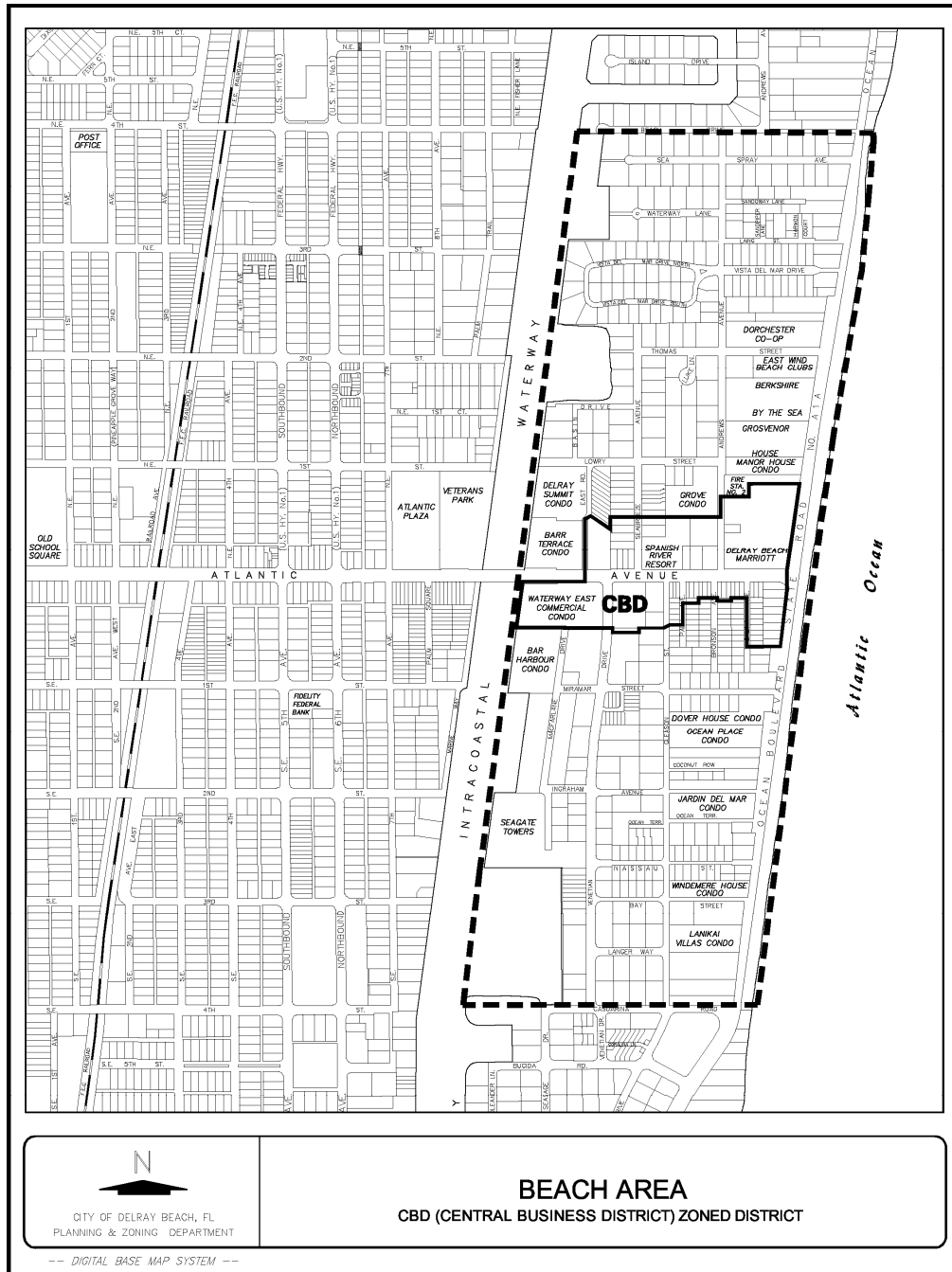


Figure 4.4.13-2 – Beach Area

SECTION 4.4.13 (A)

West Atlantic Avenue Neighborhood: The goal for this area is to provide for development that is consistent with the adopted West Atlantic Avenue Redevelopment Plan and the Downtown Delray Beach Master Plan. The emphasis is on the preservation and enhancement of existing neighborhoods, while promoting a pedestrian friendly commercial area along Atlantic Avenue that contains a mix of residential, commercial and civic functions. Businesses that are oriented toward serving the local neighborhood, as opposed to a regional area, are encouraged. [Amd. Ord. 64-04 11/16/04]

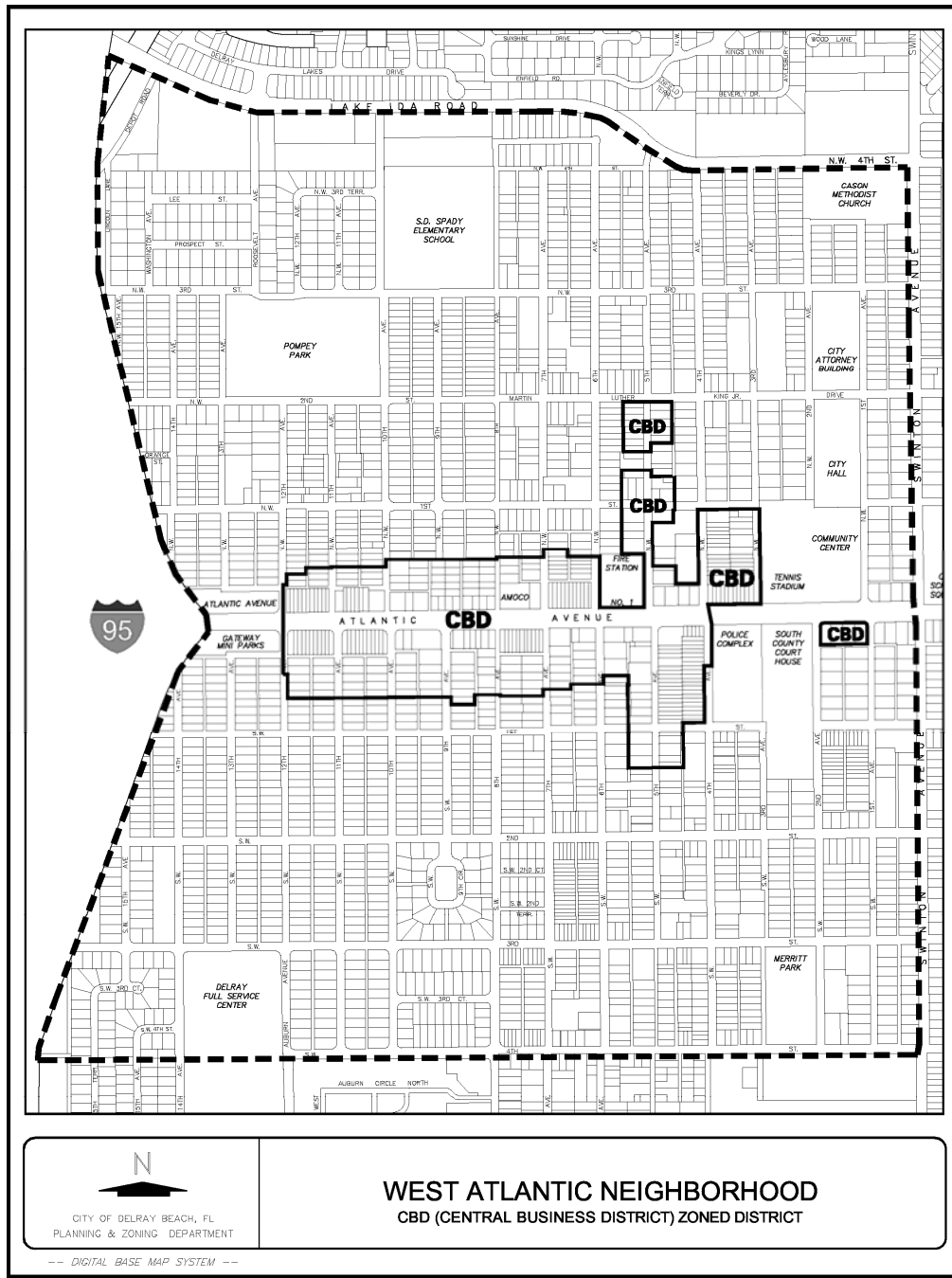


Figure 4.4.13-3 – West Atlantic Neighborhood

SECTION 4.4.13 (B)

(B) **Principal Uses and Structures Permitted**: The following types of use are allowed within the CBD District as a permitted use:

(1) General retail uses and/or facilities, including, but not limited to: **[Amd. Ord. 35-10 10/19/10]; [Amd. Ord. 22-99 7/20/99]**

(a) Antiques, arts and crafts, automotive parts, baked goods, books, carpet and floor covering, cheeses, beer, wine, liquor, confectioneries, cosmetics, meats, draperies and slipcovers, pharmacies, electrical fixtures and supplies, fabrics, fish, flowers and plants, fruits and vegetables, food, garden supplies, gifts, glassware, hardware and paints, home furnishings, ice cream, lawn care equipment, leather goods, luggage, medical and surgical equipment, music and musical instruments, nautical supplies, office furniture equipment and supplies, pets and pet supplies, photographic equipment and supplies, sewing supplies, sporting goods, toys, wearing apparel and accessories, appliances, bicycles, business machines, jewelry. **[Amd. Ord. 35-10 10/19/10]; [Amd. Ord. 22-99 7/20/99]**

(2) Business, Professional and Medical uses pursuant to restrictions set forth in Section 4.4.13(H)(1) including, but not limited to: **[Amd. Ord. 09-10 7/20/10]; [Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 22-99 7/20/99]**

(a) Interior decorating, medical and dental clinics, medical and dental laboratories, photographic studios, printing and publishing, business, medical and professional offices. **[Amd. Ord. 09-10 7/20/10]; [Amd. Ord. 22-99 7/20/99]**

(3) Services and facilities including, but not limited to:

(a) Auctions, barber and beauty shops and salons, caterers, dry cleaning limited to on-site processing for customer pickup only, dry cleaning and laundry pickup stations, laundromats limited to self-service facilities, pet grooming, restaurants excluding drive-in and drive-through, outdoor cafes, tailoring, tobacconist, vocational schools limited to arts and crafts, business, beauty, dancing, driving, gymnastics, photography, modeling, and karate-judo, small item repair, and rental of sporting goods and equipment (such as but not limited to bicycles, skates, boogie boards). With the exception of bicycles with an electric-helper motor as defined in section 72.02, Delray Beach Code of Ordinances, all rented sporting goods must be non-motorized. **[Amd. Ord. 36-11 10/18/11]; [Amd. Ord. 15-98 4/21/98]**

(b) Galleries, broadcast studios, butcher shops, cocktail lounges, exercise facilities e.g. gyms and clubs, museums, libraries, newsstands, commercial or public parking lots and parking garages.

(c) Public open space plazas **[Amd. Ord. 32-09 8/4/09]**

SECTION 4.4.13 (B) (4)

(4) Multi-family dwelling units, including residential licensed service provider facilities, but excluding duplexes, up to a maximum density of thirty (30) units per acre except for the West Atlantic Neighborhood or Beach District, where the maximum density is twelve (12) dwelling units per acre. **[Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 8-98 2/3/98]; [Amd. Ord. 80-95 12/5/95]**

(5) Hotels, motels, and residential-type inns except in the West Atlantic Neighborhood. **[Amd. Ord. 11-10 7/20/10]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 9-98 2/17/98]**

(6) Assisted Living Facilities, Nursing Homes, and Continuing Care Facilities, up to a maximum density of thirty (30) units per acre except for the West Atlantic Neighborhood or Beach District, where the maximum density is twelve (12) dwelling units per acre. **[Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 01-10 1/19/10]; [Amd. Ord. 20-08 4/15/08]**

(7) Bed and Breakfast Inns, except in the West Atlantic Neighborhood, subject to the provisions of Section 4.3.3(Y). **[Amd. Ord. 11-10 7/20/10]**

(C) **Accessory Uses and Structures Permitted**: The following uses are allowed when a part of, or accessory to, the principal use:

(1) Parking lots.

(2) Refuse and service areas.

(3) Provision of services and repair of items incidental to the principal use.

(4) Storage of inventory either within the same structure as where the sale of goods occurs or in a separate structure on the same parcel provided that such storage facilities are not shared or leased independent of the primary commercial use of the site.

(5) A single family residence, either separate or within a structure housing a nonresidential use, provided that the residence is occupied by the owner, proprietor, or employee of a business enterprise conducted on the property.

(6) Recreational facilities attendant to a multi-family residential development, such as tennis courts, swimming pools, exercise areas, and meeting rooms. **[Amd. Ord. 80-95 12/5/95]**

(7) Single level mechanical parking lifts for in-fill development projects that have been vacant for a minimum period of one (1) year, pursuant to the requirements of Sections 4.6.9(D)(11) and 4.6.9(F)(4). **[Amd. Ord. 02-08 2/19/08]; [Amd. Ord. 34-07 9/18/07]**

(8) Family day care home pursuant to Section 4.3.3(T). **[Amd. Ord. 25-10 10/19/10]**

SECTION 4.4.13 (D)

(D) **Conditional Uses and Structures Allowed**: The following uses are allowed as conditional uses within the CBD District:

DELETED NUMBERS AND RENUMBERED. [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 20-08 4/15/08]

(1) Amusement game facilities limited to such uses as pinball, air hockey, electronic games, and other similar coin operated games when an attendant is on duty.

(2) Child care and adult day care.

(3) Financial institutions, e.g., banks and similar institutions including drive through facilities pursuant to restrictions set forth in Section 4.4.13(H)(1). [Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 70-04 1/4/05]

(4) Funeral homes including accessory uses, such as, a chapel, crematory, and the like. [Amd. Ord. 70-04 1/4/05]

(5) Gasoline stations or the dispensing of gasoline directly into vehicles, except that such use shall not be allowed in the West Atlantic Neighborhood, the Beach District, nor on lots which front along Atlantic Avenue or N.E. 2nd Avenue (a/k/a Pineapple Grove Way), beginning at a point 105' south of N.E. 4th Street. [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 22-99 7/20/99]

(6) Recreational establishments such as bowling alleys, gymnasiums, health spas, miniature golf courses, skating rinks. [Amd. Ord. 70-04 1/4/05]

(7) Veterinary clinics. [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 14-91 02/26/91]

(8) Movie theaters, excluding drive-ins. [Amd. Ord. 70-04 1/4/05]

(9) Playhouses, dinner theaters, and places of assembly for commercial entertainment purposes (e.g., concerts, live performances). [Amd. Ord. 70-04 1/4/05]

(10) Flea markets, bazaars, merchandise marts, and similar retail uses. [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 51-92 10/27/92]

(11) Wash establishment, with automatic/mechanical systems only, for vehicles, except that such use shall not be located east of the Intracoastal Waterway or on lots which front along Atlantic Avenue. Further, this use must be established on property with a minimum lot area of 20,000 sq.ft. [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 51-93 10/26/93]

(12) Multi-family dwelling units, including residential licensed service provider facilities and assisted living facilities, but excluding duplexes, at a density greater than thirty (30) units per acre, on property located south of N.E. 2nd Street and north of S.E. 2nd Street, subject to the standards and limitations of Section 4.4.13(I). [Amd. Ord. 47-11 1/3/12]; [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 54-01 11/20/01]; [Amd. Ord. 8-98 2/3/98]

(13) Group Home, Type 2 and Community Residential Homes, pursuant to restrictions set forth in Section 4.3.3(I). [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 23-01 5/1/01]

SECTION 4.4.13 (D) (14)

(14) Restaurants, Cocktail Lounges, Hotels, and Residential Type Inns may provide their required parking as valet parking, subject to the provisions of Section 4.6.9(F)(3). **[Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 37-01 7/10/01]**

(15) Drive-in or drive-through restaurants on property located within the West Atlantic Neighborhood. **[Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 64-04 11/16/04]**

(16) Hotels, motels, and residential-type inns on property located within the West Atlantic Neighborhood. **[Amd. Ord. 11-10 7/20/10]; [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 64-04 11/16/04]**

(17) Free standing or mixed-use residential development, including residential licensed service provider facilities and assisted living facilities at a density greater than twelve (12) units per acre, but not exceeding 30 units per acre, on property located within the West Atlantic Neighborhood, subject to the standards and limitations of Section 4.4.13(I). **(I). [Amd. Ord. 47-11 1/3/12]; [Amd. Ord. 10-11 4/5/11]; [Amd. Ord. 27-07 8/21/07]; [Amd. Ord. 70-04 1/4/05]; [Amd. Ord. 64-04 11/16/04]**

(18) Bed and Breakfast Inns within the West Atlantic Neighborhood, subject to the provisions of LDR Section 4.3.3(Y) **[Amd. Ord. 11-10 7/20/10]**

(19) Live/Work Unit, subject to Section 4.3.3 (KKK). **[Amd. Ord. 23-10 10/5/10]**

(20) Large Family Child Care Home subject to Section 4.3.3(TT). **[Amd. Ord. 25-10 10/19/10]**

(21) Segway Tours and Segway Sales pursuant to restrictions set forth in Section 4.3.3(ZZZZ). **[Amd. Ord. 04-11 4/5/11]**

(E) Review and Approval Process:

(1) In established structures, uses shall be allowed therein upon application to, and approval by, the Chief Building Official for an occupational license.

(2) For any new development, approval must be granted by the Site Plan Review and Appearance Board (SPRAB) pursuant to Sections 2.4.5(F), 2.4.5(H), and 2.4.5(I).

(3) Conditional uses must be approved pursuant to the provisions of Section 2.4.5(E).

(4) Applications for conditional use approval pursuant to Section 4.4.13(I) must include, in addition to the standard application items of 2.4.3(A), a site and development plan (including landscaping, elevations, and floor plans) that are of sufficient detail to determine that the applicable performance standards are being met. Final approval of the detailed site plan is by the Site Plan Review and Appearance Board. **[Amd. Ord. 8-98 2/3/98]**

(5) The process for modification of a conditional use and site plan approved pursuant to Section 4.4.13 (I) is as follows: **[Amd. Ord. 8-98 2/3/98]**

SECTION 4.4.13 (E) (5) (a)

- (a) Modifications to any aspect of the plan that was a basis for determining compliance with the applicable performance standards shall be processed as a modification to the conditional use approval. **[Amd. Ord. 8-98 2/3/98]**
- (b) Modifications to the plan that do not affect the application of the performance standards may be processed as a site plan modification. **[Amd. Ord. 8-98 2/3/98]**

(6) All development applications which are processed through either the Planning and Zoning Board or SPRAB shall be referred to the Downtown Development Authority and the Community Redevelopment Agency prior to action by the approving body. **[Amd. Ord. 8-98 2/3/98]**

(F) **Development Standards**: The development standards set forth in Section 4.3.4 shall apply, except as modified below. In case of conflict with other applicable development regulations, this Section shall apply: **[Amd. Ord. 24-95 5/16/95]**

(1) **Height**: The CBD is a geographic area in which exceptions to height regulations are allowed pursuant to Section 4.3.4(J). **[Amd. Ord. 21-04 5/4/04]**

- (a) Overall Height of buildings shall be a minimum of twenty-five feet (25') and a maximum of forty-eight feet (48') in height. Exceptions to the height limitations shall comply with Section 4.3.4(J)(3) and (4). For the purposes of this section, height is defined as the vertical distance from grade to the highest finished roof surface of a flat roof, or the soffit above the last habitable floor of a gable, hip or gambrel roof. **Amd. Ord. 6-07 3/5/07]**
- (b) Arcade Height shall be a minimum ten feet (10'), measured from finished arcade floor to finished arcade ceiling.
- (c) Floor Height shall be a minimum of ten feet (10') for ground floors and a minimum height of nine feet (9') for all other floors. Hotel/Motel and all suite lodging shall have a minimum floor height of eight feet six inches (8'6") for all floors, provided that the lobby and all public rooms shall have a minimum floor height of ten feet (10'). All heights shall be measured from finished floor to finished ceiling. Auxiliary and service rooms, such as, garages, restrooms, closets, laundry rooms, dressing rooms, storage rooms, mechanical, electrical, and plumbing equipment rooms are exempted from the floor height regulations. **Amd. Ord. 6-07 3/5/07]**

SECTION 4.4.13 (F) (1)

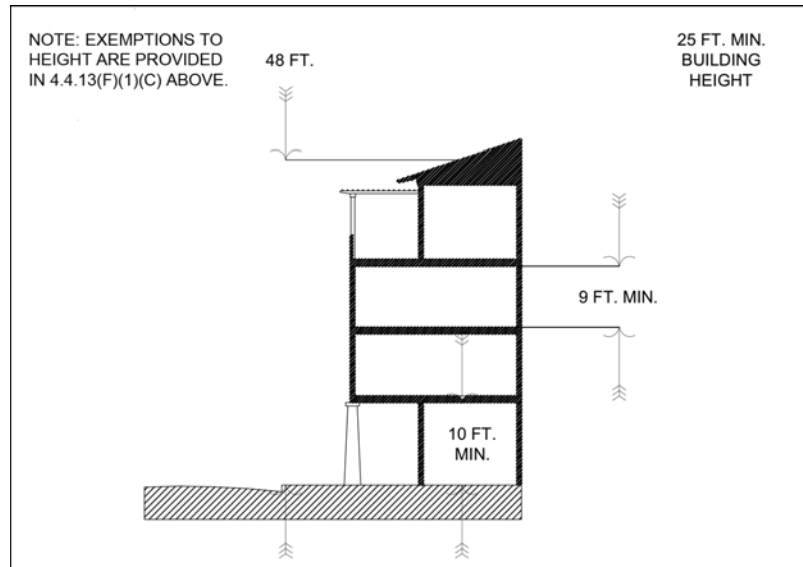


Figure 4.4.13-4 – Building Height Requirements [Amd. Ord. 6-07 3/5/07]

(2) **Open Space:** A minimum of 10% non-vehicular open space shall be provided; however, within the area encompassed by the boundaries of the original Downtown Development Authority as described in Section 8.2.2(B), and within those sections of the CBD zoning district located within the Pineapple Grove Main Street area and east of the Intracoastal Waterway, there shall be no minimum open space requirement. Notwithstanding the provisions of this section, the body acting upon a development application within the CBD may require that open areas, including but not limited to courtyards, plazas, and landscaped setbacks, be provided in order to add interest and provide relief from the building mass. [Amd. Ord. 22-99 7/20/99]; [Amd. Ord. 24-95 5/16/95]

(3) **Building Frontage:** [Amd. Ord. 6-07 3/5/07]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 21-04 5/4/04]

- (a) The building frontage for an interior lot is the portion of the lot abutting the primary street minus the minimum required side setbacks.
- (b) The building frontage for the primary street side of a corner lot is the portion of the lot abutting the primary street minus the minimum required side setbacks.
- (c) The building frontage for the secondary street side of a corner lot is the portion of the lot abutting the secondary street minus the minimum required front and rear setbacks.
- (d) Frontage and setbacks shall be taken from the property line, or if a dedication is required, from the resulting property line after dedication.

SECTION 4.4.13 (F) (3)

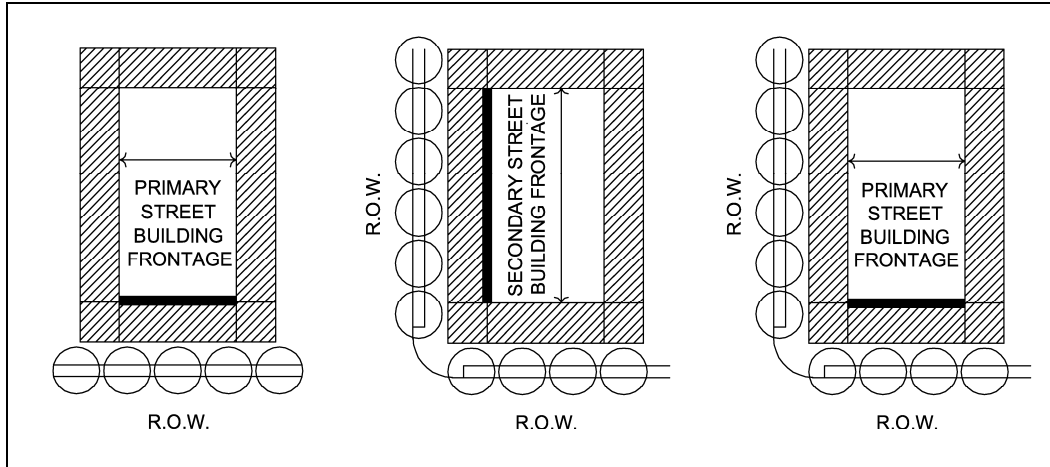


Figure 4.4.13-5 – Building Frontage

(4) Front Setbacks: [Amd. Ord. 6-07 3/5/07]

(a) The following minimum front setbacks shall apply in all districts:

1. For buildings with residential uses on ground floor: ten feet (10')
2. For buildings with nonresidential uses on the ground floor: five feet (5')
3. For arcaded buildings fronting on A-1-A or on Atlantic Avenue within the West Atlantic and Beach Area districts: zero feet (0')

(b) In addition to Section 4.4.13(F)(4)(a) above, for buildings fronting on A-1-A, Atlantic Avenue in the West Atlantic Neighborhood and Beach Districts, and on NE and SE 5th and NE and SE 6th Avenues:

1. **LOWER LEVELS** - Ground floor to thirty-seven feet (37'): A minimum of seventy percent (70%) and a maximum of ninety percent (90%) of the building frontage shall be set back no greater than ten feet (10') from the property line. The remaining length of the building shall be setback a minimum of fifteen feet (15') from the property line.
2. **UPPER LEVELS** - above thirty-seven feet (37') to forty-eight feet (48'): At least seventy percent (70%) of the frontage shall be set back a minimum of fifteen feet (15') from the property line. The remaining length of the building shall comply with the minimum required setbacks. The floor area for each floor contained within the portion of the structure that is thirty-seven feet (37') to forty-eight feet (48') in height shall not exceed seventy percent (70%) of the floor area contained within the allowable ground level footprint.

SECTION 4.4.13 (F) (4) (c)

(c) In addition to Section 4.4.13(F)(4)(a), above, for buildings fronting on other rights-of-way in the CBD:

1. **LOWER LEVELS** - Ground floor to twenty-five feet (25'): A minimum of seventy percent (70%) and a maximum of ninety percent (90%) of the building frontage shall be set back no greater than ten feet (10') from the property line. The remaining length of the building shall be set back a minimum of fifteen feet (15') from the property line.
2. **UPPER LEVELS** - above twenty-five feet (25') to forty-eight feet (48'): At least seventy percent (70%) of the frontage shall be set back a minimum of fifteen feet (15') from the property line. The remaining length of the building shall comply with the minimum required setbacks. The floor area for each floor contained within the portion of the structure that is twenty-five feet (25') to forty-eight feet (48') in height shall not exceed seventy percent (70%) of the floor area contained within the allowable ground level footprint.

(d) In addition to Section 4.4.13(F)(4)(a), above, where allowed:

1. **UPPER LEVELS** – above forty-eight feet (48'): At least ninety percent (90%) of the frontage shall be set back a minimum of thirty feet (30') from the property line. The remaining length of the building shall comply with the minimum required setbacks. The floor area for each floor contained within the portion of the structure that exceeds forty-eight feet (48') in height shall not exceed fifty percent (50%) of the floor area contained within the allowable ground level footprint.

(e) **Exceptions:**

1. Three (3) story town homes having residential uses on all three levels are not required to comply with upper level frontage and floor area requirements. Ground floor frontage and setback requirements shall apply. Each story shall not exceed twelve feet (12') in height.
2. Modifications to the frontage requirements may be permitted to accommodate stair towers, elevator shafts, life and safety elements, other non-habitable elements of the structure, sight visibility triangles, vehicular access ways, and utilities. In all cases the modification shall be the minimum required to accommodate the necessary feature.

SECTION 4.4.13 (F) (4) (e) 3.

3. Lots of record with a width of fifty feet (50') or less shall be exempted from the building frontage requirements provided a minimum five foot (5') to maximum ten foot (10') setback is provided for the portion of the building from finished grade to twenty-five feet (25') in height and a minimum fifteen foot (15') setback is provided above a height of twenty-five feet (25') and above forty-eight feet (48') a thirty foot (30') minimum setback from the property line shall apply.
4. Modifications to the frontage requirements may be granted by the Site Plan Review and Appearance board or the Historic Preservation Board in order to accommodate plazas that connect the building to the sidewalk and promote social interaction by offering one or more of the following: public seating areas, sidewalk cafes, sculptures or other artwork for public display, and similar features.
5. Parking garages, subject to minimum front and street side setbacks of ten feet (10'), and a minimum setback of five feet (5') from any alley right of way. Parking garages must comply with the requirements of Section 4.6.18(B)(14)(vi)(4).
6. Modifications to the frontage requirements may be granted by the Site Plan Review and Appearance Board or the Historic Preservation Board in order to accommodate civic buildings such as libraries, cultural facilities, municipal buildings, etc.

(f) **Supplemental:**

1. The front setback area shall be finished with paving materials to match the existing or planned sidewalks within the adjacent right-of-way.
2. Building and site design shall incorporate Crime Prevention Through Environmental Design (CPTED) standards to the greatest extent possible.
3. Arcades shall have a minimum width of ten feet (10'), inclusive of columns or pilasters up to a maximum width of two feet (2').

(5) **Side Interior Setbacks** for all buildings shall be as follows: **[Amd. Ord 21-04 5/4/04]**

- (a) Zero feet (0') from the property line if there is vehicular access available to the rear of any structure, or

SECTION 4.4.13 (F) (5) (b)

- (b) Ten feet (10') from the property line where no vehicular access is available to the rear of any structure. For a side interior lot, a ten foot (10') setback is required only on one (1) side.
- (c) Buildings shall also comply with Section 4.6.4(A), as applicable. **[Amd. Ord. 6-07 3/5/07]**

(6) Side Street Building Frontage and Setbacks **[Amd. Ord. 64-04 11/16/04; [Amd. Ord. 21-04 5/4/04]**

- (a) Side street setbacks shall be taken from the property line, or if a dedication is required, from the resulting property line after dedication.
- (b) Side street building frontage and setbacks shall comply with the applicable requirements in Section 4.4.13(F)(4). **[Amd. Ord. 6-07 3/5/07]**
- (c) Corner lots may continue primary frontage setbacks for a distance of sixty feet (60') from the front property line or if a dedication is required from the resulting property line after dedication. **[Amd. Ord. 6-07 3/5/07]**

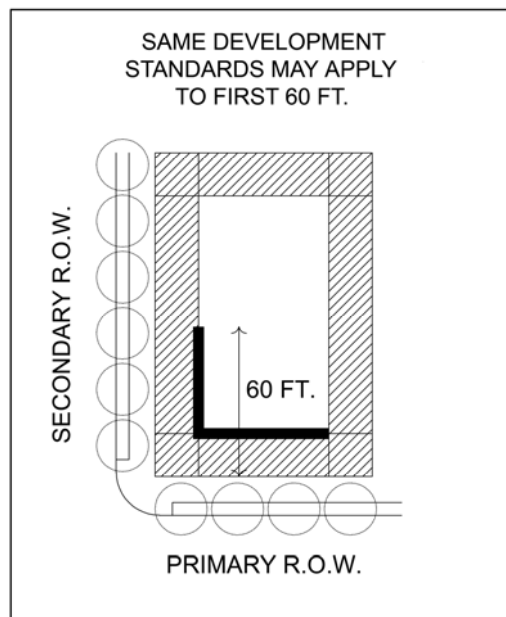


Figure 4.4.13-6 – Corner lots **[Amd. Ord. 6-07 3/5/07]**

SECTION 4.4.13 (F) (7)

(7) Rear Setbacks [Amd. Ord. 6-07 3/5/07]

- (a) All building floors shall be a minimum of ten feet (10') from the property line.
- (b) Buildings shall also comply with Section 4.6.4(A), as applicable.

(8) Structures Allowed Within Setback [Amd. Ord. 21-04 5/4/04]

- (a) **Balconies** may encroach a maximum of four feet (4') into the setbacks.
- (b) **Loggias and Trellises** above the ground floor are allowed to encroach into the setbacks provided they do not exceed the required building setback of the portion of the floor directly below it.
- (c) **Roof Eaves** may encroach into the setbacks a maximum of four feet (4').

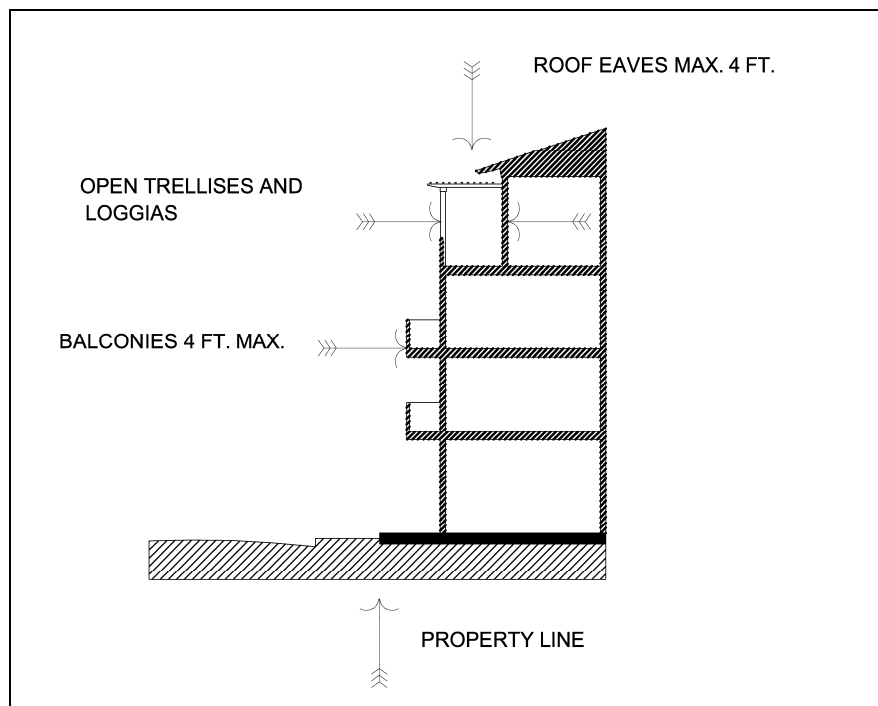


Figure 4.4.13-7 – Encroachments

(G) **Supplemental District Regulations:** In addition to the supplemental district regulations as set forth in Article 4.6, except as modified below, the following shall also apply.

(1) **Central Core and Beach Area supplemental Regulations:** [Amd. Ord. 64-04 11/16/04]

SECTION 4.4.13 (G) (1) (a)

- (a) Within that portion of the CBD bounded by Swinton Avenue on the west, N.E. 2nd Street on the north, the Intracoastal Waterway on the east and S.E. 2nd Street on the south, the parking requirements for all non-residential uses, except restaurants, hotels and motels, and business and professional offices, shall be one space for each 300 square feet of gross floor area or fraction thereof. The parking required for the creation of new floor area, shall also include the replacement of any previously required parking which may be eliminated. Within all other geographic areas of the Central Core and Beach Area within the CBD Zone District, the provisions of Section 4.6.9(C) shall apply, as further modified within this Subsection (G)(1). **[Amd. Ord. 01-09 1/20/09]; [Amd. Ord. 35-07 9/18/07]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 61-01 1/8/02]; [Amd. Ord. 4-01 2/6/01]; [Amd. Ord. 63-93 11/23/93]**
- (b) When the parking requirements are applied to either new development, expansion of an existing use or a change in use, which results in the requirement of only one new parking space, a one space exemption shall be allowed. This exemption may only occur once per property. **[Amd. Ord. 6-01 2/20/01]; [Amd. Ord. 63-93 11/23/93]**
- (c) If the required parking is not or cannot be provided on-site or off-site, the in-lieu fee option provided in Section 4.6.9(E)(3) may be applied. **[Amd. Ord. 21-11 8/2/11]; [Amd. Ord. 63-93 11/23/93]**
- (d) For all property located from Swinton Avenue on the west to NE/SE 5th Avenue to the east, between Atlantic Avenue and the east-west alleys on the north and south sides of Atlantic Avenue, as shown on the Town of Linton Plat (P.B. 1, P.G. 3), the parking requirement for restaurants is established at 12 spaces per 1,000 square feet of gross floor area up to 6,000 sq. ft. and then 15 spaces per 1,000 sq. ft. of gross floor area over the initial 6,000 sq. ft., with the exception of Old School Square. The parking requirement for restaurants in the balance of the Central Core and Beach Area is established at six (6) spaces per 1,000 sq. ft. of gross floor area. **[Amd. Ord. 29-11 9/20/11]; [Amd. Ord. 01-09 1/20/09]; [Amd. Ord. 63-93 11/23/93]**
- (e) The parking requirement for hotels and motels within that portion of the CBD bounded by Swinton Avenue on the west, N.E. 2nd Street on the north, the Intracoastal Waterway on the east and S.E. 2nd Street on the south is established at 0.7 of a space for each guest room plus one (1) space per 300 sq. ft. of floor area devoted to ballrooms, meeting rooms, and shops and 12 spaces per 1,000 square feet of gross floor area up to 6,000 sq. ft. and then 15 spaces per 1,000 sq. ft. of gross floor area over the initial 6,000 sq. ft., for restaurants and lounges within a hotel or motel on property located from Swinton Avenue on the west to NE/SE 5th Avenue to the east, between Atlantic Avenue and the east-west alleys on the north and south sides of Atlantic Avenue, as shown on the Town of Linton Plat (P.B. 1, P.G. 3). In the balance of the Central Core and Beach Area, the minimum parking requirement is

SECTION 4.4.13 (G) (1) (e)

six (6) spaces per 1,000 sq. ft. of gross floor area devoted to restaurants and lounges within the hotel or motel. **[Amd. Ord. 29-11 9/20/11]; [Amd. Ord. 01-09 1/20/09]; [Amd. Ord. 35-07 9/18/07]**

- (f) The parking requirements for residential units in multi-family structures and mixed-use buildings shall be as follows: **[Amd. Ord. 37-99 10/19/99]**

• Efficiency dwelling unit	1.0 space/unit
• One bedroom dwelling unit	1.25 spaces/unit
• Two or more bedroom dwelling unit	1.75 spaces/unit
• Guest parking shall be provided cumulatively as follows:	
- for the first 20 units	0.50 spaces/unit
- for units 21-50	0.30 spaces/unit
- for units 51 and above	0.20 spaces/unit

Within Townhouse and Townhouse type developments, parking may be provided in front of garage units provided that such parking does not result in the space for one unit impeding access to a space of the other unit. **[Amd. Ord. 37-01 7/10/01]**

Location of Guest Parking Spaces: Guest parking spaces must be accessible to all visitors and guests and may be centralized or located near recreational features within a development project. **[Amd. Ord. 6-03 5/20/03]**

- (g) The parking requirement for business and professional offices within the following portions of the CBD is established at one (1) space per 300 sq. ft. of net floor area. **[Amd. Ord. 01-09 1/20/09]; [Amd. Ord. 07-09 3/3/09]**

1. The portion of the CBD bounded by Swinton Avenue on the west, N.E. 2nd Street on the north, the Intracoastal Waterway on the east and S.E. 2nd Street on the south; **[Amd. Ord. 07-09 3/3/09]**
2. The portion of the CBD bounded by N.E. 5th Avenue on the west, N.E. 6th Avenue on the east, N.E. 2nd Street on the south and George Bush Blvd. on the north; and **[Amd. Ord. 07-09 3/3/09]**
3. The portion of the CBD bounded by S.E. 5th Avenue on the west, S.E. 6th Avenue on the east, S.E. 2nd Street on the north and S.E. 4th Street on the south. **[Amd. Ord. 07-09 3/3/09]**

(2) **West Atlantic Neighborhood Supplemental District Regulations:** The following supplemental district regulations apply in the West Atlantic Avenue Overlay District as defined in Section 4.5.6(B): **[Amd. Ord. 64-04 11/16/04]**

SECTION 4.4.13 (G) (2) (a)

- (a) Commercial structures are limited to a maximum depth of 150 feet from the ultimate right-of-way of Atlantic Avenue, unless the parcel has frontage on N.W. 5th Avenue or S.W. 5th Avenue. Accessory uses such as parking areas, landscaping, and drainage retention areas may extend beyond the 150 foot limit. Establishment or expansion of structures beyond the 150 foot limit may be allowed as a conditional use, subject to the required findings of Section 2.4.5(E)(5).
- (b) There is no restriction on repair and/or reconstruction of non-conforming single family residences located a minimum of 150 feet from Atlantic Avenue.
- (c) Six (6) parking spaces per 1,000 square feet of gross floor area are required for restaurants and one (1) parking space per 300 square feet of gross floor area is required for all other non-residential uses, except hotels and motels, and business and professional offices. Parking spaces for residential uses are required at the rates established in Section 4.6.9(C)(2). **[Amd. Ord. 01-09 1/20/09]**
- (d) The parking requirement for hotels and motels is established at 0.7 of a space for each guest room plus one (1) space per 300 sq. ft. of floor area devoted to ballrooms, meeting rooms, and shops and six (6) spaces per 1,000 sq. ft. of floor area devoted to restaurants and lounges within the hotel or motel.
- (e) If the required parking is not or cannot be provided on-site or off-site, the in-lieu fee option provided in Section 4.6.9(E)(3) may be applied. **[Amd. Ord. 21-11 8/2/11]**
- (f) Parking areas and accessways to parking lots must be located to the rear of commercial structures that have frontage on Atlantic Avenue. Where locating parking to the rear of the structure is impossible or inappropriate, the Site Plan Review and Appearance Board may approve an alternate location.
- (g) The parking requirement for business and professional offices is established at one (1) space per 300 sq. ft. of net floor area. **[Amd. Ord. 01-09 1/20/09]**

(H) **Special Regulations:**

(1) Office uses including financial institutions (e.g. banks, savings and loans, credit unions, and mortgage offices) shall not be allowed on the ground floor within businesses which have an entry from and/or windows along and/or frontage on Atlantic Avenue in the Central Core Area or the Beach Area. Office uses shall be allowed up to 50% of the ground floor as a permitted use within businesses which have an entry from and/or windows along and/or frontage on Atlantic Avenue in the West Atlantic Area and as a Conditional Use if greater than 50%. Office uses are allowed on floors other than the ground floor along Atlantic Avenue and on all floors elsewhere in the CBD district.

SECTION 4.4.13 (H) (1)

This regulation shall not apply to existing buildings in the Central Core Area or the Beach Area that have 80% or more of their frontage at a setback of 25 feet or greater. **[Amd. Ord. 21-07 6/19/07]; [Amd. Ord. 45-06 9/19/06]**

(2) The sale of second hand material, other than verifiable antiques, shall not be allowed within businesses nor on properties which have an entry from and/or windows along and/or frontage on Atlantic Avenue or N.E. 2nd Avenue (a/k/a Pineapple Grove Way) between East Atlantic Avenue and N.E. 4th Street. **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 22-99 7/20/99]; [Amd. Ord. 14-98 3/17/98]; [Amd. Ord. 58-90 12/11/90]**

(3) The sale of automotive parts, firearms, and lawn care equipment, shall not be allowed within the West Atlantic Neighborhood nor within businesses or on properties which have an entry from and/or windows along and/or frontage on East Atlantic Avenue or N.E. 2nd Avenue (a/k/a Pineapple Grove Way) between East Atlantic Avenue and N.E. 4th Street. **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 64-04 11/16/04]**

(4) The picking-up, dropping-off, or otherwise transporting workers, assigned through an employment agency, from an assembly point in the CBD to the work site is prohibited, except within the West Atlantic Neighborhood area provided the structure involved does not have an entrance from and/or windows facing West Atlantic Avenue. **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 64-04 11/16/04]**

(5) Within the West Atlantic Neighborhood, all permitted uses with drive-through facilities shall require conditional use approval. **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 64-04 11/16/04]**

(6) Minimum floor area for multi-family residential dwelling units shall be as established for the Medium Density Residential (RM) zoning district in Section 4.3.4(K). **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 8-98 2/3/98]; [Amd. Ord. 80-95 12/5/95]**

(7) Multi-family dwelling units may be located in structures that are comprised of residential units only or in mixed-use buildings that contain a combination of residential and non-residential uses. However, where residential uses are located in structures having frontage on Atlantic Avenue, NW/SW 5th Avenue or N.E. 2nd Avenue (a/k/a Pineapple Grove Way), there must be nonresidential uses fronting the Avenue on the ground floor. In lieu of providing non-residential uses fronting the west side of N.E. 2nd Avenue between N.E. 3rd Street and N.E. 4th Street (hereinafter referred to as the exception area), the developer may elect to provide a building and property fronting on N.E. 2nd Avenue at the intersection of N.E. 3rd Street and N.E. 2nd Avenue which shall be conveyed to the City for Community Facility purposes and dedicate an area for Open Space in the northeast corner at the intersection of N.E. 2nd Avenue and N.E. 4th Street. The purpose of the alternative is to encourage pedestrian travel, promotion of the Arts, the provision of needed Open Space, encouraging public art and to provide space for an entry way feature, all of which is in keeping with the vision for Pineapple Grove. If the developer chooses the alternative in the exception area instead of providing non-residential uses, he must submit a developer's agreement containing terms acceptable to the City at the time of application of a building permit. **[Amd. Ord. 47-06 10/03/06];**

SECTION 4.4.13 (H) (8)

[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 22-99 7/20/99]; [Amd. Ord. 8-98 2/3/98]; [Amd. Ord. 80-95 12/5/95]

(8) The rental of sporting goods and equipment shall be limited to no more than one business renting a specific category of item (i.e. bicycles, skates, etc.) every 300 feet measured in a straight line from door to door, and any outdoor displays are subject to the restrictions set forth in Section 4.6.6(C)(3). **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 15-98 4/21/98]**

(9) 24-Hour or late night businesses as defined herein must be processed as a conditional use and are subject to the provisions of Section 4.3.3(VV). **[Amd. Ord. 45-06 9/19/06]; [Amd. Ord. 41-01 8/7/01]**

DELETED SUBPARAGRAPHS 4.4.13(H) (3) AND (4) IN THEIR ENTIRETY. [Amd. Ord. 33-95 6/20/95]

(I) Performance Standards These standards shall apply to all applications for new development and modification of existing developments which would result in a density greater than thirty (30) dwelling units per acre in the Commercial Core or twelve (12) units per acre in the West Atlantic Neighborhood. **[Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 8-98 2/3/98]**

(1) The maximum permissible density of a particular project will be established through the conditional use process, based upon the degree to which the development complies with the performance standards of this section, the required findings of Section 2.4.5(E), and other applicable standards of the Comprehensive Plan and Land Development Regulations. Notwithstanding the above, the approving body may deny an application for increased density where it is determined that the proposed project is not compatible in terms of building mass and intensity of use with surrounding development. All eligible developments to use these performance standards shall provide twenty percent (20%) of the residential units above thirty (30) dwelling units per acre in the Commercial Core or twelve (12) units per acre in the West Atlantic Neighborhood as Workforce Housing units (fractions shall be rounded up). The workforce housing units shall be divided between low and moderate income levels and shall comply with other applicable provisions of Article 4.7. The units shall be provided either onsite, offsite or through a monetary contribution or as noted in LDR Section 4.7.2 c. **[Amd. Ord. 52-08 11/18/08]; [Amd. Ord. 19-06 4/4/06]; [Amd. Ord. 54-01 11/20/01]; [Amd. Ord. 8-98 2/3/98]**

(2) In addition to the standards and requirements set forth in subsection 4.4.13(I)(1), above, the applicable performance standards for development exceeding twelve (12) units per acre within the West Atlantic Neighborhood or thirty (30) units per acre within the Central Core are as follows: **[Amd. Ord. 19-06 4/4/06]; [Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 8-98 2/3/98]**

SECTION 4.4.13 (I) (2) (a)

- (a) The development offers variation in design to add interest to the elevations and relief from the building mass. Building elevations incorporate several of the following elements: diversity in window and door shapes and locations; features such as balconies, arches, porches; and design elements such as shutters, window mullions, quoins, decorative tiles, or similar distinguishing features. **[Amd. Ord. 21-04 5/4/04]; [Amd. Ord. 8-98 2/3/98]**
- (b) If the building includes a parking garage as an associated structure or within the principal building, the garage elevation provides unified design elements with the main building through the use of similar building materials and color, vertical and horizontal elements, and architectural style. Development of a portion of the ground floor perimeter adjacent to street rights of way is devoted to window displays or floor area for active uses such as retail stores, personal and business service establishments, entertainment, offices, etc., is encouraged. **[Amd. Ord. 21-04 5/4/04]; [Amd. Ord. 8-98 2/3/98]**
- (c) A number of different unit types, sizes and floor plans are available within the development. Two and three bedroom units are encouraged, as are a combination of multi-level units and flats. In projects consisting of more than twelve (12) dwelling units, the proportion of efficiency or studio type units may not exceed 25% of the total units. There is no maximum percentage established for projects having twelve (12) or fewer units, however, a mix of unit types and sizes is encouraged. **[Amd. Ord. 8-98 2/3/98]**
- (d) The project design shall create an overall unified architectural character and image by the use of common elements between the building(s), parking lot, and landscaping. Examples of some features that could be incorporated to meet this standard are: freestanding light poles and exterior light fixtures that are decorative and consistent with the architectural treatment of the building(s); pedestrian amenities such as benches, shaded walkways, and decorative pavement treatment, that are similar in forms, colors, materials, or details as the architecture of the building(s); focal points such as public art, water feature/fountain, courtyard or public plazas designed to connect different uses along a continuous pedestrian walkway; or a combination of similar features that meet the intent of this standard. **[Amd. Ord. 21-04 5/4/04]; [Amd. Ord. 8-98 2/3/98]**
- (e) The development provides common areas and/or amenities for residents such as swimming pools, exercise rooms, storage rooms or lockers, covered parking, gardens, courtyards, or similar areas and/or amenities. **[Amd. Ord. 8-98 2/3/98]**

SECTION 4.4.13 (I) (2) (f)

- (f) The development promotes pedestrian movements by providing convenient access from the residential units to the public sidewalk system. Pedestrian areas adjacent to the building are enhanced by providing additional sidewalk area at the same level as the abutting public sidewalk. Accessways to parking areas are designed in a manner that minimizes conflicts between vehicles and pedestrians. The public street or streets immediately adjacent to the development are enhanced in a manner that is consistent with the streetscape in the downtown area (i.e., installation of landscape nodes, extension of existing paver block system, installation of approved street lighting, etc.). **[Amd. Ord. 8-98 2/3/98]**
- (g) The development provides opportunities to share parking, accessways, driveways, etc., with adjoining properties, or provides additional parking spaces that may be used by the public. **[Amd. Ord. 8-98 2/3/98]**
- (h) Projects fronting on Atlantic Avenue, NW/SW 5th Avenue, N.E. 1st Street, or S.E. 1st Street contain nonresidential uses on the ground floor. At least seventy-five percent (75%) of the surface area of the front street wall(s) at the ground floor of each such building is devoted to display windows and to entrances to commercial uses from outside the building. **[Amd. Ord. 64-04 11/16/04]; [Amd. Ord. 21-04 5/4/04]; [Amd. Ord. 8-98 2/3/98]**
- (i) The landscape plan for the development preserves and incorporates existing native vegetation (where available), provides new landscaping that is in excess of minimum standards (in height and quantity), demonstrates innovative use of plant material, improves site design, provides useable open space or public plazas, and maximizes available areas for pedestrian interaction. If necessary to achieve this standard, the project may exceed the maximum setback area on the ground floor. **[Amd. Ord. 21-04 5/4/04]**

(3) It is acknowledged that it may not be possible for projects which involve the modification of existing structures to comply with many of the above referenced standards. For those types of projects, the ultimate density should be based upon compliance with those standards which can be reasonably attained, as well as the project's ability to further the goal of revitalizing the central business district (i.e., adaptive reuse of older structures and the provision of housing in close proximity to employment opportunities and services). **[Amd. Ord. 8-98 2/3/98]**