



Town of Lauderdale-by-the-Sea

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To: Planning and Zoning Board
Thru: Bud Bentley, Assistant Town Manager
From: Linda Connors, Town Planner
Date: December 14, 2011
Meeting Date: December 21, 2011

Town Planner Report: B-1-A and B-1 Zoning District Study

You may recall that the Town Commission set forth priorities during their budgeting workshop last June and subsequently hired JC Consulting to begin the task of reviewing our current code and drafting amendments to help implement these items. At your last meeting, the Planning Board recommended the Commission approve amendments to the Town's architectural standards, which was priority No. 1. Those amendments were approved by the Town Commission at their November 29th meeting and are now in effect.

This memorandum outlines the review of the Town's business zoning districts and the summaries the recommended changes to B-1 and the B-1-A districts (**Exhibit 1**).

Background

The following actions have been taken within the last twelve months:

- | | |
|------------------|--|
| December 2010 | The Town of Lauderdale-By-The-Sea retained the services of JC Consulting, Inc., to conduct a comparative analysis of the Town's land use and land development regulations. |
| March/April 2011 | JC Consulting presented their findings to the Town Commission, which included a summary of the guiding principles and goals, objectives and policies within the Town's adopted Comprehensive Plan that are to be implemented through the Town's Land Development Regulations.

As an interim measure, the Town Commission adopted several changes to the B-1-A and B-1 zoning districts, which included a listing of permitted and conditional uses within each respective district. |
| June 2011 | In response to the meetings held in March and April, the Town Commission established planning priorities at its June 21, 2011 Budget Workshop, which included an analysis of the existing Town Code to improve the purpose and intent of districts and revise the code to be consistent with the Town's Charter, warranting a more thorough review of the B1A and B1 regulations. |

November 2011 The Commission approved Resolution 2011-38, which was the Notice of Intent for this review.

Justification

The study authorized in the June review revealed the need to clarify and amend the B1A and B1 regulations consistent with the Goals, Objective and Policies (**GOP's**) and overall guiding principles as expressed in the Town's adopted Comprehensive Plan. Those GOPs supporting these amendments are as follows:

Future Land Use Guiding Principles:

Irrespective of future redevelopment efforts, the Town Land Use Plan provides for "encouraging quality commercial development along Commercial Boulevard."

*Future Land Use
Objective 1.3*

To provide for local year round, seasonal and tourist resident needs by maintaining business land uses.

Policy 1.3.1 Support ongoing efforts to maintain and improve existing local retail or other business establishments.

Objective 1.4

To develop or modify existing local land development regulations to be consistent with the Town's adopted Comprehensive Plan.

Policy 1.4.1 Where necessary, modify all zoning and subdivision regulations to be consistent with the Comprehensive Plan

...

Policy 1.4.4 Develop and implement land use programs to encourage the elimination or reduction of existing and the prevention of future incompatible land uses.

Economic / Redevelopment

Goal 10.0

To promote the continued economic vitality of the Town's seasonal residential and business areas in a manner sensitive to the overall best interests of existing Town residents.

Objective 10.3.

To broaden the tourist market base by encouraging innovation and modernization in the type, character and appearance of local tourist residential and business uses.

Policy 10.4.1 The Town's Planning and Zoning Board shall undertake a review of the local Zoning Code oriented to potential revisions in the following areas:

- Further segregating year round versus tourist oriented business establishments by allowing, limiting or prohibiting certain types of establishments in certain zoning categories.

Proposed Amendments

The attached proposed amendments to the B1A and B1 zoning districts are a result of the above listed efforts which were authorized through a notice of intent resolution approved in November. These proposed amendments are summarized below.

Section 30-260 through Section 30-273

Provide a Purpose and Intent for the B-1 and B-1-A districts: Section § 30-182 (b), Purpose and intent of zoning districts, should be improved to provide a greater foundation for and distinction of the different zoning districts. By improving the purpose and intent of each zoning district, the Town will improve the basis the regulations applicable to each district, and thus help the Town in defending itself against legal challenges.

Provide Additional Definitions: Definitions have been included for the following terms to provide clarity to current listed permitted uses, to define new terms, and to add definitions from other code sections that also apply to language proposed to be included within the B-1-A and B-1 zoning districts.

- "Affected party"
- "Business and Professional Employment Agency"
- "Consignment Store"
- "Convenience Kiosk"
- "Convenience Store"
- "Food Store"
- "Flea Market,"
- "Labor Pool,"
- "Market"
- "Personnel Services"
- "Restaurant Bar"
- "Package Store"
- "Permittee"
- "Public Right-of-Way"
- "Sidewalk"
- "Street"

Supplemental Regulations: We insert a reference to the restrictions in Chapter 3, Alcoholic Beverages to ensure a cross references of these regulations

Permitted Uses: "Bank" has been added as a permitted use and clarifications have been made to the following permitted uses:

- Clothing store,
- Consignment store,
- Hardware store, and
- Sundries store

Restaurants: With respect to restaurants, sidewalk cafes and restaurant bars have been identified as permitted accessory uses. This is not a change from the current code, but rather a clarification.

Walk-up windows for food and/or beverage service, subject to the restrictions of Chapter 3, Alcoholic Beverages, have been added as an accessory use to Restaurants to encourage more pedestrian activity.

Outdoor dining as accessory to a restaurant has been changed from a conditional use to a permitted use. This change is consistent with recent changes allowing sidewalk cafes. It is also in response to input received from restaurant owners seeking to ease the process for permitting outdoor seating areas. Permit application, fees and review standards similar to sidewalk cafés have also been included.

Convenience Stores:

Convenience stores have been changed from a permitted use to a conditional use. Limitations on location and distance between convenience stores have been added.

New definitions for convenience kiosk and convenience store have been provided. In summary, these changes would restrict the location of convenience kiosks and convenience stores allowing convenience stores only on those properties located west of State Road A1A and having frontage on Commercial Boulevard. Additionally, a distance requirement of 500 feet from each convenience type store is also proposed. This distance requirement mirrors the distance requirements as contained within Chapter 3, Alcoholic Beverages.

These changes are intended to discourage uses within the Town's limited area of commercial activity that are more vehicular oriented, and to discourage an aggregation of this type of use.

Outside Storage of Propane Tanks

Modifications of outside storage of propane tank cabinets for the storage, sale or rental of propane tanks have been proposed to ensure that any such outdoor storage is reviewed as a conditional use.

Permitted Uses greater than 10,000 Square Feet in Gross Floor Area

Permitted uses that are greater than 10,000 square feet in size are proposed as a conditional use. The proposed 10,000 sq. ft. limit is utilized in other south Florida municipalities as a size restriction in order to maintain a neighborhood commercial environment. This change is intended provide additional evaluation of "big box commercial types of uses that are more vehicular oriented, and are not in keeping with the Town's commercial business character.

The proposed amendments are attached as **Exhibit I** and include the current document with strike through and underlined text to represent the proposed deletions and additions. While the Town Attorney's office has conceptually reviewed the attached document, they will be completing a more thorough review and may have additional comments regarding the proposed amendments as the process continues. We will also add the B1A to the list of established zoning districts.

Exhibits: Exhibit 1 – Proposed B1A and B1 text amendment

SUBDIVISION G. – B-1-A Business Zoning District Regulations

Sec. 30-260. BUSINESS ZONING DISTRICTS

(a) List of districts:

- 1) B-1-A
- 2) B-1

(b) Purpose and Intent:

1. The B-1-A district is intended to meet the shopping and service needs of the Town residents and visitors. The B-1-A district limits certain uses which could have a detrimental effect on the local community if these uses were permitted to exist without certain standards being met. The B-1-A district is located primarily in the center of the Town's Business District.
2. The B-1 district is intended to provide for the location of commercial business establishments dependent upon high visibility. The B-1 district limits certain uses which could have a detrimental effect on abutting residential neighborhoods if these uses were permitted to exist without certain standards being met. The B-1 district is located primarily on Commercial Boulevard.

(c) Definitions:

1. "Affected party" shall mean any property owner whose property directly abuts the property upon which the business is located which has applied for or been issued a permit for outdoor restaurant.
2. "Business and Professional Employment Agency" is an agency that finds people to fill particular jobs or finds jobs for unemployed people. The definition of Business and Professional Employment Agency does not include Labor Pool.
3. "Consignment Store" is a retail store in which new and like new personal items, such as clothes, jewelry, artifacts or small furniture and excluding appliances, are resold through a broker for the owner, at an agreed-upon price.
4. "Convenience Kiosk" is a retail establishment with a maximum of 1,000 square feet of gross floor area that offers for sale prepackaged food or beverages for off-site consumption and may offer for sale automotive fuel, but offers no automotive repair. Other prepackaged goods including but not limited to, newspapers, magazines, household items and automotive cleaning supplies, oils, waxes, windshield fluid and wiper blades may also be sold. A convenience kiosk which offers automotive fuel for sale shall also be considered an automotive service station and shall be required to meet the requirements for that use.

5. "Convenience Store" is a retail establishment with a maximum of 2,500 square feet of gross floor area that offers for sale prepared and/or prepackaged food or beverages for off-site consumption and may offer for sale automotive fuel, but offers no automotive repair. Other prepackaged goods including but not limited to, household items, automotive fluids and wiper blades, automotive cleaning supplies, oils, waxes and windshield fluids, newspapers, magazines may also be sold. A convenience store dispensing automotive fuel shall also be considered an automotive service station and shall be required to meet the requirements for that use. A retail establishment as described herein that is greater than twenty-five hundred square feet of gross floor area and does not sell automotive fuel shall be considered a food store.
6. "Food Store" means an establishment that sells foodstuffs and alcoholic or intoxicating beverages for off premises consumption, but shall not include a package store or a convenience kiosk or convenience store. The definition of food store shall include grocery store and supermarkets.
7. "Flea Market," is a market established in a building and/or in an open area, where groups of individual sellers offer goods for sale to the public.
8. "Labor Pool," is an establishment which provides employment for persons required to personally appear at the site on the day of employment in order to obtain such employment.
9. "Market" is a retail establishment usually of a specified kind [i.e. a fish market]. The definition of market does not include flea market.
- B.
10. "Motorized Scooter / Moped," For the purpose of this section, the definition of motorized scooter and the definition of moped shall be as set forth in F.S. § 316.003
11. "Personnel Services" is a business that provides personnel services for other businesses. The definition of personnel services does not include Labor Pool.
1. ~~A.~~
12. "Restaurant," for the purposes of this subdivision, is any establishment where facilities are provided for preparing and serving food to the public.
13. "Restaurant Bar" means a bar operated in connection with a restaurant and by the same management, where the principal business is the serving of meals and where meals are

actually and regularly served, having accommodations for service of 200 or more patrons at tables and occupying more than 4,000 square feet of space, such space being provided and equipped with adequate and sanitary kitchen and dining room equipment.

14. "Package Store" means vendors licensed to sell all alcoholic beverages, but in sealed containers only, and for consumption off the premises.

15. "Permittee" shall mean the lawful holder of a permit obtained pursuant to the terms and provisions of the City's Code of Ordinances.

16. "Public Right-of-Way" shall mean land in which the State, the Florida Department of Transportation, Broward County or the Town of Lauderdale-By-The-Sea owns the fee or has an easement devoted to or required for use as a transportation facility or street.

17. "Sidewalk" shall mean that area, whether privately owned or a portion of the right-of-way, which is located between the curbline or the lateral line of a street and the adjacent building and which is intended for use by pedestrians.

18. "Street" means that portion of a right-of-way improved, designed or ordinarily used for vehicular traffic or public parking.

Sec. 30-261- B-1-A district—Business.

(a) Area affected.

The area to be affected by the provisions of this subdivision is Lots 50, 51, 52 and 53, fronting on Bougainvillea Drive and Lots 55, 56, 57 and 58, fronting on Poinciana Street, all in Block 28, Town of Lauderdale-By-The-Sea, according to the plat thereof as recorded in Plat Book 6, page 2, of the public records of Broward County, Florida.

(b) B-1-A uses permitted:

(1) ~~Definitions.~~ Supplemental Regulations:

(a) Sale of Alcoholic or Intoxicating Beverages: A permitted or conditional use that sells any alcoholic or intoxicating beverages shall be subject to the regulations as set forth in Chapter 3, Alcoholic Beverages of the Town Code of Ordinances.

(2) Permitted Uses. No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area:

- A. Antiques store,
- B. Art galleries,
- C. Arts and crafts supply store,
- D. Automobile rental or leasing agencies (no outdoor display),
- E. Bait and tackle shop,
- F. Bakery,
- G. Bank
- ~~G-H.~~ Beauty schools, barber shops and hair salons,
- ~~H-I.~~ Bicycle rental shop with no outside storage,
- ~~I-J.~~ Book store,
- ~~J-K.~~ Business and professional employment agency,
- ~~K-L.~~ Camera and photographic supply store,
- ~~L-M.~~ Card and stationery store,
- ~~M-N.~~ Catering businesses,
- ~~N-O.~~ Church and place of worship,
- ~~O-P.~~ P. Clothing store,
- ~~P-Q.~~ Q. Coin-operated dry cleaning and laundry and/or pickup station,
- ~~Q-R.~~ R. Community theaters, dinner theaters and cultural centers,
- ~~R-S.~~ S. Computer/software store,
- ~~S-T.~~ T. Consignment store,
- ~~T.~~ Convenience store
- U. Cooking schools,
- V. Copy center,
- W. Courier service,
- X. Delicatessen,

- Y. Dental laboratory,
- Z. Drug store/pharmacy (no on-site prescription writing for controlled substances identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),
- AA. Fabric/needlework/yarn shop,
- BB. Fishing pier,
- CC. Florist shop,
- DD. Formal wear sales and rental,
- EE. Fruit and produce store,
- FF. Furniture, and home furnishings,
- GG. Gift shop,
- HH. Government administration,
- II. Grocery/food store/supermarket,
- JJ. Hardware store,
- KK. Health and fitness center,
- LL. Household appliances store,
- MM. Ice cream/yogurt store,
- NN. Interior decorator,
- OO. Jewelry store,
- PP. Library branch,
- QQ. Linen/bath/bedding store,
- RR. Luggage/handbag/leather goods store,
- SS. Mail/postage/fax service,
- TT. Marine parts and supplies store,
- UU. Market,
- VV. Massage therapist (licensed therapist to be on premises at all times of operation),
- WW. Meat and poultry store,

XX. Medical supplies sales,

YY. Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),

ZZ. Museum,

AAA. Music/musical instrument store,

BBB. Office building

CCC. Optical store,

DDD. Party supply store,

EEE. Personnel services,

FFF. Photographic studio,

GGG. Police and fire substation,

HHH. Retail electronic sales and repair,

III. Restaurant, which may also include the following accessory uses:

1) S-Sidewalk cafes which would be appurtenant to, and a part of, a restaurant, subject to the requirements of Chapter 17, Article VI Sidewalk Café.

2) Outdoor restaurant: outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use and that are not regulated under Chapter 17, Article VI and subject to the regulations set forth in subsection (7), below.

3) Restaurant Bar.

4) Walk-up windows for food and/or beverage service.

JJJ. Seafood store,

KKK. Shoe sales and repair,

LLL. Shop for marking articles sold at retail on the premises,

MMM. Specialty shop,

NNN. Sporting goods store, including dive shops,

OOO. Studios for artists, photographers, musicians (including recording studios), and dance,

PPP. Sundries store,

QQQ. Tailor/dressmaking store, direct to the customer,

RRR. Tapes/videos/music CD stores,

SSS. Tool rental (small tools and equipment, indoor display only),

TTT. Toy/game store,

UUU. Trade/business school,

VVV. Travel agency,

WWW. Veterinarian or animal grooming with all activities enclosed within the building with no outside noise,

XXX. Watch and jewelry repair, and

YYY. Uses not listed. Any use not covered by the above list may be authorized in the B-1-A district by the Town Manager or designee only if the proposed use is similar to a listed use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a use is similar, prior to authorizing such use in the B-1-A district.

(3) Conditional uses. The following conditional uses may be permitted upon approval pursuant to the conditional use procedures of this Code:

A. Bicycle taxi (no outside storage or display).

B. Car wash/outdoor hand wash.

C. Charter and sightseeing boat.

D. Child and adult day-care centers.

E. Convenience kiosk, Convenience store, subject to the requirements as set forth in subsection 8, below.

E. E. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

F. G. Dry cleaner.

G. H. "Paid Private Parking" on parcels with a primary use, excluding standalone parking lots, in accordance with the following requirements:

i. During business operational hours, only non-required parking spaces may be used as paid private parking.

ii. After business hours, required parking may also be used for paid private parking.

~~H. I.~~ Parking garage.

~~J. Permitted use that exceeds 10,000 square feet in gross floor area.~~

~~I. K.~~ Pet store.

~~J. L.~~ Pool supply store.

~~K. Outside seating for restaurants, on private property, that is accessory to the primary use and that are not regulated under chapter 17, article VI.~~

~~L. M.~~ Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks. ~~sold and rented at hardware stores and gas stations.~~

~~M. N.~~ Water craft sales and rental (new or used).

~~N. O.~~ Conditional uses not listed. Permission to apply for conditional uses not covered by the above list in the B-1-A district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1-A district.

Approval of a Conditional Use shall also be subject to the requirements for Conditional Use Review as set forth in Section 30-56.

(4) Height. No building shall be erected to a height greater than two stories on single 25-foot lots, nor greater than three stories on 50-foot lots.

(5) Areas. No building which is used for residence purposes above the ground floor shall occupy an area greater than 70 percent of the entire lot. The required lot area per apartment or kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall be not less than 250 square feet minimum and the area for a hotel room with bath shall not be less than 200 square feet. Buildings not used for residential purposes shall not occupy more than 90 percent of the lot area.

(6) Design. Construction shall be limited to one building on B-1-A lots that are 50 feet or less in width. All business buildings constructed in a business district shall be of C.B.S. construction and shall be designed with every practical consideration for appearance, fire protection, health, light, air. All plans and specifications of the building shall be approved by the Town Building Inspector. The Building Inspector need not approve design and use of a building and may ask the Town staff, Planning and Zoning Board or the Board of Adjustment for an official opinion or decision thereon. Open fronts are specifically prohibited in B-1-A districts and there shall be a maximum opening of ten feet by ten feet for doorways in each business building.

(7) Outdoor restaurant: outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use may be permitted subject to the following regulations:

A. Permit required: It shall be unlawful for any person to operate an outdoor restaurant on private property within the Town without first obtaining a permit from the Town. The location of outdoor restaurant shall be approved by the Town Manager or designee.

B. Permit fee: All outdoor restaurant operators shall pay a nonrefundable permit fee of \$150.00

C. Permit application: Application for a permit to operate an outdoor restaurant shall be made at the office of the Town Clerk. Such application shall include:

1) Name, address and telephone number of the applicant.

2) Name and address of business.

3) A copy of a valid Town of Lauderdale-By-The-Sea business tax receipt to operate a business adjacent to the outdoor area which is the subject of the application.

4) A copy of a valid certificate of use for the restaurant adjacent to the proposed outdoor restaurant which is the subject of the application.

5) An 8 1/2" X 11" drawing at a minimum scale of a minimum of 1 inch equals 20 feet showing the following:

(a) The store front and all openings (doors, windows);

(b) The location and dimensions of the private property area being utilized for outdoor restaurant, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the private property;

(c) Clear delineation of the boundary between private property and the public right-of-way;

(d) The location of tables and chairs complying with the Americans with Disabilities Act (ADA) standards.

6) Photographs and/or manufacturer brochures fully describing the appearance of all proposed chairs, tables, umbrellas and other private features, including but not limited to lighting to be used in the proposed outdoor restaurant or bar area.

7) A trash management and maintenance plan for the outdoor restaurant area, which shall include a plan for pickup and disposal of any trash or food on or around the tables and chairs or sidewalk, and periodic pressure cleaning of the outdoor restaurant area. This plan shall ensure that the outdoor restaurant area is maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day and at the close of each business day to ensure a healthy and safe environment.

8) Written consent from the building owner as to the proposed use of the area for an outdoor restaurant.

9) In the event the area of the outdoor restaurant is proposed in front of an adjacent owner's property, the permittee must provide written consent from the adjacent property owner for use of this area.

10) Applications shall be reviewed for compliance with Town ordinances and must be approved by the Town Manager or designee.

(11) The Town Manager or designee may deny an application that does not comply with this section. Such denials shall be written and shall provide the reasons for the denial. The applicant or an Affected property owner may appeal the Town Manager or designee's decision to the Town Commission.

D. Location of Outdoor Restaurant Area: The location of an outdoor restaurant shall be subject to the following locational regulations:

- 1) An outdoor restaurant may only be permitted on private property that is adjacent to a licensed restaurant business to which the permit is issued; or
- 2) On private property that is adjacent to another licensed business that is located within the same building as the licensed restaurant business to which a permit is issued.
- 3) Tables and chairs shall not be permitted to be located within a ten-foot proximity of bus stops, taxi stands, fire hydrants, a pedestrian crosswalk, or handicap ramp.
- 4) However, the Town Manager or designee may permit an exception to the distance requirement from ten feet to five feet where established pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.
- 5) Markers approved by the Town Manager or designee shall be embedded into the property by the applicant to distinguish the approved boundaries of the outdoor restaurant area.

E. Additional Regulations:

- 1) The outdoor restaurant shall be accessory to and under the same ownership or control as the restaurant which is operated within a totally and permanently enclosed building located on the same lot.
- 2) There shall be no use, operation, or playing of any musical instrument, loud-speaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or at any time with louder volume than is otherwise regulated by Chapter 13 Noise, of the Town's Code of Ordinances.
- 3) Food preparation shall only occur in the enclosed area of the legally established restaurant.
- 4) Hours of operation shall not exceed the hours that the restaurant business is open.
- 5) No tables, chairs, or any other part of an outdoor restaurant area shall be permanently attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
- 6) Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outdoor restaurant shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the outdoor restaurant permit. All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.
- 7) No objects shall be permitted around the perimeter of an outdoor restaurant occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of the public sidewalk by the general public.

F. Prior to issuance of an outdoor restaurant permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past

owners or operators of the property requesting an outdoor restaurant permit. An outdoor restaurant permit will not be issued until all outstanding debts to the Town are paid in full.

G. Any business or food establishment that qualifies under the conditions of this article may redesign the face of their establishment to allow for doors or panels that permit the establishment to have totally open sides allowing for an indoor/outdoor restaurant design. These changes in the building can only be made after a proper building permit is issued, said changes otherwise comply with the "Code of Ordinances of the Town of Lauderdale-By-The-Sea", the Florida Building Code, and all appropriate fees paid.

(8) Convenience Kiosk / Convenience Store criteria: A convenience kiosk or convenience store may be permitted within the B-1-A zoning district only on property that is located west of State Road A1A and subject to the following regulations.

- (a) A convenience kiosk or convenience store shall have frontage on Commercial Boulevard.
- (b) A convenience kiosk or convenience store may not be located within 500 feet of any other convenience kiosk or convenience store, as measured by airline measurement from the main entrance to the main entrance of each place of business
- (c) A convenience kiosk or convenience store shall also be subject to the requirements of F.S. 812.1701 et seq.

Sec. 30-262. - Setbacks.

(a) Front setback.

No building or any part thereof shall be erected on any lot closer than 25 feet to the front lot line.

(b) Rear setback.

No building or any part thereof shall be erected on any lot closer than ten feet from the rear lot line.

(c) Side setbacks.

No side setbacks are required.

(d) Roof cornices.

Roof cornices constructed of fire-resistive materials, if ten feet or more above the sidewalk, may project over the public street not more than three feet, but shall never be closer than two feet, measured from the curbline. The construction and anchorage of all such projections shall be subject to the approval of the Building Inspector and may be created only upon a permit issued by the Building Inspector.

(e) Exterior balconies.

Fixed exterior balconies shall be designed in accordance with the engineering section of the Town's building code, and shall be supported in an approved manner and the framework shall be of steel, iron, reinforced concrete or other incombustible material. Such exterior balconies shall be at least ten feet in the clear between the lowest point of any projection and the sidewalk immediately below, and shall

extend not more than three feet from the building, but shall never be closer than two feet measured from the curblineline. Exterior balconies shall not support any enclosure or structures with roof above.

Sec. 30-263. - Penalty for violation.

Any person, firm, partnership, corporation, association, or other organization, or any combination of any thereof, who shall violate or fail to comply with any of the provisions of this subdivision, shall, upon conviction, be fined by a fine not exceeding \$500.00, or imprisonment not exceeding 60 days, or both such fine and imprisonment. Each day's violation shall constitute a separate offense and shall subject each violator to be punished by a fine not exceeding \$500.00 or by imprisonment not exceeding 60 days or by both such fine and imprisonment.

~~SUBDIVISION H. — B-1 District Regulations~~

Sec. 30-271. - B-1 district—Business.

The following part of the town of Lauderdale-By-The-Sea is zoned as B-1 district: All of Blocks 5, 6, 13, 14, 20, 21, east half of Block 19 and Lots 18 and 19 of Block 28, according to the plat thereof recorded in Plat Book 6, page 2, of the public records of Broward County. The following part of the platted area of Unit "A" of the inclusive subdivision known as Silver Shores is zoned as B-1 district: All of Blocks A, B, C, D, E, F, G, and Lot 1 of Block 2. The following part of the platted area of Unit "B" of the inclusive subdivision known as Silver Shores is zoned as B-1 district: All of blocks H, J, K, L, M and Lot 1 of Block 14, according to the plat thereof recorded in Plat Book 31, of the public records of Broward County.

(2)

(1) Supplemental Regulations:

(a) Sale of Alcoholic or Intoxicating Beverages: A permitted or conditional use that sells any alcoholic or intoxicating beverages shall be subject to the regulations as set forth in Chapter 3, Alcoholic Beverages of the Town Code of Ordinances.

(2) Permitted Uses. No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses, not to exceed 10,000 square feet in gross floor area:

- A. Antiques store,
- B. Art galleries,
- C. Arts and crafts supply store,
- D. Automobile rental or leasing agencies (no outdoor display),
- E. Bait and tackle shop,

F. Bakery,

G. Bank

~~G. H.~~ Beauty schools, barber shops and hair salons,

~~H. I.~~ Bicycle rental shop with no outside storage,

~~I. J.~~ Book store,

~~J. K.~~ Business and professional employment agency,

~~K. L.~~ Camera and photographic supply store,

~~L. M.~~ Card and stationery store,

~~M. N.~~ Catering businesses,

~~N. O.~~ Church and place of worship,

~~O. P.~~ Clothing store,

~~P. Q.~~ Coin-operated dry cleaning and laundry and/or pickup station,

~~Q. R.~~ Community theaters, dinner theaters and cultural centers,

~~R. S.~~ Computer/software store,

~~S. T.~~ Consignment store,

~~T. Convenience store~~,

U. Cooking schools,

V. Copy center,

W Courier service,

X. Delicatessen,

Y. Dental laboratory,

Z. Drug store/pharmacy (no on-site prescription writing for controlled substances identified in Schedule II, III, or IV in F.S. §§ 893.03, 893.035, or 893.0355),

AA. Fabric/needlework/yarn shop,

BB. Fishing pier,

CC. Florist shop,

DD Formal wear sales and rental,

EE. Fruit and produce store,

FF. Furniture, and home furnishings,

GG. Gift shop,

HH. Government administration,

II. Grocery/food store/supermarket,

JJ. Hardware [store](#),

KK. Health and fitness center,

LL. Household appliances store,

MM. Ice cream/yogurt store,

NN. Interior decorator,

OO. Jewelry store,

PP. Library branch,

QQ Linen/bath/bedding store,

RR. Luggage/handbag/leather goods store,

SS. Mail/postage/fax service,

TT. Marine parts and supplies store,

UU. Market,

VV. Massage therapist (licensed therapist to be on premises at all times of operation),

WW. Meat and poultry store,

XX. Medical supplies sales,

YY. Motorized scooter sales or moped sales and rentals (indoor only, outdoor sales, storage or display prohibited),

ZZ. Museum,

AAA. Music/musical instrument store,

BBB. Office building

CCC. Optical store,

DDD. Party supply store,

EEE. Personnel services,

FFF. Photographic studio,

GGG. Police and fire substation,

HHH. Retail electronic sales and repair,

III. Restaurant, which may also include the following accessory uses:

1) ~~S~~Sidewalk cafes which would be appurtenant to, and a part of, a restaurant, subject to the requirements of Chapter 17, Article VI Sidewalk Café.

2) Outdoor restaurant: outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use and that are not regulated under Chapter 17, Article VI and subject to the regulations set forth in subsection (4), below.

3) Restaurant Bar.

4) Walk-up windows for food and/or beverage service.

JJJ. Seafood store,

KKK. Shoe sales and repair,

LLL. Shop for marking articles sold at retail on the premises,

MMM. Specialty shop,

NNN. Sporting goods store, including dive shops,

OOO. Studios for artists, photographers, musicians (including recording studios), and dance,

PPP. Sundries store,

QQQ. Tailor/dressmaking store, direct to the customer,

RRR. Tapes/videos/music CD stores,

SSS. Tool rental (small tools and equipment, indoor display only),

TTT. Toy/game store,

UUU. Trade/business school,

VVV. Travel agency,

WWW. Veterinarian or animal grooming with all activities enclosed within the building with no outside noise,

XXX. Watch and jewelry repair, and

YYY. Uses not listed. Any use not covered by the above list may be authorized in the B-1 district by the Town Manager or designee only if the proposed use is similar to a listed use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a use is similar, prior to authorizing such use in the B-1 district.

~~(b)~~ (3) Conditional Uses. The following conditional uses may be permitted upon approval pursuant to the conditional use procedures of this Code:

~~(1)~~ A. Bicycle taxi (no outside storage or display).

~~(2)~~ B. Car wash/outdoor hand wash.

~~(3)~~ C. Charter and sightseeing boat.

~~(4)~~ E. Child and adult day-care centers.

F. Convenience kiosk, Convenience store, subject to the requirements as set forth in subsection 5, below.

~~(5)~~ G. Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.

~~(6)~~ H. Dry cleaner.

~~(7)~~ I. Mixed use, in accordance with the requirements of subsection ~~(e)~~ (8).

~~(8)~~ J. "Paid Private Parking" on parcels with a primary use, excluding standalone parking lots in accordance with the following requirements:

i. During business operational hours, only non-required parking spaces, may be used as paid private parking.

ii. After business hours, required parking may also be used for paid private parking.

~~(9)~~ K. Parking garage.

L. Permitted use exceeding 10,000 square feet in gross floor area.

~~(10)~~ M. Pet store.

~~(11)~~ N. Pool supply store.

~~(12) Outside seating for restaurants, on private property, that is accessory to the primary use and that are not regulated under chapter 17, article VI.~~

~~(13) Q. Outside storage of propane tank cabinets for the storage, sale or rental of propane tanks. sold and rented at hardware stores and gas stations.~~

~~(14) P. Water craft sales and rental (new or used).~~

~~(15) Q. Conditional uses not listed. Permission to apply for conditional uses not covered by the above list in the B-1 district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1 district. Approval of a Conditional Use shall also be subject to the requirements for Conditional Use Review as set forth in Section 30-56.~~

(4) Outdoor restaurant: Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the primary restaurant use may be permitted subject to the following regulations:

A. Permit required: It shall be unlawful for any person to operate an outdoor restaurant on private property within the Town without first obtaining a permit from the Town. The location of outdoor restaurant shall be approved by the Town Manager or designee.

B. Permit fee: All outdoor restaurant operators shall pay a nonrefundable permit fee of \$150.00

C. Permit application: Application for a permit to operate an outdoor restaurant shall be made at the office of the Town Clerk. Such application shall include:

1) Name, address and telephone number of the applicant.

2) Name and address of business.

3) A copy of a valid Town of Lauderdale-By-The-Sea business tax receipt to operate a business adjacent to the sidewalk area which is the subject of the application.

4) A copy of a valid certificate of use for the restaurant adjacent to the proposed outdoor restaurant which is the subject of the application.

5) An 8 1/2" X 11" drawing at a minimum scale of a minimum of 1 inch equals 20 feet showing the following:

(a) The store front and all openings (doors, windows);

(b) The location and dimensions of the private property area being utilized for outdoor restaurant, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the private property;

(c) Clear delineation of the boundary between private property and the public right-of-way;

(d) The location of tables and chairs complying with the Americans with Disabilities Act (ADA) standards.

6) Photographs and/or manufacturer brochures fully describing the appearance of all proposed chairs, tables, umbrellas and other private features, including but not limited to lighting to be used in the proposed outdoor restaurant or bar area.

7) A trash management and maintenance plan for the outdoor restaurant area, which shall include a plan for pickup and disposal of any trash or food on or around the tables and chairs or sidewalk, and periodic pressure cleaning of the outdoor restaurant area. This plan shall ensure that the outdoor restaurant area is maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day and at the close of each business day to ensure a healthy and safe environment.

8) Written consent from the building owner as to the proposed use of the area for an outdoor restaurant.

9) In the event the area of the outdoor restaurant is proposed in front of an adjacent owner's property, the permittee must provide written consent from the adjacent property owner for use of this area.

(10) Applications shall be reviewed for compliance with Town ordinances and must be approved by the Town Manager or designee.

(11) The Town Manager or designee may deny an application that does not comply with this section. Such denials shall be written and shall provide the reasons for the denial. The applicant or an Affected property owner may appeal the Town Manager or designee's decision to the Town Commission.

D. Location of Outdoor Restaurant Area: The location of an outdoor restaurant shall be subject to the following locational regulations:

1) An outdoor restaurant may only be permitted on private property that is adjacent to a licensed restaurant business to which the permit is issued; or

2) On private property that is adjacent to another licensed business that is located within the same building as the licensed restaurant business to which a permit is issued.

3) Tables and chairs shall not be permitted to be located within a ten-foot proximity of bus stops, taxi stands, fire hydrants, a pedestrian crosswalk, or handicap ramp.

4) However, the Town Manager or designee may permit an exception to the distance requirement from ten feet to five feet where established pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.

5) Markers approved by the Town Manager or designee shall be embedded into the property by the applicant to distinguish the approved boundaries of the outdoor restaurant area.

E. Additional Regulations:

1) The outdoor restaurant shall be accessory to and under the same ownership or control as the restaurant which is operated within a totally and permanently enclosed building located on the same lot.

2) There shall be no use, operation, or playing of any musical instrument, loud-speaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants or at any

time with louder volume than is otherwise regulated by Chapter 13 Noise, of the Town's Code of Ordinances.

- 3) Food preparation shall only occur in the enclosed area of the legally established restaurant.
- 4) Hours of operation shall not exceed the hours that the restaurant business is open.
- 5) No tables, chairs, or any other part of an outdoor restaurant area shall be permanently attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
- 6) Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outdoor restaurant shall be of quality design, materials, size, elevation and workmanship both to ensure the safety and convenience of users, and to enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the Town Manager or designee prior to the issuance of the outdoor restaurant permit. All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.
- 7) No objects shall be permitted around the perimeter of an outdoor restaurant occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of the public sidewalk by the general public.

F. Prior to issuance of an outdoor restaurant permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property requesting an outdoor restaurant permit. An outdoor restaurant permit will not be issued until all outstanding debts to the Town are paid in full.

G. Any business or food establishment that qualifies under the conditions of this article may redesign the face of their establishment to allow for doors or panels that permit the establishment to have totally open sides allowing for an indoor/outdoor restaurant design. These changes in the building can only be made after a proper building permit is issued, said changes otherwise comply with the "Code of Ordinances of the Town of Lauderdale-By-The-Sea", the Florida Building Code, and all appropriate fees paid.

(5) Convenience Kiosk / Convenience Store criteria: A convenience kiosk or convenience store may be permitted within the B-1-A zoning district only on property that is located west of State Road A1A and subject to the following regulations.

- (d) A convenience kiosk or convenience store shall front on Commercial Boulevard.
- (e) A convenience kiosk or convenience store may not be located within 500 feet of any other convenience kiosk or convenience store, as measured by airline measurement from the main entrance to the main entrance of each place of business
- (f) A convenience kiosk or convenience store shall also be subject to the requirements of F.S. 812.1701 et seq.

~~(e)~~ (6) Height. No building shall be erected to a height greater than two stories on single 25-foot lots nor greater than three stories on 50-foot lots.

~~(d)~~ (7) Areas. No building which is used for residence purposes above the ground floor shall occupy an area greater than 70 percent of the entire lot. The required lot area per apartment or kitchen unit shall be 800 square feet. The required floor area for a kitchen unit shall not be less than 250 square feet

minimum and the area for a hotel room with bath shall not be less than 200 square feet. Buildings not used for residential purposes shall not occupy more than 90 percent of the lot area.

~~(e)~~ (8) Mixed use development. The following provisions govern applications for the conditional use of "mixed use," a vertical mix of neighborhood-serving B-1 uses and residential uses within the same building, in locations fronting on Commercial Boulevard and west of State Road A1A.

- A. Purpose. The purpose of encouraging mixed use development on Commercial Boulevard is to:
 - (1) Accommodate mixed-use buildings with neighborhood-serving retail, service, and other commercial uses on the ground floor, and residential units above the nonresidential space;
 - (2) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and
 - (3) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.
- B. Definitions. For purposes of this section, the following definitions shall apply.
 - (1) "Live/work units" means a type of mixed use development that combines non-residential uses in the same structure as a dwelling unit occupied by the business owner, which reduces trip generation, provides for affordable and diverse housing options in the Town, incubates new businesses and provides for the needs of unique businesses such as art galleries and studios.
 - (2) "Live/work space" means the residential dwelling unit and related non-residential uses conducted above the ground floor of a live/work unit.
 - (3) "Mixed-use building" means a building that contains at least one floor devoted to non-residential use and at least one devoted to allowed residential uses.
 - (4) "Non-residential use" means neighborhood-serving retail, service, commercial or other uses allowed in the B-1 zoning district, excluding residential uses.
 - (5) "Work/sales space" means the non-residential uses on the ground floor of a live/work unit.
- C. Mixed use development on commercially designated parcels. The Town may approve a conditional use for mixed use development on B-1 zoned property when the property has a commercial land use designation in the Broward County Land Use Plan, if all of the following requirements are met:
 - (1) Approval is obtained of an allocation of available flexibility units, in accordance with section 30-56(h), Flexibility rules;
 - (2) The number of units and floor area limitations of this section are satisfied for the residential uses;
 - (3) Non-residential uses, as defined herein, are limited to the floor(s) below the residential uses;
 - (4) The property fronts on Commercial Boulevard, and is located west of State Road A1A;
 - (5) A major site plan modification or a site plan approval is obtained; and
 - (6) A conditional use approval is obtained.
- D. Permitted uses.
 - (1) On the ground floor:

- (a) Work/sales space in a live/work unit.
- (b) Non-residential use.
- (2) Above the ground floor:
 - (a) Live/work space in a live/work unit.
 - (b) Dwelling units.
- E. Limitations on residential uses.
 - (1) Maximum number of units. No mixed use development may be assigned more than ten percent of the flexibility units in its flexibility zone. If ten percent of the units is not a whole number, it shall be rounded up to the next whole number.
 - (2) Floor area. The residential floor area of the mixed use development does not exceed 50 percent of the gross floor area of the building.
- F. Parking requirements. The total number of required off-street parking spaces for a mixed use development shall be equal to the sum of the required parking for each use as if provided separately. For live/work mixed use development, the total required parking will be equal to the parking required for the nonresidential use only. See sections 30-314 through [30-]324 regarding off-street parking.
- G. Landscaping and open space requirements. Mixed use developments shall be required to meet the vehicular use area requirements as provided in Article VII, Landscape Code of Chapter 30, Unified Land Development Regulations, for the non-residential use only.
- H. Town approvals required for mixed use development.
 - (1) Conditional use. A conditional use shall be obtained in accordance with the requirements of section 30-56. As part of the conditional use review, the Town Commission shall verify that section 30-56(h) Flexibility rules, has been satisfied for the allocation of flexibility units.
 - (2) Site plan. Either a major site plan modification shall be obtained in accordance with section 30-54(m)(4), or a site plan approval shall be obtained pursuant to Article IV, Site Plan Procedures and Requirements of Chapter 30, Unified Land Development Regulations.

(f) (9) Design. Construction shall be limited to one building on B-1 lots 50 feet or less in width. All business buildings constructed in a business district shall be of C.B.S. construction and shall be designed with every practical consideration for appearance, fire protection, health, light, air. All plans and specifications of the building shall be approved by the Town Building Inspector. The Building Inspector need not approve design and use of a building and may ask the Town staff, Planning and Zoning Board or the Board of Adjustment for an official opinion or decision thereon. Open fronts are specifically prohibited in B-1 districts and there shall be a maximum opening of ten feet by ten feet for doorways in each business building.

Sec. 30-272. - Setbacks.

- (a) Front setback. Business buildings are not required to set back on the front except those erected on Ocean Drive (A1A) or Bougainvilla Drive which shall have the following setbacks: Ocean Drive (A1A),

front setback of not less than 50 feet from the centerline of said thoroughfare; Bougainvillea Drive, front setback of 25 feet from property line.

(b) Side setback. Business buildings erected on Blocks 5, 6, 13, and 14 siding on El Mar Drive shall have a side setback of eight feet from the respective property lines of said thoroughfare; business buildings erected on Blocks 13, 14, 20 and 21 siding on Ocean Drive (A1A) shall have side setback of not less than 50 feet from the centerline of said thoroughfare. Otherwise, one-story business buildings require no side setback except where windows are required, in which case a setback of not less than five feet shall be made.

(c) Rear setback:

(1) No building or any part thereof shall be erected on any lot closer than ten feet from the rear lot line.

(2) No building or any part thereof shall be erected on any lot closer than 30 feet from the rear lot line in the following designated areas:

a. All of Block B except Lots 1, 2, 3, 12, 13, and 14 in Silver Shores Section of the Town of Lauderdale-By-The-Sea, Unit "A," according to the plat thereof, recorded in Plat Book 28, page 39, Public Records of Broward County, Florida. Lots 1, 2, 3, 12, 13, and 14 shall be required to comply with the rear setback described in (c)(1) herein.

b. All of Block E except Lots 1, 2, 3, 12, 13, and 14 of a subdivision of Track "D" of Silver Shores Section of the Town of Lauderdale-By-The-Sea, Unit "A," according to the plat thereof, recorded in Plat Book 29, page 21, Public Records of Broward County, Florida. Lots 1, 2, 3, 12, 13, and 14 shall be required to comply with the rear setback described in (c)(1) herein.

c. All of Blocks J and K except Lots 1, 2, 3, 12, 13, and 14 of Silver Shores Section of the Town of Lauderdale-By-The-Sea, Unit "B," according to the plat thereof, recorded in Plat Book 31, page 3, Public Records of Broward County, Florida. Lots 1, 2, 3, 12, 13, and 14 shall be required to comply with the rear setback described in (c)(1) herein.

d. Roof cornices. Roof cornices constructed of fire-resistive materials, if ten feet or more above the sidewalk, may project over the public street not more than three feet, but shall never be closer than two feet, measured from the curblin. The construction and anchorage of all such projections shall be subject to the approval of the Building Inspector and may be erected only upon a permit issued by the Building Inspector.

e. Exterior balconies. Fixed exterior balconies shall be designed in accordance with the engineering section of the Town's building code, and shall be supported in an approved manner and the framework shall be of steel, iron, reinforced concrete or other incombustible material. Such exterior balconies shall be at least ten feet in the clear between the lowest point of any projection and the sidewalk immediately below, and shall extend not more than three feet from the building, but shall never be

closer than two feet measured from the curbline. Exterior balconies shall not support any enclosure or structures with roof above.

(Ord. No. 316, § 1, 1-9-90; Ord. No. 2007-14, § 2(Exh. A), 9-25-07; Ord. No. 2011-01, § 2, 3-8-2011; Ord. No. 2011-02, § 2, 3-22-2011)

Sec. 30-273. - Seagrape Drive to West Tradewinds only; general provisions.

(a) All one-story construction to be used for business and office use only.

(b) All construction which shall extend to a permitted two-story level use shall provide front and rear entrances.

(c) There shall be a uniform canopy on all construction which shall be erected ten feet in height from sidewalk level and extend out six feet from the front of the building and be three inches in thickness.

(d) Sidewalks shall be constructed to conform to the cross-section and grade shown by the attached plan prepared by the Office of John O. Brendia, entitled "Sidewalk Plan for Commercial Blvd., Lauderdale-By-The-Sea, Florida," dated June 2, 1958. The finish floor elevation of each abutting building and the materials and construction procedure to be used in the installation of the sidewalks shall be as shown on said plan.

(e) Each structure shall have its own sustaining walls; party walls shall be prohibited.

(f) Advertising signs shall be permitted as follows: In front of buildings not larger than two feet in height. All signs shall be kept in good condition, neat appearance and good state of repair.

(g) There shall be a ten-foot setback from the rear property line required on each of the lots in B-1 zoned districts, permitting rear entrance to construction on said lots. Said ten feet shall be blacktopped excepting necessary area for septic tank and shall be so graded and drained as to dispose of all surface water accumulation within the parking area.

(h) All construction on corner lots and Seagrape Drive, East Tradewinds or West Tradewinds, and facing east or west, must include a finished storefront architecture on the side of the building facing Commercial Boulevard on the north or south side, as the case may be, dependent upon which side of Commercial Boulevard the construction is planned. This requirements is intended to eliminate any solid wall frontage facing the b

SUBDIVISION H. - Reserved.

