

ORDINANCE NO. 4213-09: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH TO AMEND THE REGULATIONS APPLICABLE TO THE DOWNTOWN MASTER PLAN AREA AS FOLLOWS: AMENDING ARTICLE I (IN GENERAL) TO REMOVE REFERENCES TO BUILDING TYPES AND ADD SUBDISTRICT DESIGNATIONS; AMENDING ARTICLE II (ORGANIZATION, ADMINISTRATION, AND ENFORCEMENT) TO CLARIFY THE AUTHORITY OF THE DOWNTOWN ACTION COMMITTEE AND CREATE SECTION 94-54 (DOWNTOWN MASTER PLAN DEVELOPMENT APPROVAL PROCESS); AMENDING AND REPLACING ARTICLE IV (DOWNTOWN MASTER PLAN) TO ELIMINATE BUILDING TYPES AND CREATE NEW GENERAL DEVELOPMENT STANDARDS AND PLANNING AREA, DISTRICT, SUBDISTRICT, AND INCENTIVE REGULATIONS, AND TO CLARIFY THE DEVELOPMENT STANDARDS FOR THE CC-2 LAKEFRONT DISTRICT AND CC-2 DOWNTOWN PLANNED DEVELOPMENT DISTRICT; AMENDING ARTICLE XIII (SIGN REGULATIONS); AMENDING ARTICLE XV(PARKING); AND AMENDING ARTICLE XIX (DEFINITIONS); DECLARING THESE AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, on March 31, 2005, the City Commission directed staff to initiate a process to update the Downtown Master Plan; and

WHEREAS, on June 25, 2005, the City issued a Request for Qualification No. 04/05-126 entitled "Preparation of a Downtown Master Plan Update" and on November 7, 2005, the City Commission heard presentations from the candidates and selected Zyscovich, Inc., as the consultant to update the Downtown Master Plan; and

WHEREAS, at the August 21, 2006 workshop, the City Commission endorsed the recommendations presented by Zyscovich, Inc., and directed staff to proceed with the Comprehensive Plan and Zoning and Land Development Regulation amendments necessary to implement such recommendations; and

WHEREAS, on August 27, 2007, the City Commission approved Ordinance No. 4024-07 amending the Downtown Master Plan Element of the Comprehensive Plan, in conformance with the requirements of Chapter 163, Florida Statutes; and

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WHEREAS, on October 24, 2007, the Florida Department of Community Affairs issued a Notice of Intent and found the proposed amendment in compliance with Chapter 163 of Florida Statutes; and

WHEREAS, on December 3, 2007, the City Commission approved Ordinance 4093-07 adopting a Zoning in Progress and interim Downtown Master Plan (DMP) Urban Regulations to implement the amended Downtown Master Plan Element of the Comprehensive Plan, and provide a basis for new development, additions and alterations while the final DMP Urban Regulations were prepared by staff and the City's consultant; and

WHEREAS, at the March 27, 2008 workshop, the City Commission endorsed the final recommendations presented by Zyscovich, Inc., and directed staff to proceed with the amendments necessary to adopt the final DMP Urban Regulations; and

WHEREAS, at the July 17, 2008 workshop, a draft of the proposed DMP Urban Regulations and DMP Zoning Atlas was presented to the Downtown Master Plan Advisory Board and positive feedback was received; and

WHEREAS, the Downtown Action Committee held a public hearing on March 11, 2009, where it suggested revisions and recommended approval (6-0) of the proposed DMP Urban Regulations; and

WHEREAS, the Planning Board held a public hearing on March 12, 2009, where it suggested revisions and recommended approval (7-0) of the proposed DMP Urban Regulations; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The City Commission of the City of West Palm Beach hereby finds and determines that the DMP Urban Regulations described in this Ordinance are consistent with the Comprehensive Plan of the City adopted pursuant to Sections 163.3161, et seq., Florida Statutes.

SECTION 2: The City Commission of the City of West Palm Beach hereby finds and determines that the DMP Urban Regulations described in this Ordinance are consistent with the standards set forth in Section 94-32 of the Zoning and Land Development Regulations.

SECTION 3: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article I (In General), Section 94-4 (Zoning districts established; relationship to land

use categories in comprehensive plan), along with Table I-1, are hereby amended and shall read as follows:

ARTICLE I. IN GENERAL

Sec. 94 - 4. Zoning districts established; relationship to land use categories in comprehensive plan.

(a) *Zoning districts established.* The city is hereby divided into various residential, commercial, industrial, and special zoning districts that are shown on the ~~Official Zoning Map~~ Zoning Atlas for West Palm Beach. These zoning districts shall be applied to real property within the city by ordinance of the city commission. The zoning districts shall be as follows:

TABLE INSET:

SF3	Single-family Low Density-3 Residential
SF5	Single-family Medium Density-5 Residential
SF7	Single-family Low Density Residential
SF11	Single-family/Small Lot High Density Residential
SF14	Single-family High Density Residential
MF14	Multifamily Low Density Residential
MF20	Multifamily Medium Density Residential
MF32	Multifamily High Density Residential
BTI	Building Type I
BTII	Building Type II
BTIII	Building Type III
BTIV	Building Type IV
CC2	City Center Lake Front
CM	Commercial Marine
OC	Office Commercial
NC	Neighborhood Commercial
GC	General Commercial
AC	Airport Commercial

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POR	Professional Office Residential
I	Industrial
ROS	Recreation and Open Space
CS	Community Service
PC	Planned Community
PD	Planned Development
W	Conservation
<u>CAD-5</u>	<u>Cultural Arts District - 5</u>
<u>CLD-25</u>	<u>Clearlake District - 25</u>
<u>FWD-5</u>	<u>Flagler-Waterfront District - 5</u>
<u>ICD-2</u>	<u>Industrial Chic District - 2</u>
<u>ICD-5</u>	<u>Industrial Chic District - 5</u>
<u>LD-R</u>	<u>Loftin District - Residential</u>
<u>LD-4</u>	<u>Loftin District - 4</u>
<u>LD-5</u>	<u>Loftin District - 5</u>
<u>LD-10</u>	<u>Loftin District - 10</u>
<u>BPD-R</u>	<u>Brelsford Park District – Residential</u>
<u>BPD-5</u>	<u>Brelsford Park District - 5</u>
<u>CWD-CD</u>	<u>Clematis-Waterfront District – Conservation District</u>
<u>CWD-5</u>	<u>Clematis-Waterfront District - 5</u>
<u>CWD-10</u>	<u>Clematis-Waterfront District - 10</u>
<u>QGD-5</u>	<u>Quadrille Garden District - 5</u>
<u>QGD-10</u>	<u>Quadrille Garden District - 10</u>
<u>QGD-25</u>	<u>Quadrille Garden District - 25</u>
<u>TOD-8</u>	<u>Transit-Oriented Development District - 8</u>
<u>TOD-10</u>	<u>Transit-Oriented District - 10</u>
<u>TOD-25</u>	<u>Transit-Oriented District - 25</u>
<u>QBD-3</u>	<u>Quadrille Business District - 3</u>
<u>QBD-5</u>	<u>Quadrille Business District - 5</u>
<u>QBD-8</u>	<u>Quadrille Business District - 8</u>

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<u>QBD-10</u>	<u>Quadrille Business District - 10</u>
<u>NWD-R</u>	<u>Northwest District - Residential</u>
<u>NWD-2</u>	<u>Northwest District - 2</u>
<u>NWD-4</u>	<u>Northwest District - 4</u>
<u>NWD-5</u>	<u>Northwest District - 5</u>
<u>PPD-R</u>	<u>Providencia Park District - Residential</u>
<u>PPD-PO</u>	<u>Providencia Park District – Professional Office Overlay</u>
<u>UOS</u>	<u>Urban Open Space</u>

(b) *Boundaries.* The boundaries of each district are designed and established as shown on the Official Zoning Map of the City of West Palm Beach, Florida.

(c) *Relationship to land use categories in comprehensive plan.* Table I-1 shows which zoning districts are consistent with and implement the land use categories in the city comprehensive plan, future land use element.

SECTION 4: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article II (Organization, Administration, and Enforcement), Section 94-31 (Decision-making and administrative authorities), subsection (f) (Downtown Action Committee) is hereby amended and replaced and shall read as follows:

Section 94-31. Decision-making and administrative authorities.

(f) *Downtown Action Committee (DAC).*

- ~~(1) *Statement of purpose.* The downtown action committee is established to simplify and facilitate the permitting process with the downtown overlay zone or the downtown master plan affected area.~~
- ~~a. *Powers and duties of the downtown action committee.* The downtown action committee shall be authorized to:~~
 - ~~1. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the city staff in the enforcement of this section.~~
 - ~~2. Approve with conditions or deny an application that requires a variance or a special use permit. An application for a special use permit shall meet the requirements of subsection 94-36(e), and an application for a variance shall meet the requirements of subsection 94-38(d)(6). However, building height variances shall not be permitted; this shall be accomplished only through a regulating plan map change.~~
 - ~~3. Supervise the equitable distribution and redistribution of the building areas designated and to keep a record of such transaction that may be required by the transportation concurrency exception area (TCEA).~~
 - ~~4. Consider the status of existing nonconforming buildings when they are brought up for permitting at the department of planning, zoning and building.~~
 - ~~5. Consult with the city's historic preservation planner to assess the value of buildings submitted for demolition.~~
 - ~~6. Interpret the provisions of these regulations in such a way as to carry out the intent of the urban code and regulating plan.~~
 - ~~7. Make recommendations to the city commission on city or applicant-initiated amendments to the urban code and regulating plan.~~
 - ~~8. Grant certificates of transfer in accordance with the criteria and standards established for the city's transfer of development rights program.~~
- ~~b. *Membership of the downtown action committee.*~~

~~1. The members of the downtown action committee should be people who have demonstrated an interest and commitment to the vision of downtown. The downtown action committee shall consist of five regular members and two alternates who shall be appointed by the mayor as follows:~~

~~i. One registered architect;~~

~~ii. One registered landscape architect;~~

~~iii. One certified urban planner;~~

~~iv. Two property owners in downtown West Palm Beach, (one residential property owner and one nonresidential property owner);~~

~~v. One developer, real estate agent, or builder; and~~

~~vi. A seventh member from either of the disciplines above or as a city resident at large.~~

~~2. The downtown action committee staff shall also include the department heads of the following or their appointed representatives as nonvoting members:~~

~~i. The downtown development authority;~~

~~ii. The department of planning, zoning and building;~~

~~iii. Public utilities department;~~

~~iv. The police department;~~

~~v. The fire rescue department.~~

~~c. *Conduct of business.*~~

~~1. The mayor shall appoint a chair and a vice chair. The downtown development authority and the city shall provide and coordinate the work of the downtown action committee and shall designate staff to do so. Members of the downtown action committee shall serve for a term of three years. Alternate members of the downtown action committee may attend all meetings of the downtown action committee but shall act only in the absence, disability, or disqualification, of a regular member.~~

~~2. The chair shall preside over all downtown action committee meetings and shall have the right to vote. The vice chair shall, in the case of absence or disability of the chair, perform the duties of the chair.~~

- ~~3. A quorum shall be necessary for conducting business before the downtown action committee. A majority of the duly appointed members constitutes a quorum.~~
 - ~~4. Meetings of the downtown action committee shall be open to the public and public notice shall be required.~~
 - ~~5. Approval shall be based upon conformance with the requirements of the urban code, the zoning code, including master plan text and illustrations. The downtown action committee shall record its reasons and conditions for approval or denial of the application.~~
 - ~~6. The downtown action committee shall adopt and publish the minimum rules and procedures necessary to carry out its functions under the provisions of this section, and develop an application form that includes all the information necessary to evaluate the proposed development.~~
 - ~~7. Decisions of the downtown action committee concerning variances and special use permits may be appealed by a petition for common law writ of certiorari to a circuit court within 30 days from the date of the decision by the downtown action committee. Following an appeal, no further action affecting the matter appealed shall occur. In the event an immediate threat to life or property exists, the individual or body whose decision is disrupted may certify to the downtown action committee that an emergency does exist and remedial action is necessary. In this event, the remedial actions may be undertaken if authorized by the downtown action committee or a court of competent jurisdiction. Decisions of the downtown action committee other than those related to variances and special use permits may be appealed to the city commission at the next available commission agenda that meets the advertisement and public notice requirements of the zoning code.~~
 - ~~8. This regulation shall be enforced in accordance with the provisions of the zoning code.~~
- ~~d. *Procedures for design approval.*~~
- ~~1. *Application.* Before beginning any improvements on private or public land, including the construction, reconstruction, alteration, and demolition of new and existing buildings and appurtenances within the downtown overlay zone, a written and drawn application for such work shall be submitted to the city staff. The city staff shall review to determine whether or not the application meets the requirements of the urban code and the regulating plan.~~
 - ~~2. *Review.* The downtown action committee shall review all applications for appeals, variances and special use permits in the downtown master plan area. Any application for a major alteration or addition to a historic building shall, in addition, be referred to the city's historic preservation planner for review and comment.~~

3. ~~*Decision.* A decision shall be made by the city staff within 28 days of the receipt of a completed application. The city staff's review for sufficiency shall be completed within 14 days. These time periods may be extended by mutual agreement between the applicant and the city staff. Should the applicant appeal any city staff's decision, the application shall be placed at the next available downtown action committee meeting, provided that advertisement and public notice requirements pursuant to the zoning code are met.~~

(1) Establishment, composition and terms.

- a. *Statement of purpose.* The DAC is established to oversee the development of the area governed by the Downtown Master Plan (DMP).
- b. *Composition.* The DAC shall consist of seven members and two alternate members who shall serve without compensation and who shall be appointed by the mayor as follows:
1. Five design or planning professionals, who may include registered architects, landscape architects, certified urban planners or urban designers. At least two different disciplines shall be appointed from this group at all times; only one member from this group may serve as an alternate member;
 2. One downtown business owner, developer, real estate agent, or builder;
 3. One downtown residential property owner;
 4. One downtown non-residential property owner;
 5. A ninth member who may fit any of the requirements above or a city resident-at-large.

Alternate members shall act only in the absence, disability or abstention of a member.

- c. *Quorum.* Four members shall constitute a quorum to conduct the business of the committee. A minimum of four votes is required for the approval or denial of variances, extension of variances, class B special use permits, and administrative appeals.
- d. *Terms of office.* The mayor shall appoint each member for a term of three years. Each member shall hold office for the term for which they are appointed and until their successor is appointed, unless such member is removed or resigns. Any member of the board may be removed by the mayor. If a vacancy occurs in the membership of the DAC, the mayor may fill the vacancy for the unexpired term.
- e. *Officers and their duties.* The officers shall consist of a chairperson and a vice chairperson. A minimum of four votes is required to select the chairperson and vice-chairperson. The recording secretary shall be designated by the planning director. The chairperson, or the vice-chairperson in the chairperson's absence, shall conduct

- the meetings. In the absence of a chairperson and a vice-chairperson, the remaining members of the board may elect a temporary chairperson.
- (2) Authority. The DAC shall abide by all the applicable provisions of the Charter, as amended, the comprehensive plan, Florida Statutes and this code.
- (3) Functions and powers. The DAC shall have authority over the DMP area and shall be authorized to:
- a. Approve, with or without conditions, or deny applications for proposed developments subject to special review.
 - b. Approve, with or without conditions, or deny applications for variances and class B special use permits.
 - c. Hear and decide administrative appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the planning director in the enforcement of the urban regulations, the comprehensive plan, or Florida Statutes.
 - d. Approve, with or without conditions, or deny applications for demolition of existing buildings.
 - e. Approve or deny applications for the transfer of development rights.
 - f. Make recommendations to the city commission on amendments to the DMP element of the comprehensive plan, the DMP urban regulations, and the DMP zoning atlas. Any amendments to the DMP urban regulations or the DMP zoning atlas shall be evaluated pursuant to the standards contained in section 94-32(a).
 - g. Make recommendations to the city commission on any proposed improvements to public rights-of-way and urban open spaces.
 - h. Make recommendations to the city commission on requests for abandonment of city owned rights-of-way or alleys.
 - i. Compel the attendance of witnesses at hearings and administer oaths.
 - j. Waivers shall not be authorized by the board, unless expressly allowed by this article.
- (4) Conduct of business. The DAC may adopt rules and by-laws necessary for the conduct of its affairs and in keeping with the provisions of this article. All hearings shall be open to the public and follow the public hearing requirements of Section 94-39 of this article.

SECTION 5: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article II (Organization, Administration, and Enforcement), Section 94-54 (Downtown Master Plan development approval process) is hereby created and shall read as follows:

Sec. 94-54. Downtown Master Plan (DMP) development approval process.

The process and procedure to request approvals for any new construction, reconstruction, alteration, addition or improvement to an existing structure or appurtenance within the DMP area shall be as follows:

(a) Formal Site Plan Review.

(1) Application and review process. An application for a formal site plan review shall be submitted to the planning and zoning department on city approved forms. After an application is deemed complete by city staff, the application will be placed on the agenda for the next available plans and plat review committee (PPRC) meeting. At the meeting, the PPRC will review the project for compliance with governing ordinances and regulations.

The applicant shall address any comments of the PPRC and submit a revised application within 60 days of the meeting. Failure to make the required submittals within the 60 day deadline will deem the application as withdrawn. At least 15 days prior to the expiration of the 60 day revision period, the applicant may request a 30 day extension. No further extension request is permitted. Comments relating to revised applications shall be addressed within 30 days of the date of such comments. As part of the PPRC review, staff shall identify any need for additional approvals such as DAC special review, variances, and class B special use permits as required by the DMP urban regulations. Such additional approvals shall be sought within the formal site plan review period, and shall be required prior to any site plan approval. A formal site plan application shall be considered withdrawn after 90 days of inactivity.

(2) Exceptions. The following types of applications do not require formal site plan review, and may proceed directly to building permit application if other approvals such as variances, or class B special use permits are not required:

a. Any modification of an existing structure that does not increase the total square footage of the structure or change the building footprint.

b. One and two residential unit structures in residential districts.

c. **Outbuildings** and accessory structures of fewer than 1,000 gross square feet.

d. Additions of fewer than 1,000 gross square feet to existing residential and nonresidential structures.

- e. Addition of awnings, canopies, or decorative architectural elements.
- f. Redesign of existing surface parking facilities, drives, and driveways.
- g. Swimming pools, including redesign and relocation.
- h. Minor structural additions or alterations, such as porches, terraces, and fencing.
- i. Addition of parking spaces to existing surface parking facilities not exceeding 25 percent of the existing number of spaces or 20 spaces, whichever is less.

(3) Formal Site Plan Approval. After completion of the PPRC formal site plan review process, and after obtaining any additional approvals required, a formal site plan approval letter will be issued stating the terms and conditions of the approval. Proposed developments with formal site plan approvals shall commence construction within 24 months following the date of formal site plan approval. If commencement of construction does not occur during such 24-month period, the formal site plan approval shall automatically expire without further action by the City.

Projects approved as phased development shall commence construction of the first phase within 24 months following the date of formal site plan approval. Following phases shall commence construction according to the timeframes established on the site plan approval. If construction of subsequent phases does not comply with the established timeframes, the formal site plan approval shall automatically expire without further action by the City.

Formal site plan approvals involving the TDR program shall include a condition stating that the TDRs shall be approved by DAC and the certificate of transfer shall be obtained prior to the expiration of the site plan approval.

(4) Formal Site Plan approval extensions. At least 30 days prior to the expiration of the 24-month period to commence construction, a developer may apply for a six-month formal site plan approval extension. No further extension may be requested.

(b) Special review by DAC.

(1) The following proposed developments are subject to special review and approval by DAC as part of the formal site plan review process:

- a. Any proposed development within the boundaries of the Clematis Waterfront Conservation District (CWD-CD).
- b. Any proposed development fronting the proposed new roadway parallel to the FEC railroad right-of-way, the extension of Douglass Avenue, or the extension of Division Avenue, pursuant to Figure 4 of the DMP zoning atlas.

- c. Any modification to a site designated as urban open space on Figure 3 of the DMP zoning atlas.
- d. Any proposed development seeking to utilize any incentive program.
- e. Any proposed development requesting the abandonment by the city of any portion of an alley or right-of-way.
- f. Any proposed development with a lot area greater than 50,000 square feet.
- g. Any proposed development within the boundaries of the Flagler Waterfront District (FWD).

(2) Standards for Special Review. Proposed developments which are subject to Special Review shall be evaluated based on the following qualitative principles as well as the quantitative requirements of the urban regulations:

- a. Relationship of building to site and surroundings. The proposed development should be designed in consideration of a three dimensional context that includes surrounding private properties and public realm. The effects of the proposed building scale and form on adjacent streets, neighboring properties, and the overall development of the District in which it is located, shall be assessed to ensure any possible negative impacts are minimized.

The form and scale of each building shall meet the requirements for each subdistrict, as defined in the corresponding building requirements table. Proposed developments shall submit floor plans, building elevations, building cross-sections and street-level three-dimensional renderings for the proposed development and all buildings on adjacent sites, public spaces and streets to illustrate how the new building relates to the surrounding area. All the quantitative requirements included in section 94-109 will be used as references to evaluate the relationship of building to site and surroundings.

- b. Circulation and traffic flow. The proposed development should promote pedestrian circulation by providing attractive, safe and comfortable paths of travel. Vehicular circulation should be efficient and limit impacts to pedestrian movement around and through the site. Vehicular circulation should not detract from the active uses occurring on-site or on adjacent sites.
- c. Building design. While architectural style should not be restricted, the proposed development should be evaluated based upon the quality and execution of the design, as well as its relationship to surrounding buildings. The architectural elements chosen should be consistent across the entire development. Consistency will be determined based upon mass, bulk, proportion, fenestration, and rhythm of building elements when reviewed together and as separate elements.

d. Public realm. The proposed development should enhance the quality of the public realm. Enhancement may be determined based upon the provision of open space, public amenities, landscaping, or a building design with features which contribute to the viability and attractiveness of the public realm. The public realm space should be integrated with the building site plan in a way that not only fully incorporates surrounding pedestrian circulation at the ground level, but also allows visual interaction with the floors above the ground level.

(3) Community meetings. As part of the special review process, and prior to a DAC public hearing, the planning director may require an applicant to conduct a community meeting to advise the surrounding neighborhood of the proposed development. If required, the application shall not be scheduled for DAC hearing until the community meeting is conducted.

(c) Class B Special Use permits. The following requirements and procedures govern the process to obtain a class B special use permit:

(1) If a class B special use permit is required by the urban regulations, an application for approval of a class B special use permit by DAC shall be submitted to the department on city approved forms.

(2) After an application is deemed complete, the application shall be placed on the next available PPRC meeting for review. After the comments from PPRC have been addressed, the application shall be placed on the next available DAC agenda.

(3) Class B special use permit applications shall be evaluated by the DAC pursuant to the special use standards contained in Section 94-36(e)(3), and (e)(4) of this chapter. In those cases where the special use is located within a residential enclave planning area, the application shall also be evaluated pursuant to special use standards contained in Section 94-36(e)(5) of this chapter.

(4) Class B special uses may be approved subject to additional conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use, as may be necessary to protect the public interest and welfare.

(5) The class B special use permit runs with the property until the permit expires or it is revoked.

(6) A class B special use permit may be revoked upon a determination by DAC that any of the following have occurred.

a. Failure to comply with all conditions or requirements of the class B special use permit approval.

b. Failure, without good cause, to correct violations of conditions or requirements of the class B special use permit within the time period contained in the notice of violation.

(7) All plans, specifications, representations, drawings and statements submitted with the application for a class B special use permit or made part of the record of the DAC with respect to the application, shall become a part of the terms and conditions of any approval, except as revised by the DAC.

(8) Time limitations. Class B special use permits shall expire if not exercised within 18 months of the date authorized. At least 30 days prior to expiration, an applicant may request in writing an additional six month extension from DAC. If granted, no further extension may be requested.

(d) Variances. Applications for a variance from the urban regulations are subject to the following requirements and procedures:

(1) If a variance is required from the urban regulations, an application for approval of a variance by DAC shall be submitted to the department on city approved forms.

(2) After the application is deemed complete, the application shall be placed on the next available DAC agenda.

(3) Variances shall be evaluated by the DAC pursuant to the variance standards contained in Section 94-38 (d)(6).

(4) Unauthorized variances. The DAC is not authorized to grant variances for any of the following:

a. Any action which would be inconsistent with the Comprehensive Plan.

b. An increase in building height above the maximum height allowed by the corresponding building requirement table.

c. An increase in Floor Area Ratio (FAR) above the maximum FAR allowed by the corresponding building requirement table.

d. A decrease in ground floor setbacks ~~fronting a street designation~~ for lots within all subdistricts, with the exception of NWD-R, BPD-R, PP-R, PPD-PO, and LD-R.

e. An increase in maximum building footprint above the maximum footprint allowed by the urban regulations.

f. An establishment or expansion of a use in a district in which such use is not permitted by this chapter.

g. A decrease in open space requirements below the minimum size required by the corresponding building requirement table.

(5) Variances may be approved subject to conditions deemed necessary by DAC to ensure compliance with this chapter.

(6) Time limitations. Variances shall expire if not exercised within 18 months of the date authorized. At least 30 days prior to expiration, an applicant may request in writing an additional six-month extension from DAC. If granted, no further extensions may be requested. If the proposed development requesting the variance is required to obtain a formal site plan approval, variances for such developments shall be valid for the same period as the site plan approval. If a site plan approval has not been obtained within 18 months of the variance approval, the variance shall become void.

(e) Appeal process.

(1) Appeals of decisions of the planning director in interpreting, administering or enforcing the urban regulations shall be directed to DAC, whose decision shall be final. Written notice of the appeal, including justification for the action, shall be filed with the department on city approved forms within 60 days after the disputed interpretation, administration, or enforcement.

(2) Decisions of DAC regarding variances, special use permits and special review approvals may be appealed to a circuit court within 30 days from the date of the decision by DAC.

(3) An appeal shall not operate as a stay of the decision unless a stay of the decision is ordered by the court having jurisdiction of the appeal.

SECTION 6: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article IV (Downtown Master Plan Urban Regulations) is hereby amended and replaced in its entirety, and shall read as set forth in Exhibit A of this Ordinance.

SECTION 7: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article XIII (Sign Regulations); Section 94-408 (Signs permitted in commercial, industrial, community service, recreation and open space and conservation districts), subsection (b) is hereby amended and shall read as follows:

Sec. 94-408. Signs permitted in commercial, industrial, community service, recreation and open space and conservation districts.

* * * * *

(b) ~~Signs permitted in CC-2 city center 1A, 1, 2, 3 and 4 districts. Signs permitted in city center 1A, 1, 2, 3 and 4 districts shall be as follows: When provided, signage in CC-2 districts shall adhere to the requirements of section 94-110 (c).~~

~~(1) *Wall mounted signs.* The requirements for wall mounted signs shall be as follows:~~

~~a. Content: the name, logo and address of the building and building occupant to which the sign is accessory and other related information. In addition, signs permitted pursuant to this section may contain any noncommercial message which has not been declared by a court of competent jurisdiction to be obscene, defamatory or otherwise contrary to law.~~

~~b. Maximum sum total area of all signs mounted on the front facade of a building: 100 percent of the area permitted by section 94-409.~~

~~c. Maximum sum total area of all signs mounted on facade other than front facade: 100 percent of the area permitted in section 94-409.~~

~~d. Maximum number for each building: one sign for each individual business occupant of the building, plus two additional signs.~~

~~e. Maximum height: no higher than the building wall on which it is mounted.~~

~~(2) *Low freestanding signs.* The requirements for low freestanding signs shall be as follows:~~

~~a. Content: the name, logo and address of the building and building occupants to which the sign is accessory and other related information. In addition, signs permitted pursuant to this subsection may contain any noncommercial message that has not been declared by a court of competent jurisdiction to be obscene, defamatory, or otherwise contrary to law.~~

~~b. Maximum sum total area of all low freestanding signs on front street: one square foot for each one linear foot of front street frontage of the lots on which located.~~

~~c. Maximum sum total area of all low freestanding signs on side street frontage: 0.50 square feet for each one linear foot of side street frontage.~~

~~d. Maximum number of all low freestanding signs on each lot: one sign for each individual business occupant on the lot, to a maximum of three signs.~~

~~e. Minimum setbacks:~~

~~1. From lot line of another lot: 24 feet.~~

~~2. From public right of way line: five feet.~~

~~3. From intersections of streets with other streets and with access drives: as required by subsection 94-305(e).~~

~~f. Maximum height: ten feet.~~

~~(3) *Time and temperature signs.* Signs giving time and temperature information shall be permitted when attached to or made part of an otherwise permitted sign. Such signs shall not be larger than 25 percent of the permitted area of the sign to which they are attached. Such signs shall be counted on part of the permitted area of the sign to which they are attached.~~

~~(4) *Window signs advertising special sales, events or services.* Signs pertaining to special sales, events or services may be affixed to the inside of windows provided that their total area does not exceed 25 percent of the window area.~~

~~(5) *Temporary signs and displays announcing the opening of a new business or the change in ownership of an established business.* Temporary signs and displays announcing the opening of a new business or the change of ownership of an established business shall be permitted in addition to other signs which may be permitted on the lot where located. Such signs shall not remain in place for more than 30 days commencing immediately upon the opening of a new business or the change of ownership of an established business. On lots with more than one business establishment, no signs or display shall be permitted under the provision of this section until at least 90 days have elapsed since the removal of all signs and displays previously permitted under the provisions of this section. Signs established pursuant to this section shall not be subject to the prohibition of portable signs set forth in subsection 94-402(b)(9).~~

~~(6) *Sidewalk signs.* The requirements for sidewalk signs shall be as follows:~~

~~a. *Content.* Signs permitted pursuant to this subsection may contain any commercial message which has not been declared by a court of competent jurisdiction to be obscene, defamatory or otherwise contrary to law.~~

~~b. *Maximum sum total area of all signs:* 16 square feet.~~

~~c. *Maximum number for each business:* one.~~

~~d. *Maximum height:* four feet.~~

~~e. *Maximum width:* two feet.~~

~~f. *Erection period:* signs shall only be erected during the business' hours of operation and shall be removed in case of an emergency.~~

~~g. *Location requirements:*~~

~~1. Any business whose sidewalk sign is on the public right of way shall be contingent upon and subject to a 12-month revocable permit for private use of the public right of way issued by the mayor, and shall provide to the city in a form satisfactory to the city attorney, an insured indemnification to save the city harmless from any and all claims of injury to persons or damage to property attributable in whole or in part to the existence or location of the sidewalk sign in the public right of way.~~

~~2. Any business whose sidewalk sign is on the public right of way must locate such sign within two feet of the property line so as to allow a passageway of not less than four feet of sidewalk for pedestrians.~~

~~(7) *Manual changeable copy signs.* Changeable copy information signs shall be permitted when attached to or made part of an otherwise permitted sign. Such signs shall be limited to two manual changeable copy message signs per parcel and shall be counted as part of the permitted area of the sign to which it is attached.~~

~~(8) *Flags.* National, state, county, city, or decorative flags may be permitted to be attached to a building or a freestanding pole mounted to the ground subject to the following controls:-~~

~~a. Flags shall not be used for any commercial purposes, including but not limited to promoting and advertising a business or product.~~

~~b. The placement of flags shall not impede pedestrian walkways or the movement of vehicular traffic. There shall be a minimum clearance of ten feet for flags placed above a pedestrian walkway.~~

~~c. The size of each proposed flag shall not exceed 16 square feet.~~

~~d. All flags mounted on a building shall be limited to one flag per 200 square feet of facade area. All flags mounted to a freestanding pole shall be limited to one flag per each 30 feet of linear street frontage.~~

~~e. The arrangement and orientation of all proposed flags shall be consistent with the architectural style of the principal structure.~~

~~f. Prior to the installation of any flag, a site plan or architectural drawing indicating the size, number, location and method of installation of all proposed flags shall be submitted to the planning, zoning and building director for approval.~~

~~g. Commercial general liability insurance in the amount of \$200.00 per occurrence for bodily injury and property damage. The city must be named as an additional insured on this policy and an endorsement must be issued as part of the policy reflecting this requirement.~~

* * * * *

SECTION 8: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, is hereby amended at Article XV (Parking), Section 94-485 (General Provisions), subsections (i) and (k), which shall read as follows:

Sec. 94-485. General provisions.

* * * * *

~~(i) *Developer's option to pay into city's parking trust fund in lieu of providing required nonresidential parking spaces.* Proposed developments within the CC-2 districts may accommodate their required parking by making payment for each required parking space into the downtown parking trust fund. The fee per parking space is based upon the current construction cost of structured parking, as determined by the city parking administrator, and paid at the time of building permit application. Payment-in-lieu does not provide a parking space for the development in any city facility.~~

~~(1) In lieu of providing all or a portion of the nonresidential parking spaces required for uses located in city center commercial districts, a developer may pay into the city center parking trust fund a sum of money which is the product of the number of parking spaces required but not provided and the current cost of providing a parking space in the city center commercial districts.~~

~~(2) From the effective date of the ordinance from which this article is derived to October 1, 1987, this current cost shall be \$6,600.00 for every parking space required but not provided. Effective October 1, 1987, and every October 1, thereafter, such cost shall be recomputed by the city as the product of the~~

~~existing cost \$7,959.17 and the percentage change in the "Construction Cost" Index for "ENR 20 cities" contained in the Engineering News Record, The McGraw Hill Construction Weekly. Commencing October 1, 1993, and effective through September 30, 1994, the cost is \$7,959.17.~~

~~(3) The city center parking trust fund account is hereby established, into which shall be deposited all payments made by developers pursuant to this subsection. Moneys deposited into such account shall be used by the city for the exclusive purpose of paying the cost of construction or reconstruction of parking spaces in the city center commercial districts. Such cost shall include the cost of all labor and materials; the cost of all lands, property, rights, easements, and franchises acquired; financing charges; interest prior to and during construction; and for one year after completion of construction, discount on the sale of municipal bonds; cost of plans and specifications; surveys of estimates of costs and of revenues; costs of engineering and legal services; and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expenses, and such other expense as may be necessary or incident to the construction or reconstruction or its financing.~~

~~(4) Payments required by this subsection (i) shall be made prior to the issuance of a building permit for any portion or phase of a development project to which of the nonresidential parking spaces that are required but not provided relate.~~

* * * * *

~~(k) *Exceptions to general requirements for off-street CC-2 city center zoning districts parking.* In all CC-2 city center zoning districts, off-street parking requirements for each use may be reduced by ten percent with the exception of hotel and retail uses. This ten percent reduction also shall apply to all federal, state, county, municipal, and other public agencies within the city center planning area.~~

* * * * *

SECTION 9: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, is hereby amended at Article XIX (Definitions), Section 94-611 to amend various individual definitions to read as follows. Any defined term in Section 94-611 not listed in this Ordinance shall continue in effect and shall not be amended by this Ordinance.

Sec. 94-611. Definitions.

* * * * *

~~Artisanal use means, for downtown master plan purposes, premises used primarily for the manufacture and sale of artifacts within an enclosed structure using only hand held and/or table mounted electric tools.~~

* * * * *

~~Civic use means, for downtown master plan purposes, premises used primarily for public education, cultural performances, gatherings and displays administered by nonprofit cultural, educational, governmental, and religious organizations.~~

* * * * *

~~Colonnade means, for downtown master plan purposes, the roofed and unglazed portion of a building extending over the sidewalk, open to the street except for supporting columns or piers. Colonnades shall have at the sidewalk a minimum clear height of 12 feet and a minimum clear width of ten feet. Colonnades shall be constructed two feet from the street curb.~~

* * * * *

~~Commercial use means, for downtown master plan and Northwood mixed use district purposes, premises used generally for the conduct of retail artisanal, restaurant, lodging, professional business, governmental services, entertainment, and recreational uses, but excluding prohibited uses.~~

* * * * *

~~Facade means, for downtown master plan and Northwood mixed use district purposes, the elevation of a building which is set upon, or parallel to, a frontage line.~~

* * * * *

~~Front porch means, for downtown master plan purposes, a roofed and unglazed structure, attached to the facade of a building.~~

* * * * *

~~Height means, for downtown master plan purposes, a limit to the vertical extent of a building that is measured in number of stories. Height limits do not apply to masts, belfries, clock towers, chimney flues, water tanks, elevator bulkheads, and similar structures.~~

* * * * *

~~Independent building means, for downtown master plan purposes, a building having no interior passage to an adjacent building.~~

* * * * *

~~Limited lodging use means, for downtown master plan purposes, residential premises used secondarily for lodging with the provision of no more than four bedrooms for letting. Food service may be provided only in the morning. The maximum length of stay shall not exceed seven days.~~

~~*Limited office use* means, for downtown master plan purposes, residential premises used secondarily for the transaction of business or the supply of services, limited to the following: agent, architect, artist, broker, consultant, dentist, doctor, draftsman, dressmaker, engineer, interior designer, lawyer, notary public, teacher, and other similar occupations. Such use shall not simultaneously employ more than three full time employees. The total area of the use shall not exceed 35 percent of the net interior area of the residential unit. Certificates of use and occupancy shall be reviewed annually.~~

* * * * *

~~*Locations of civic importance* means, for downtown master plan purposes, sites whose buildings by reason of their location shall respond appropriately to terminate vistas and/or express their public nature. When such sites are located within a designated building type, buildings shall conform to that type's regulations. When such sites are located within an area designated special landscape treatment, the design of any structure shall recognize their civic use with a freestanding position, and their height shall not exceed two stories.~~

* * * * *

~~*Net interior area* means, for downtown master plan purposes, the enclosed area of a building, excluding unglazed porches, arcades, and balconies.~~

* * * * *

~~*Outbuilding* means, for downtown master plan purposes, a separate ancillary building in addition to, and in the rear yard of the principal building. Outbuildings may have a maximum net interior area of 900 square feet and maximum habitable area of 450 square feet.~~

* * * * *

~~*Primary or regular streets* means, for downtown master plan purposes, buildings on primary streets, as designated on the regulating plan, are subject to all the provisions of this chapter.~~

* * * * *

~~*Prohibited use* means, for downtown master plan purposes, uses which are not permitted on primary streets such as automatic food and drink machines and any commercial use which encourages patrons to remain in their automobiles while receiving goods or services, except service stations and banking facilities. Uses which are not permitted anywhere within the downtown master plan area are chemical manufacturing, storage or distribution as a primary use, enameling, painting or plating, except artist's studios, outdoor advertising or billboard as a principal use, carting, moving or hauling terminal or yard, except delivery of goods to businesses, prisons, detention centers or disposal of hazardous waste materials, scrap yards, mobile homes, sand, gravel, or other mineral extraction, kennels, except as ancillary use to veterinary offices, courthouses or police stations and adult entertainment uses.~~

* * * * *

~~*Providencia Park Professional Area* means, for downtown master plan purposes, the area bounded on the north by Palm Beach Lakes Boulevard; on the east by the eastern boundary of the lots bordering the east side of Olive Avenue; on the west by the eastern boundary of the lots bordering the east side of Dixie Highway; on the south by the north side of 8th Street; and including the following properties: the east ten feet of Lot 19 and Lot 20 Block 8 Brelsford Park Subdivision (Plat Book 8, Page~~

~~21); Lots 21 and 22, Replat of Lots 21 and 22 Brelsford Park Subdivision (Plat Book 9, Page 16); and Lots 3 through 8 of Block 9 of the Brelsford Park Subdivision (Plat Book 8, Page 21).~~

* * * * *

~~*Recess line* means, for downtown master plan purposes, a horizontal line, the full width of a facade, above which the facade sets back a minimum of 20 feet from the facade below.~~

* * * * *

~~*Residential use* means, for downtown master plan purposes, premises used primarily for human habitation. Units shall not be less than 450 square feet in net interior area.~~

* * * * *

~~*Retail frontage* means, for downtown master plan purposes, frontages designated on the regulating plan, which are required to have storefronts at sidewalk level and are restricted to retail uses.~~

* * * * *

Retail use means, for ~~downtown master plan~~ and Northwood mixed use district purposes, premises used for the exchange of services or goods on the premises. Prohibited uses include all commercial offices such as, but not limited to, attorneys, insurance agencies, brokerages, real estate, travel agents and other professional offices.

* * * * *

~~*Setback* means, for downtown master plan purposes, the mandatory distance between the frontage line and a facade. This area must be left free of structures that are higher than three feet, excluding streetwalls.~~

* * * * *

~~*Shared parking* means, for downtown master plan purposes, parking spaces assigned to more than one use where persons utilizing the spaces are unlikely to need the spaces at the same time of day.~~

* * * * *

Sidewalk sign means a temporary A-frame or T-frame sign; menu or sandwich board sign which is not permanently secured or attached to the ground or any other building or structure, ~~that is located within the city center CC 1A, CC 1, CC 2 and CC 4 zoning districts.~~

* * * * *

~~*Special landscape treatment* means, for downtown master plan purposes, areas which are to be public open space, designated by the downtown master plan as the desired future condition. The indication of special landscape treatment is not to be a limitation on development rights in the area shown as "special landscape treatment," but is intended to be a preference for future development.~~

* * * * *

~~Storefront~~ means, for downtown master plan purposes, the portion of a building at the first story of a retail frontage that is made available for retail use. Storefronts shall be directly accessible from sidewalks. Each storefront must have transparent glazed areas, equal to a minimum of 70 percent of its facade, between two and eight feet from the ground.

Story means:

(1) The portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and ceiling next above it.

(2) For the ~~downtown master plan and~~ Northwood mixed use district purposes, a habitable floor level within a building, measured from the finished surface of a floor to the finished surface of the floor next above it. A story shall include both habitable and mechanical space.

~~Story, half,~~ means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than 60 percent of the floor area is finished for use. A half story may be used for occupancy only in conjunction with, and by the occupants of, the floor immediately below.

* * * * *

Streetscape means-

(1) That part of the urban environment which is within the normal field of vision of a person walking at ground level and which can generally be considered to include everything within public view extending upward from ground level to a height no greater than the width of the street that the pedestrian is standing or moving along. The elements of a streetscape include but are not limited to building facades, landscaping, paving, street furnishings, and graphics.

(2) For ~~downtown master plan purposes,~~ the landscape surfaces, both organic and inert, that compose the publicly and privately accessible space adjoining the frontage of a building or property.

~~Streetwall~~ means, for downtown master plan purposes, an opaque freestanding wall built on the frontage line, or on the line of the facade, with the purpose of masking parking from the street. Streetwalls shall be between 3.5 feet and 4.5 feet in height, and may be constructed of a material matching the adjacent building, or may be a continuous, maintained hedge. Streetwalls may have openings to allow automobile and pedestrian access.

* * * * *

~~Terminated vista~~ means, for downtown master plan purposes, a building or a portion thereof which frames or terminates the view along a thoroughfare.

* * * * *

~~Transition line~~ means, for downtown master plan purposes, a horizontal line, the full width of a facade expressed by a material change or by a continuous setback, such as a cornice or a balcony, no more than three feet deep.

* * * * *

SECTION 10: This Ordinance shall be applicable to all properties located within the Downtown Master Plan Area, and the CC-2 area indicated in Exhibit B to this Ordinance.

SECTION 11: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 12: Should any section or provision of this Ordinance, or any portion thereof, or any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder thereof.

SECTION 13: Authority is hereby granted to codify the amendments to the Code of Ordinances ordained by this Ordinance.

SECTION 14: This Ordinance shall become effective in accordance with law.

FIRST READING THIS _____ DAY OF _____, 2009.

SECOND READING THIS _____ DAY OF _____, 2009.

(CORPORATE SEAL)

CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION

PRESIDING OFFICER

ATTEST:

CITY CLERK

CITY ATTORNEY'S OFFICE
Approved as to form and legal sufficiency
By: _____
Date: _____

Last printed 06/18/2009 3:56:00 PM

EXHIBIT B
Downtown Master Plan Boundaries

