Item No. 12.1.a

AGENDA ITEM MEMORADUM

Development Services
Department

Linda Connors
Town Planner

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
☒ Jan 24, 2012	Jan 13

*Subject to Change

☐ Presentation ☐ Reports ☐ Consent ☒ Ordinance
☐ Resolution ☐ Quasi-Judicial ☐ Old Business ☐ New Business

☒ **FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC- IMPLEMENTATION OF PLANNING PRIORITIES**

SUBJECT TITLE: PROPOSED AMENDMENTS TO SECTIONS 30-261, "B-I-A DISTRICT – BUSINESS" AND 30-271, "B-1 DISTRICT – BUSINESS"

EXPLANATION: In April 2011, the Town adopted several changes to the B-1-A and B-1 zoning districts that expanded the permitted and conditional uses within each respective district. The JC Consulting study of our Charter, relevant planning documents, and our Code subsequently identified the need to clarify and amend the B-1-A and B-1 regulations to be consistent with the Town's Comprehensive Plan. The attached proposed B-1-A and B-1 amendments accomplish that.

The proposed amendments provide descriptions of purpose and intent; provide improved and additional definitions; add supplemental regulations; add permitted uses; include additional accessory uses to restaurants; change convenience stores from a permitted use to a conditional use and include criteria for their approval; modify provisions for outside storage of propane tanks; and provide that uses greater than 10,000 square feet must be considered as a conditional use to give the Commission a level of review for such big projects and help preserve the character of the Town.

At its December meeting, the Planning and Zoning Board reviewed the proposed amendments and voted to recommend the proposed amendments (5-0) with the following comments:

1) Review the definitions related to personnel service and combine into one definition;

Staff response: *We have combined the proposed definitions of Personnel Services and Business and Professional employment agency in the ordinance.*

2) Review current outdoor dining restrictions and make criteria less subject to staff review.

Staff response: *Changed the requirement to provide photographs and/or manufacturer brochures for staff review only if the outside seating is visible from a public right-of-way. (In the original proposed language, they would have to provide that information regardless of where the seating is located.)* Aside from that change, we believe the level of staff review is appropriate as it is consistent with the reviews staff must make for sidewalk café applications.

In addition to the revisions implementing the Planning and Zoning Board comments, we have made further changes based on the Town Attorney's input. We improved the current definition of restaurant which then eliminated the need to define a restaurant bar; added language to ensure outdoor dining is contiguous to the restaurant to which it is a conditional use to be consistent with our intent; and clarified language throughout the document (basically word-smithing).

RECOMMENDATION: Staff recommends approval of the attached Ordinance.

EXHIBITS: Exhibit 1 – Planning and Zoning Board Staff Report (w/o attachments)
Exhibit 2 – Planning and Zoning Board Minutes
Exhibit 3 – Draft Ordinance Amending Sections 30-261 and 30-271

Reviewed by Town Attorney
☒ Yes ☐ No

Town Manager Initials ____

Exhibit 1

Town of Lauderdale-by-the-Sea
Development Services
4501 N. Ocean Drive
Lauderdale-by-the-Sea, FL 33308
Phone (954) 776-3611
Fax (954) 776-3431

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 AIA 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

Exhibit 2

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING
REGULAR MEETING MINUTES
Town Commission Meeting Room
Wednesday, December 21, 2011
6:30 P.M.

I. CALL TO ORDER

Chairman Alfred Oldaker called the meeting to order at 6:30 p.m. and requested roll call of the members present. Members also present were Vice Chairman Yann Brandt, Lawrence Wick and first alternate Eric Yankwitt. Also present were Linda Connors, Town Planner, Planning Consultant Cecelia Ward, Bud Bentley, Assistant Town Manager, and Town Attorney James White. Town Clerk June White was present to record the minutes of the meeting.

Ben Freeny was previously excused from the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES - Planning and Zoning Meeting of October 19, 2011

There were no additions, deletions or changes to the above minutes.

Vice Chairperson Brandt made a motion to accept the minutes of October 19, 2011. The motion was seconded by Mr. Yankwitt and passed 3-1. Mr. Wick voted no.

IV. PUBLIC COMMENTS

There were no public comments.

V. TOWN PLANNER REPORT

Town Planner Linda Connors stated she was available to answer any questions or address any concerns the Board might have. She updated the Board as to her new Town phone extension 640-4213 and her email address lindac@lbts-fl.gov.

In June 2011, the Commission set the Board a number of planning priorities, and Cecelia Ward was working with Town staff to implement those priorities, the first being the architectural standards that were approved at the most recent Planning and Zoning Board meeting, and subsequently went to the Town Commission where it was again approved. Town staff was

currently working with a number of local business owners on doing upgrades to their property. She indicated they were now working on the remaining priorities and had an aggressive agenda to get them adopted and implemented that included public comment. Thus, future agenda items were listed on the tentative schedule formulated to update the Board on what Town staff was doing in this regard. The item on the present agenda dealt with B1-A and B1 zoning; next they would discuss the Town's sign code, then the hotel study at the next Board meetings. Town Planner Connors noted there would be two meetings that included public participation to discuss the sign code, the first on January 5, 2012, at 9:00 a.m. for the sign code, and the other would be at 5:30 p.m. for the hotel study; they would be held in the Town Commission chambers. She would send email reminders to the Board members. She discussed the code changes regarding the appointment of the Planning and Zoning Board, which now directly correlated with the election of the Town Commission. Once the new Commission was established, members of the Commission would appoint new Planning and Zoning Board members. Due to the municipal election occurring on January 31, 2012, the Commission would meet on February 28, 2012 to appoint the Planning and Zoning Board; thus, there would be no Planning and Zoning Board meeting for February. She mentioned the conditional use applications the Board reviewed at its last meeting were approved by the Town Commission. The East Commercial Boulevard Improvements were ongoing and, on January 17, 2012, from 7:00 p.m. to 9:00 p.m., there would be a Special Commission meeting in Jarvis Hall regarding that matter. Planning and Zoning Board members and the public were invited.

Mr. Wick asked if there had been a response to the Anglin Trust letter sent to various members of the Town's administration that stated if one vacated the property for a right of way for roads from the A1A to the beach, that that property would revert to the previous owner by the fact that they gave an easement. If it was subsequently discovered the ownership of the subject property would revert to the England Trust, it seemed a waste of time to engage in further discussion. He hoped this matter would be resolved before January 19, 2012.

VI. NEW BUSINESS

Item #1: Proposed Amendments to Sections 30-261, "B-1-A DISTRICT - BUSINESS" and 30-271, "B-1 DISTRICT - BUSINESS"

Town Planner Connors reiterated Town staff was moving forward with the Commission's previously established priorities, noting one of those priorities was to clean up the Town's Land Development Regulations (LDR). Historically, some changes to the B1 district had been implemented, such as adding conditional uses and mixed uses to the code. However, Town staff examined the code as a whole and gathered information from businesses, found some of the missing things, and endeavored to make the LDR more easily understood by both the Town staff and the community, and to make sure it was defensible. This eliminated many questions that might be due to definitions missing, etc. In November, the Town Commission adopted a notice of intent to make the subject amendments.

Vice Chairperson Brandt observed the print of the maps in the backup were very small and difficult to read and requested staff enlarge the area specific to the item to allow the Board to see precisely where the boundaries were drawn.

Town Planner Connors replied she would work on doing so; there was an outside consultant that did the Town's Planning and Zoning maps.

Vice Chairperson Brandt requested a brief explanation of the difference between the two districts affected by the amendments. Town Planner Connors responded the districts were very similar, believing the B1-A was very small, and the only difference between the B1 district was that the a pier is allowed in the B1 district; and both districts could not be combined into one due to rezoning restrictions contained in the Town's Charter.

Another reason for the proposed amendments was to allow for the implementation of the goals, objectives and policies of the Town's Comprehensive Plan related to future land use and economic redevelopment. She referred to a handout given to the Board at the beginning of the meeting that showed Section 30-181 in which it was noticed that B1-A was not listed in the establishment of zoning districts, so appropriate language was added where it belonged. There were also changes to Sections 30-260 through 30-273, where they added a purpose and intent for both districts, along with several definitions, many of which were not new to the code, but they were brought from different sections of the code and placed under Chapter 30. She noted they covered restaurants, bars, and food stores were incorporated in a definition for alcohol; street, sidewalk, public right of way permitee and affected party all came from the sidewalk section that regulated sidewalk cafes. Town staff wished to place definitions where they needed to be for clarity and that those definitions related to Chapter 30 as well. Town Planner Connors said they added some definitions to make it clear to the public that certain types of similar uses were not allowed; for example, personnel services and labor pool were defined to allow a distinction between the two. Convenience store was defined, including size restrictions for the different definitions; they added definitions for flea market, package store, consignment store, and business and professional employment agency. They inserted a reference to the restrictions in Chapter 3 pertaining to alcoholic beverages; banks were added as a permitted use; and clarifications were made to a clothing store, consignment store, hardware store and a sundries store; with respect to restaurants, they moved the outdoor restaurant from a conditional use, allowing it to be a permitted use similar to sidewalk cafés. She said a distance restriction was added to convenience stores, moving it from a permitted use to a conditional use and, as they were regulated by Florida Statutes, reference was made to some of the same definitions in the state statute that were similar to the Town's code. Modifications were made to the outdoor storage of propane tanks, and the final change limited the size of a permitted use to 10,000 square feet, as there was no limitation on the size at present. She indicated red underlined portions of the handout indicated new language being added, and crossed out portions were eliminated language.

Mr. Wick noticed convenience store was struck out on page 13, so he assumed this had been placed in another section of the code. Town Planner Connors stated convenience store had been changed from a permitted to a conditional use; it could now be found on page 16, number three with convenience, kiosk and convenience stores subject to the requirements in Section 5.

Chairperson Oldaker observed throughout the document, there appeared to be a variety of names for employment agency, personnel agency, staffing agency, wondering if there was a way to streamline the language, as they were used in different areas of the code but meant the same thing. He understood the distinction with regard to labor pool.

Cecelia Ward of JC Consulting commented in reviewing the code, she too questioned the varied definitions for staffing services; however, in her discussions with the Town Attorney's office, she discovered there could be a distinction between the various terms. For example, a business and

professional employment agency could help someone get a job, whereas, a personnel services business might provide temporary staffing. Town staff would revisit the various definitions to determine where the terms could be combined. The intent of the change pertained to labor pool, as they wished the code to be clear it was never intended to allow a day labor or labor pool service.

Mr. Yankwitt wished to be sure when convenience stores were switched to a conditional use, it included grandfather language to allow existing convenience stores to operate. Town Planner Connors answered yes. Ms. Ward added, as to convenience stores, the information contained within the definitions was done based on studying convenience store information, how they usually operated, their typical size, etc.; thus, the language was consistent with industry standards. Currently, under Chapter 3 of the code, the alcoholic beverages section stated businesses that sold intoxicating beverages, including beer and wine, had to be 500 feet away from one another with the exception of food stores and restaurants.

Vice Chairperson Brandt referred to pages nine and ten, and the equivalent on the B1 section, specifically the outdoor cafés, Section C, paragraph six and ten, Section E, paragraph six, stating since the Board presented an opinion on code language that was meant to last, it left it open for very subjective review by the Town Manager or designee. For instance, the color and material of awnings, chairs, tables, etc., and he gave a note of caution, as it came down to a policy decision as to whether the Town Commission thought there should be a color pallet, a material pallet, and this was a section the Commission might wish to review. In Section C, paragraph 11, would there be an appeals fee to appeal a denial by the Town Manager to the Commission; he knew for variances, there was a fee charged to appeal a denial; this too would be a policy decision for the Commission, and he wished it placed in the record for consideration.

Town Planner Connors replied she would look into the matter and relay her findings to the Board; she was unsure if the appeal fee currently in the code pertained specifically to variances or to appeals in general.

Ms. Ward mentioned one of the goals of the proposed amendments was consistency with the sidewalk cafés. Much of the feedback they received from local restaurateurs was, while the code made it possible for them to have sidewalk cafes they had to go through a lengthy review process to have outdoor dining on their own property. Staff's proposed changes was an attempt to be consistent with the thought process of having the same allowances for sidewalk cafés and outdoor dining, and staff would further review the code to ensure it contained no other language that was significantly different from how the sidewalk cafés were reviewed. The Board's comments would be included in the information given to the Commission.

Mr. Wick questioned page 20, mixed use development B and its definition live/work units, wondering if this meant a business owner could live in the same building that housed his/her business.

Ms. Ward answered correct; a live/work unit meant someone could both live and run their business from the same building; it was subject to mixed use provisions regulated by Broward County that had very specific criteria of how one could place living space within the same building of a commercial space, percentages, etc. This was not being changed in the Town's code, as it was written the last time that code provision was brought to the Board; it mirrored the restrictions imposed by the County but added for clarity such a use was allowed.

Mr. Wick noted on page 16 the right was given to the Town Manager to take certain actions, when he too thought it was the Town Commission that directed the Town Manager accordingly. The codes current language in this section seemed to say the Town Manager would give the Commission direction on what should be.

Town Planner Connors pointed out Town staff used the language previously approved for Ordinance 2011-10 for sidewalk cafés; the language being proposed for outdoor dining mirrored the existing language for sidewalk cafés.

Vice Chairperson Brandt mentioned lengthy discussions at past Board meetings on sidewalk cafés, including whether to have the Town Manager making a subjective decision or should such matters come before the Board and the Commission, and it was thought those decisions should be made by the Commission. On the matter of outdoor dining, it was private property, and some of the decision making might need to exclude the government to some extent and allow business owners to make certain decisions they thought best for their business.

Ms. Ward said Town staff would revisit the language, as it appeared the Board was asking for the language pertaining to outdoor dining to be less restrictive rather than similar to that for sidewalk cafés with regard to the criteria of review applied by the Town Manager.

Vice Chairperson Brandt affirmed this to be the case.

Town Planner Connors summarized the Board reviewed the backup documents, and there were two comments: 1) review the personnel service type definitions and see where they could be combined; and 2) look at outdoor dining and the restrictions per the criteria placed on the use and make it less subject to staff review.

Vice Chairperson Brandt indicated he would make a motion to approve the proposed amendments going to the Commission with the Board's guidance regarding labor services and staff's streamlining the definitions, and working on reducing the subjective nature of the review process for outdoor dining, as it was private property and, thus, differed from sidewalk cafés. He believed there were three or four sections pertaining to sidewalk cafés that were mirrored for outdoor dining.

Vice Chairperson Brandt made a motion to pass on the proposed amendments with the guidance to take restrictive use out of the outdoor dining, as set forth by the Planning and Zoning Board, to the Commission. Mr. Yankwitt seconded the motion. The motion passed unanimously.

Town Planner Connors reminded the Board the first reading of the ordinance containing the proposed amendments would go before the Town Commission on January 24, 2012. She would email the Board members a reminder in the event they wished to attend the meeting; as the agenda was posted on the Town's website prior to the meeting, members could review the final draft of the proposed amendments.

VII. OLD BUSINESS

There was no old business.

VIII. BOARD MEMBER COMMENTS

Mr. Yankwitt wished everyone all the best for the holiday season, and asked Town staff when notifying the business community to also contact the Lauderdale-By-The-Sea Chamber of Commerce.

Mr. Wick thanked all those who helped with the Santa's Coming To Town event at which over 250 pictures of children were taken; they each received a toy, cookie, candy and juice, and the event was well received. He thanked those citizens who filled the toy boxes that went to the nondenominational church for children in distress. He wished everyone a happy, holy holiday season and a prosperous New Year.

Vice Chairperson Brandt wished everyone all the best for the holiday season, Happy Hanukah, and a Happy New Year; he hoped everyone would attend the Menorah lighting on December 22.

Chairperson Oldaker wished everyone happy holidays and congratulated Mr. Brandt on the birth of his daughter.

IX. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:05 p.m., December 21, 2011.

_____
Chairman Alfred Oldaker

ATTEST:

Town Clerk June White, CMC for
Colleen Tyrrell, Board Secretary

Date Accepted: _____

Exhibit 3

ORDINANCE 2012-01

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-155, "DEFINITIONS", TO PROVIDE CLARITY FOR BUSINESS DISTRICT USES; BY AMENDING SECTION 30-181, "ESTABLISHMENT OF ZONING DISTRICTS" TO IDENTIFY THE EXISTING B-1-A ZONING DISTRICT; BY AMENDING ARTICLE V, "ZONING", DIVISION 2, "DISTRICTS", TO PROVIDE BUSINESS DISTRICT REGULATION PURPOSES AND SUPPLEMENTAL REGULATIONS, MODIFY THE PERMITTED AND CONDITIONAL USES IN THE B-1-A AND B-1 DISTRICTS AND PROVIDE REGULATIONS FOR CONVENIENCE STORES AND FOR OUTSIDE SEATING AREAS FOR RESTAURANTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the Town Commission recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the Town's land development regulations are current and consistent with the Town's planning and regulatory needs; and

WHEREAS, the Town Commission desires to provide for additional definitions to assist in the interpretation and implementation of the Unified Land Development Regulations; and

WHEREAS, the Town Commission desires to provide clarification of the purpose of the Business Districts and to update the list of permitted and conditional uses and related regulations in the B-1-A and B-1 zoning districts to reflect the current needs of the Town; and

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WHEREAS, Section 30-531 of the Code requires issuance of a Notice of Intent prior to the processing of any amendment to the land development regulations in Chapter 30 of the Code, and such notice was given of this amendment on November 29, 2011; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the contents of this Ordinance at a duly noticed public hearing on December 21, 2011, and provided a recommendation of approval of the amendments; and

WHEREAS, the Town Commission conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Town Commission has determined that this Ordinance is consistent with the Town's Comprehensive Plan and in the best interest of the Town, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. Recitals. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

SECTION 2. Amendment. Chapter 30, Unified Land Development Regulations of the Code of Ordinances, Section 30-155, is hereby amended as follows[1]:

Sec. 30-155. - Definitions.

For the purpose of this article, certain terms used herein are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular number. The word "shall" is also [always] mandatory and not merely directory. The word "building" shall include the word "structure." The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be

[1] Additions to existing text are shown in underline. Deletions are shown in ~~strikethrough~~.

used.

* * *

Building. Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind, or for use and occupation for some purpose of trade or manufacture. This definition shall include tents, awnings, or vehicles situated on private property and serving in any way the function of a building.

Business and Professional Employment Agency. An agency that finds people to fill particular jobs or finds jobs for unemployed people and which may also provide personnel services or personnel for other businesses. The definition of Business and Professional Employment Agency does not include Labor Pools or Day Labor Hiring Centers in any form.

Canopy. Any fixed roof-like structure, not movable like an awning, and which is cantilevered in whole or in part self-supporting, but having no side walls or curtains other than valences not more than 18 inches deep. Structures having sidewalls or valences more than 18 inches deep shall be classified as tents or cabanas.

Consignment Store. 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.

Convenience Store. A retail establishment with a maximum of twenty-five hundred (2,500)square feet of gross floor area that offers for sale prepared and/or prepackaged food or beverages, including beer and wine, 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 and 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 (2,500)square feet of gross floor area and does not sell automotive fuel shall be considered a food store.

Day Labor Hiring Center. A place where employees or potential employees assemble to seek or accept employment off-site; a place where employers or potential employers visit to hire or to seek to hire employees for employment offsite.

Food Store. An establishment that sells food items and alcoholic beverages for off premises consumption, but shall not include a package store or a convenience store. The definition of food store shall include grocery store and supermarkets.

Flea Market. An occasional or periodic sales activity, held within a building, structure or outdoors where groups of individual sellers offer goods for sale to the pubic not to include private garage sales. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items including, but not limited to, household items, antiques, rare items, decorations, used books, used magazines, jewelry, clothing and/or a variety of merchandise and may also include the sale of fruits, vegetables and other edible items.

Lot. A parcel of land occupied or intended to be occupied by one principal building, and the accessory buildings or uses customarily incident to it, and including such open spaces and yards as are arranged and designed to be used in connection therewith.

* * *

Lot line, side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side lot line.

Market. A retail establishment specializing in the sale of certain goods and products [i.e. a fish *market*]. The definition of market does not include flea market.

Motorized Scooter/*Moped.* The definition of motorized scooter and the definition of moped shall be as set forth in F.S. § 316.003.

Restaurant. Any establishment where facilities are provided for preparing and serving food to the public. At least 51 percent of total gross revenues must come from retail sale on the licensed premises of food and non-alcoholic beverages. Proceeds of catering sales shall not be included in the calculation of total gross revenues. Catering sales include food or non-alcoholic beverage sales prepared by the licensee on the licensed premises for service by the licensee outside the licensed premises. The tables must be of adequate size to accommodate the service of full course meals in accordance with the number of chairs or other seating facilities provided at the table. Sale of alcoholic beverages for off-premise consumption is not permitted.

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

Setback. The distance between a street line or the base building line, and the front line or side line of any building or structure or any projection thereof, excluding projections or overhangs specifically permitted.

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.

* * *

SECTION 3. Amendment. Chapter 30, Unified Land Development Regulations of the Code of Ordinances, Section 30-181, is hereby amended as follows:

Sec. 30-181. - Establishment of zoning districts.

(a) The incorporated areas of the Town of Lauderdale-By-The-Sea, Florida are hereby divided into zoning districts of number and character as necessary to achieve compatibility of uses within each district; to implement the adopted Town of Lauderdale-By-The-Sea Comprehensive Plan; and, to achieve the stated purpose and intent of this chapter.

(b) Zoning district designations. The land and water areas of the Town of Lauderdale-By-The-Sea are zoned in accord with zoning districts. These zoning districts are designated as follows:

R-5:	Motel
RS-4:	Residential single-family dwellings
RS-5:	Residential single-family dwellings
RD-10:	Residential two family dwellings

RM-25:	Residential multi-family dwellings
RM-50:	Residential multi-family dwellings
B-1-A:	Business
B-1:	Commercial
PUD:	Planned unit development
CF:	Community facility district
P:	Recreation and open space

SECTION 4. Amendment. Chapter 30, Unified Land Development Regulations of the Code of Ordinances, Article V, Zoning, Division 2, Districts, is hereby amended as follows:

* * *

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) Supplemental Regulations - Business Districts:
Sale of Alcoholic or Intoxicating Beverages: A permitted or conditional use in either the B-1-A or B-1 zoning district 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.

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 Bougainvilla 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.~~

~~A. "Restaurant," for the purposes of this subdivision, is any establishment where facilities are provided for preparing and serving food to the public.~~

~~B. 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.~~

(~~1~~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.~~EEE.Photographic studio,

~~GGG.~~FFF. Police and fire substation,

~~HHH.~~GGG.Retail electronic sales and repair,

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

1). 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) Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the principal restaurant use and that is not regulated under Chapter 17, Article VI and subject to the regulations set forth in subsection (6), below.

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

~~JJJ.~~III.Seafood store,

~~KKK.~~JJJ. Shoe sales and repair,

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

~~MMM.~~LLL. Specialty shop,

~~NNN.~~MMM.Sporting goods store, including dive shops,

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

~~PPP.~~OOO.Sundries store,

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

~~RRR.~~QQQ.Tapes/videos/music CD stores,

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

~~TTT.~~SSS.Toy/game store,

~~UUU.~~TTT.Trade/business school,

~~VVV.~~UUU.Travel agency,

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

~~XXX.~~WWW. Watch and jewelry repair, and

~~YYY.~~XXX. 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.

(2~~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 store, subject to the requirements as set forth in subsection 7, below.

~~E.~~ F. 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 us", 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 of the Town Code.

(3~~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.

(4~~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.

(5~~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.

(6) 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 provide outside seating for a restaurant on private property within the Town without first obtaining a permit from the Town. The location of an outside seating area for a restaurant shall be approved by the Town Manager or designee.

B. Permit fee: A permit fee shall be established by resolution of the Town Commission.

C. Permit application: Application for a permit to provide outside seating for a 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 restaurant adjacent to the outside seating area which is the subject of the application.

4) An 8 1/2" X 11" drawing at a minimum scale 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 the outside seating area, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the outside seating area;
   (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.

5) When the outside seating is visible from a public right-of-way, the application shall also include:
   (a) 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 outside seating area.

   (b) A trash management and maintenance plan for the outside seating 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 area used for outside seating. This plan shall ensure that the outside seating 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.

6) Written consent from the building owner for the proposed outside seating area.

7) In the event the outside seating area is proposed in front of an adjacent owner's property, the applicant must provide written consent from the adjacent property owner for use of this area.

8) Non-refundable application fee.

9) Applications shall be reviewed for compliance with the Town Code and may be approved by the Town Manager or designee.

10) 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 any property owner whose property directly abuts the property which is the subject matter of the application may appeal the Town Manager or designee's decision to the Town Commission.

D. Location Requirements: The location of an outside seating area for a restaurant shall be subject to the following locational regulations:

1) An outside seating area shall only be permitted on private property that is:

a. adjacent to a licensed restaurant business to which the permit is issued; or

b. adjacent to another licensed business that is located within the same building as the licensed restaurant business to which a permit is issued.

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

3) The Town Manager or designee may permit an exception to the distance requirement of subsection 2) from ten (10) feet to five (5) feet where established pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.

4) Markers approved by the Town Manager or designee shall be embedded into the property by the applicant to distinguish the approved boundaries of the outside seating area. This requirement may be waived by the Town Manager or designee if the proposed outside seating area is not on or adjacent to any private or public sidewalk, parking or other pedestrian area.

E. Additional Regulations for Outside Seating for a Restaurant:

1) The outside seating area shall be accessory to and under the same ownership or control as the primary restaurant which is operated within a permanently enclosed building located on the same or adjacent parcel.

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 Code.

3) Food preparation shall only occur in the fully enclosed area of the licensed primary restaurant.

4) Hours of operation shall not exceed the hours of operation established for the principal licensed restaurant.

5) All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.

6) No objects shall be permitted around the perimeter of the outside seating area that is occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of a sidewalk by the general public.

7) Additionally, when the outside seating area is visible from a public right-of-way:

(a) No tables, chairs, or any other part of an outside seating 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.
(b) Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outside seating area 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 permit to allow the outside seating area.

F. Prior to issuance of a permit for an outside seating area, 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 a permit for outside seating. A permit to allow outside seating will not be issued until all outstanding debts to the Town are paid in full.

G. Any primary restaurant which obtains a permit to have outside seating as an accessory use to a primary restaurant, pursuant to Sec. 30-261 (1) and (6) may redesign the face of their establishment to allow for doors or panels that permit the establishment to have open sides allowing for an indoor/outside restaurant design. Any proposed alterations, modifications or changes to the building shall require the issuance of a building permit, compliance with the Town Code and payment in full of all applicable fees.

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

(a) A convenience store shall have frontage on Commercial Boulevard;

(b) A convenience store may not be located within five hundred (500) feet of any other convenience store, as measured by airline measurement from the main entrance to the main entrance of each place of business; and

(c) A convenience store shall also be subject to the requirements of F.S. 812.1701as may be amended.

Sec. 30-262. - Setbacks.

(a) Front setback.

No building or any –art 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 curbline. 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 an' 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 –own 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.

(1) 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.~~EEE. Photographic studio,

~~GGG.~~FFF. Police and fire substation,

~~HHH.~~GGG. Retail electronic sales and repair,

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

1). 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) Outside seating for restaurants, on private property other than a sidewalk, that is accessory to the principal restaurant use and that is not regulated under Chapter 17, Article VI and subject to the regulations set forth in subsection (3), below.

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

~~JJJ.~~III. Seafood store,

~~KKK.~~JJJ. Shoe sales and repair,

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

~~MMM.~~LLL. Specialty shop,

~~NNN.~~MMM. Sporting goods store, including dive shops,

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

~~PPP.~~OOO. Sundries store,

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

~~RRR.~~QQQ. Tapes/videos/music CD stores,

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

~~TTT.~~SSS. Toy/game store,

~~UUU.~~TTT. Trade/business school,

~~VVV.~~UUU. Travel agency,

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

~~XXX.~~WWW.Watch and jewelry repair, and

~~YYY.~~XXX.Uses not listed. Any use not covered by the above list may be authorized in the B-1district 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-1district.

~~(b)~~(2) 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)~~D. Child and adult day-care centers.

E. Convenience store, subject to the requirements as set forth in subsection 4, below.

~~(5)~~F. 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)~~G. Dry cleaner.

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

~~(8)~~I. "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)~~J. Parking garage.

K. Permitted use exceeding 10,000 square feetin gross floor area.

~~(10).~~ L. Pet store.

~~(11)~~M. 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)~~N. 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)~~O. Water craft sales and rental (new or used).

~~(15)~~ P. 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 of the Town Code.

(3) 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 provide outside seating for a restaurant on private property within the Town without first obtaining a permit from the Town. The location of an outside seating area for a restaurant shall be approved by the Town Manager or designee.

B. Permit fee: The fee for a permit for outside seating for a restaurant shall be as established by resolution of the Town Commission.

C. Permit application: Application for a permit to provide outside seating for a 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 restaurant adjacent to the outside seating area which is the subject of the application.

4) An 8 1/2" X 11" drawing at a minimum scale 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 the outside seating area, including: structures located thereon; proposed location, dimension and number of tables, chairs, and umbrellas proposed within the outside seating area;
   (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.

5) When the outside seating area is visible from a public right-of-way, the application shall also include:
   (a) 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 outside seating area.
   (b) A trash management and maintenance plan for the outside seating 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 area used for outside seating area. This plan shall ensure that the outside seating 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.

6) Written consent from the building owner for the proposed outside seating area.

7) In the event the outside seating area is proposed in front of an adjacent owner's property, the applicant must provide written consent from the adjacent property owner for use of this area.

8) Non-refundable application fee.

9) Applications shall be reviewed for compliance with the Town Code and may be approved by the Town Manager or designee.

10) 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 any property owner whose property directly abuts the property which is the subject matter of the application may appeal the Town Manager or designee's decision to the Town Commission.

D. Location Requirements: The location of an outside seating area for a restaurant shall be subject to the following locational regulations:

1) An outside seating area shall only be permitted on private property that is:

   a. adjacent to a licensed restaurant business to which the permit is issued; or

b. adjacent to another licensed business that is located within the same building as the licensed restaurant business to which a permit is issued.

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

3) The Town Manager or designee may permit an exception to the distance requirement of subsection 2) from ten (10) feet to five (5) feet where established pedestrian and tram paths shall not be obstructed and where public safety shall not be adversely affected.

4) Markers approved by the Town Manager or designee shall be embedded into the property by the applicant to distinguish the approved boundaries of the outside seating area. This requirement may be waived by the Town Manager or designee if the proposed outside seating area is not on or adjacent to any private or public sidewalk, parking or other pedestrian area.

E. Additional Regulations for Outside Seating for a Restaurant:

1) The outside seating area shall be accessory to and under the same ownership or control as the primary restaurant which is operated within a permanently enclosed building located on the same or adjacent parcel.

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 Code.

3) Food preparation shall only occur in the fully enclosed area of the licensed primary restaurant.

4) Hours of operation shall not exceed the hours of operation established for the principal licensed restaurant.

5) All fabrics shall be fire-retardant, pressure-treated or manufactured of fire resistive material.

6) No objects shall be permitted around the perimeter of the outside seating area that is occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of a sidewalk by the general public.

7) Additionally, when the outside seating area is visible from a public right-of-way:

(a) No tables, chairs, or any other part of an outside seating 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.

(b) Tables, chairs, umbrellas, canopies, awnings, and any other objects utilized as part of the outside seating area 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 permit to allow the outside seating.

F. Prior to issuance of a permit for outside seating, 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 a permit for outside seating. A permit to allow outside seating will not be issued until all outstanding debts to the Town are paid in full.

G. Any primary restaurant which obtains a permit to have outside seating as an accessory use to the primary restaurant, pursuant to Sec. 30-261 (1) and (6) may redesign the face of their establishment to allow for doors or panels that permit the establishment to have open sides allowing for an indoor/outside restaurant design. Any proposed alterations, modifications or changes to the building shall require the issuance of a building permit, compliance with the Town Code and payment in full of all applicable fees.

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

(a) A convenience store shall have frontage on Commercial Boulevard;

(b) A convenience store may not be located within five hundred (500) feet of any other convenience store, as measured by airline measurement from the main entrance to the main entrance of each place of business; and

(c) A convenience store shall also be subject to the requirements of F.S. 812.1701as may be amended.

~~(c)~~(5)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)~~(6) 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)~~(7)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)~~(8)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; Bougainvilla 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 curbline. 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.

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.

SECTION 5. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 6. Conflicts. All ordinances or parts of Ordinances and all Resolutions or parts of Resolutions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 7. Codification. This Ordinance shall be codified.

SECTION 8. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

SECTION 9. Adoption. Passed on the first reading, this ___day of _____, 2012.

Passed and adopted on the second reading, this __ day of _____, 2012.

_____

Mayor Roseann Minnet

	First Reading	Second Reading
Mayor Minnet	_____	_____
Vice-Mayor Dodd	_____	_____
Commissioner Clottey	_____	_____

Commissioner Sasser _____ _____

Commissioner Vincent _____ _____

Attest:

_____

Town Clerk, June White, CMC

(CORPORATE SEAL)

Approved as to form:

_____

Susan L. Trevarthen, Town Attorney